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—
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Mr. Rodney Weston

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• (1130)

[English]

The Vice-Chair (Hon. Lawrence MacAulay (Cardigan, Lib.)): Gentlemen, we'll call this meeting to order.

We welcome Mr. Parsons and Mr. Applebaum.

I'm not trying to rush you, sir. Please take the time to get your documents in order. I would expect you would have a presentation to put before the committee and then take questions, which would be very helpful.

Mr. Parsons, are you going to start? Thank you very much. The floor is yours.

Mr. Scott Parsons (As an Individual): Mr. Applebaum and I would like to thank you, Mr. Chairman and honourable members, for inviting us to appear before this committee to speak on this very important topic of the proposed amendments to the NAFO convention.

Mr. Applebaum and I, along with two other former DFO executives, Mr. Rowat and Mr. Wiseman, who are unable to be with us today, have previously—in 2007 and part of 2008—drawn public attention to these proposed amendments, because in our view they threaten to undermine Canadian sovereignty and Canadian efforts for the conservation of fish stocks off Canada's east coast.

NAFO, as I'm sure you've heard from previous testimony, was set up in the post-extension area 30 years ago to try to control foreign fisheries outside Canada's new 200-mile fishery zone—new at that time. Unfortunately, there were a hell of a lot of problems over the years. You've heard about that, and in fact the committee did studies on that issue back in the early part of the 2000s. Unfortunately, foreign fisheries have, over the succeeding years, depleted most of the transboundary and straddling stocks, and they pose enormous problems. Of course, as we all know, having watched media coverage over the years, there have been significant violations and enforcement issues pertaining to NAFO and the foreign vessels fishing off the east coast.

For some time there was discussion and debate about the need to do something different, the need to reform NAFO in particular, or to replace NAFO. In 2005 there was a special task force, led by Dr. Arthur May, former president of Memorial University, who looked into the straddling stocks issue. I had the opportunity and privilege to undertake a study for that task force, an evaluation of NAFO and its effectiveness. That report formed part of the basis for the recommendations that the task force produced.

Subsequent to that, in 2006, this became an issue during the federal election when the Conservative Party, and in particular the former Minister of Fisheries and Oceans, Mr. Loyola Hearn, promised a form of extended jurisdiction to address the problem of foreign overfishing beyond the Canadian zone. This was an idea that had been tossed around by various people for a number of years, but I think it was perhaps the first time it had crystallized in a specific commitment, and the commitment was to:

...extend the 200-mile limit to the edge of the Continental Shelf, the Nose and Tail of the Grand Banks, and the Flemish Cap in the North Atlantic, and be prepared to exercise Canadian custodial management over this area.

That was a bold promise and one that lots of people had been suggesting and encouraging for years, but in hindsight it appears that the party at that time—before it became the government—was perhaps not fully aware in making this promise of the difficulties of actually achieving that, of extending jurisdiction under international law.

• (1135)

Once in office, who knows what the bureaucrats told them about the difficulties. I don't. In any event, they changed direction and decided instead to pursue this initiative, called NAFO reform, to reform NAFO and improve it.

Suggestions about attempting to change NAFO, to strengthen the organization, to improve it, had started out in the task force I mentioned, in 2005. However, the subsequent negotiations, spearheaded by Mr. Hearn and conducted by Mr. Bevan, who spoke to you earlier this week, led to a proposed amended convention that, in our view, far from strengthening NAFO, would substantially weaken this already ineffective organization.

Mr. Hearn subsequently claimed that with these changes, NAFO had been “fixed”. That is a quote. In reality, the problems at NAFO are far from being fixed. What happened was that the European Union, particularly influenced by Spain and Portugal for years, seized on the opening of these negotiations as an opportunity to pursue their interests by weakening the convention. They did not focus on just NAFO in particular. In fact, it was part of a global initiative by the European Union to amend the conventions of various regional fisheries management organizations and tailor them to what they saw as suiting their interests.

In any event, as you know, of course, NAFO, at the meeting in Lisbon, in September 2007, adopted this proposed amended convention. In our view, this package of amendments advances the interests of the EU and other countries in the northwest Atlantic while falling far short of Canada's original objective of strengthening NAFO, of improving NAFO, of giving it teeth.

This package, if it comes into force, will be, in our view, a major setback in terms of protecting Canadian sovereignty and in pursuing conservation in the northwest Atlantic. In fact, I've heard that the EU officials in Brussels broke out the champagne when Canadian negotiators in Lisbon acceded to their demands.

The four of us, as retired public service executives, did our best to inform decision-makers, in advance, of the shortcomings of these proposed amendments. We attempted to make Mr. Hearn aware of the shortcomings. We went public with certain op-ed pieces in newspapers and so forth and spoke on fisheries broadcasts. That was Mr. Applebaum and me.

It was our view that to strengthen NAFO, two major things needed to be done. One was to incorporate into the convention an effective enforcement mechanism, one that did not depend solely on flag-state action to provide for removal from the fishery those vessels that break the rules. The other was the removal of the objectionable objection procedure, which allowed any NAFO member to, in effect, lodge an objection and ignore NAFO decisions. This objection procedure had caused enormous grief for many years. For example, Spain and Portugal, before they joined the EU, would lodge objections to decisions and then fish freely. The European Union, once Spain and Portugal became members, adopted the same practice.

Unfortunately, the package of amendments that has been submitted really achieves neither of these objectives. It does not provide for effective enforcement, and it provides for a non-binding review system only, one that cannot culminate in overruling an objection unless the objecting party allows that to happen. Mr. Applebaum can elaborate on that.

Mr. Bevan told you on Tuesday, I think, that they have in fact achieved an improved enforcement scheme. There's one fallacy in that argument. This enforcement is left to a series of measures outside the convention, which can be undermined by any flag state, at any time.

• (1140)

Someone may appear before you this week and tell you that things are better than they were. That may be the case on the water, but the reality is that it only takes a short change in the perspective of the people who are sending these vessels to fish—the governments involved—and things can go upside down. There's nothing in the convention that dictates what the enforcement system would be.

There are also a couple of things that are the opposite side of the equation—amendments that would substantially weaken NAFO. One is the proposal to change the voting rules in NAFO, from the current simple majority system to a two-thirds system. Mr. Bevan told you this was progress. In our view, it's not. It will make it more difficult for Canada to obtain restrictive conservation decisions.

This was brought to the minister's attention at the time. He refused to protect the simple majority system, with the result that the two-thirds system is now incorporated into this package of amendments. This was described as “improved decision-making”, in that it would provide some protection for Canada's current allocation percentages. Again, Mr. Bevan told you that was a major success of these negotiations, that we'd be able to lock in the Canadian percentages and it would require a two-thirds vote to change them.

He also gave you a deck—I got a copy of it afterwards—in which there were certain objectives outlined for these negotiations that they had been attempting to achieve. The number one objective on that sheet was to protect Canada's share of allocations. Nowhere on that sheet did I see any reference to conservation, protecting, or rebuilding the fish stocks, which I found perplexing.

The Vice-Chair (Hon. Lawrence MacAulay): Mr. Parsons, we have one hour and 15 minutes, and we want to get a couple of rounds of questions in.

Mr. Scott Parsons: So be brief.

• (1145)

The Vice-Chair (Hon. Lawrence MacAulay): If we can, because if we don't, Mr. Applebaum is going to—

Mr. Scott Parsons: Okay, thank you. I will come to a conclusion in a moment.

The Vice-Chair (Hon. Lawrence MacAulay): Can we have the full presentation circulated after?

Mr. Scott Parsons: Of course.

The Vice-Chair (Hon. Lawrence MacAulay): And then you can answer questions.

Mr. Scott Parsons: To sum up, the other major problem in the convention is the provision that would allow NAFO, with Canadian acquiescence, to intrude into Canadian sovereignty by establishing catch and quota regulations, including enforcement, inside Canadian waters up to and including the Gulf of St. Lawrence, the shores of *la belle province* of Quebec, New Brunswick, P.E.I., and the west coast of Newfoundland. Under the existing convention, NAFO can't do anything in that respect.

Why is that there? There is no reason for it to be there, except that the parties on the other side of the negotiating table wanted it there. Then there's the arbitration provision, which we'll come back to.

The final point I would make is that former Minister Hearn stated that as a result of these negotiations and this package of amendments, “Canada is now the custodian of the fisheries resource”. He also stated, “Canada continues to achieve custodial management over the NAFO regulatory area.”

How in God's name does this package of amendments provide for custodial management over the NAFO regulatory area? There is no basis for that. That is hogwash. In fact these amendments are a far cry from the commitment to extend the 200-mile limit and exercise custodial management. If they're ratified, they will tie Canada's hands for decades.

Honourable members, it's not too late to fix this. The clock is ticking, but Parliament can refuse to ratify the proposed amendments and stop the process of bringing it into force. We call on you to take the steps to stop this process before it becomes too late, with tragic consequences.

The Vice-Chair (Hon. Lawrence MacAulay): Thank you very much, Mr. Parsons. We would like to have your full presentation available to all the members.

Mr. Applebaum, go ahead.

Mr. Bernard Applebaum (As an Individual): Thank you, Mr. Chairman.

In the period that followed Canada's extension of fisheries jurisdiction, I was a member of the Canadian delegation to the meetings that produced the existing NAFO convention, and I was also a member of all the Canadian delegations to all the NAFO meetings in the period that followed that, until I retired in 1996.

In 2007, I was one of a number of former DFO officials invited to appear before a Senate committee that was reviewing international developments on fisheries in the northwest Atlantic outside Canada's 200-mile limit. Three of my former colleagues were also involved: Bill Rowat, former deputy minister, Scott Parsons, former assistant deputy minister, and Earl Wiseman, who succeeded me as director general of the international directorate.

In preparing for the Senate hearing, I met with DFO officials to get updated on current developments. I learned that negotiations were close to completion on a new NAFO convention to replace the existing one, which had been unchanged since its creation. The proposed new convention was intended to be an improvement on the existing one, with better provisions for the conservation of the fish stocks outside 200 miles in the northwest Atlantic.

When I reviewed the draft of the proposed new convention, I was struck immediately that two serious errors had been made, resulting in draft provisions that, if brought into force, would threaten the integrity of the Canadian 200-mile zone and would weaken Canada's ability in NAFO to get strong conservation decisions to protect the fish stocks outside 200 miles.

The first error involved a major change to the essential structure of the existing NAFO convention. In the negotiation of the convention in the late 1970s, the Canadian negotiators had erected an impervious barrier against any possible intrusion of international management into the Canadian 200-mile zone. Under the new law of the sea convention, negotiated just before, in the mid-1970s, Canada and all other coastal states got the exclusive right to manage fisheries in their 200-mile zones. Accordingly, the NAFO convention negotiated after that extension of Canadian jurisdiction restricted international management to the high seas outside the Canadian 200-mile zone. Nothing in that convention, which remains in force right now, allows for a hint of possible intrusion into Canadian waters.

I was astounded to see that the Canadian negotiators for the proposed new NAFO convention had accepted draft provisions that would allow international management inside 200 miles, all the way to the Gulf of St. Lawrence, into the gulf, right up to Canadian shores, the only condition being that Canada would have to acquiesce. This acquiescence could be given quickly, orally, in the

heat of a negotiation, without consulting Quebec, Newfoundland, or any of the other Atlantic provinces. The leverage this provision would give other states, to either pressure Canada during negotiations to acquiesce or to accept poor conservation decisions outside 200 miles, should be obvious.

The other major error, referred to by Mr. Parsons, involved the two-thirds majority system, and he's explained that. The head of the Canadian delegation that negotiated the proposed new convention has described this two-thirds rule as "more inclusive". It's certainly that. It doesn't take much to figure out the nature of the positions that will have to be accommodated in NAFO to achieve this inclusiveness.

I and my three former colleagues drew the attention of the Canadian negotiators and the Minister of Fisheries to these problems, believing—I think we all believed, I believed—that in the final stretch of the negotiations they'd be fixed. They weren't. Instead, the provision of international management inside Canadian waters was, in one respect, made substantially worse. It now also provides not just for international management inside Canadian waters, but international enforcement inside Canadian waters.

The two problems I've brought to your attention are the most serious defects of the proposed new convention, at least in terms of what it says. In terms of what it omits, which should have been in there, Mr. Parsons has told you about those. But these two errors I've mentioned aren't the only ones.

● (1150)

There are other provisions as well where the language of the existing NAFO convention has been changed to weaken Canada's ability to obtain strong conservation decisions in NAFO. I found a few, but I expect that a rigorous analysis and comparison would bring up a number more.

I understand this hearing today is part of a process in Parliament to get Parliament's views on the proposed new convention, which the government will take into account in deciding whether or not to ratify it.

My own view is that the government should refuse to ratify it and, in addition, take the necessary steps available to prevent it from coming into force, as without these steps the convention will come into force for Canada even if Canada refuses to ratify it.

Instead, new negotiations should be launched to amend the existing NAFO convention in a manner that will strengthen the ability of NAFO, and Canada, to provide for conservation outside Canadian waters in the northwest Atlantic.

I can sum up the current situation very simply. The existing NAFO convention has its faults, but the proposed new convention does not cure them, and it's worse.

Also, as Mr. Bevan told you earlier this week, NAFO was currently working very well under the existing convention. It will work no better under the proposed new convention. There is, in fact, nothing that NAFO would be able to do under the proposed new convention that it cannot now do under the existing convention, except for one thing: under the proposed new convention, it would be able to manage and enforce inside Canadian waters, right into the Gulf of St. Lawrence, right up to the shoreline.

Finally, as Mr. Bevan told you, there are no conflicts now under the existing convention. But the proposed new convention would open up a new issue for conflict, and that is when pressure is put on Canada to allow NAFO to manage fisheries inside Canadian waters.

Thank you.

The Vice-Chair (Hon. Lawrence MacAulay): Thank you very much. We appreciate your time.

We'll start the round of questions.

Mr. Byrne.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Thank you very much to both of our witnesses this morning. I know both of you have a certain passion for this particular issue and have spent a career, a lifetime, working on it for the betterment of Canadian fisheries policy. So thank you for being here, and I especially thank you, Scott, for being here under difficult circumstances for you. We acknowledge that.

I want to just get right off the mark and say that a very wise and experienced man once told me that prior to extension of the 200-mile limit back in 1977, fishing activity by foreign-flag vessels was actually somewhat minimized temporarily, not because of the extension of the 200-mile limit, but because we were in a fuel shortage, a global economic crisis, and market conditions didn't necessarily allow for much foreign activity.

It seems to me that we have a parallel situation in 2009 now. It's quite interesting. What Mr. Bevan described as limits to foreign citations on the Grand Banks being a result of enforcement mechanisms may be exactly some of the same circumstances that occurred back in 1977.

Notwithstanding all of that, I raised three very specific, direct questions to our witnesses on Tuesday. One was on the finality of the decision-making process. You touched on each and every one of those questions in your presentations, but I just want to repeat them and ask you for your comments.

Do the changes to the NAFO convention result in binding decisions on contracting parties?

Mr. Bevan didn't give a very clear picture, in my mind, of the objection procedure that the revised convention allows. Could you elaborate and include a discussion about UNFA in this process? Mr. Bevan put a lot of stock in UNFA in this process?

At the end of the day, under the revised convention, could a NAFO-contracting partner implement unilateral fishing plans within the NAFO regulatory area if they so chose—yes or no?

Second, the NAFO convention provides for a mechanism for NAFO to assume patrols and management authority inside Canada's 200-mile limit. Could they actually assume patrols, enforcement, inside of the 200-mile limit, inside the exclusive economic zone of Canada, if this provision were adopted and acquiesced by Canada? Any discussion on that would be helpful.

And finally, on the NAFO decision-making process, it's been described to us that a two-thirds majority in decision-making is better than a simple majority, 50% plus one. I'd like a discussion on that.

So there are three questions. One is on the two-thirds majority; one is on NAFO-contracting parties patrolling inside of 200 miles; and the other question is on the objection procedure and the finality of decision-making.

• (1155)

The Vice-Chair (Hon. Lawrence MacAulay): Mr. Parsons, I guess—or Mr. Applebaum.

Mr. Bernard Applebaum: I'll answer your questions in the order they were raised. The first question was about the finality of the clause that you were referred to by Mr. Bevan.

First of all, the current NAFO convention has an objection procedure. Any country can opt out of decisions. The proposed NAFO convention has an objection procedure. It's the same procedure. Any country can opt out of NAFO decisions. Under the old NAFO convention it was not possible to overrule those objections and compel any country to live with NAFO decisions. Under the proposed new convention there is no possibility of overruling objections and forcing any country to withdraw or not follow up on its objections.

All the proposed new NAFO convention does is provide a review process. I think Mr. Bevan may have referred to that as an appeal process. He can use the words he wants. I think most people think an appeal process, at least in the court systems we have, produces a binding decision. However, this is not an appeal process. The proposed new convention is a review process. It produces no binding decision. Countries are just as free at the end of the process to do whatever they want, as they were under the old NAFO convention.

The next question that was raised was about whether NAFO will be able to send patrols into Canadian waters. The NAFO system provides for international enforcement outside 200 miles. It allows it, and it's done, and we have a system of joint international enforcement outside 200 miles. If Canada acquiesced, gave its consent, or gave its request, or whatever way you want to use the words, to NAFO to do that inside Canadian waters, NAFO, under the proposed new convention, will have the jurisdiction and ability to do that. Under the old convention, the current convention, they couldn't do that. Under the new convention they will be able to. That's within their jurisdiction, providing Canada requests it. Now the game is, how do you pressure Canada to make the necessary request? There are ways to do that.

The third reference is a bit of a red herring: UNFA. You were raising a red herring. The UNFA convention had a number of provisions to deal with problems of overfishing on the high seas. There is an arbitration procedure available under it, but it's all rather irrelevant to anything that happens under the proposed new NAFO convention. I don't think it's even worth dealing with those provisions about going to international courts.

The UNFA convention provided a system of enforcement that allowed a coastal state, or any member from an organization but Canada, to be able to actually seize a foreign vessel that was breaking the rules and hold it out of the water so it couldn't fish for some period of time before the flag state had to take it home. That was its key enforcement provision, which was never followed up by the Department of Fisheries and Oceans after the UNFA provision came into force. Instead, there is no similar provision in the NAFO convention. That was the opportunity that negotiators had to incorporate that into the NAFO convention, but they didn't. They left it as flag-state enforcement.

I've tried to answer your three questions.

• (1200)

Hon. Gerry Byrne: You've pretty well effectively answered that. I just want to follow up on the two-thirds majority.

Mr. Bernard Applebaum: Right off the bat, it's obvious. It's harder to get a restrictive NAFO decision on conservation the more votes you need. It was difficult enough in the years that I was in this organization to get that simple majority. As soon as you increase it two-thirds or three-quarters, it doesn't matter, one vote, two, three, you have to accommodate somebody else. In the most simple example, somebody wants more fish, so the TAC has to go higher to accommodate the country that needs more fish. You need that country's vote; you have to accommodate it. The total allowable catch goes up to accommodate it. It's better than it going up higher, but it's not what it ought to be.

That's essentially what the two-thirds voting does. From Mr. Bevan's position, the two-thirds provision now for voting would—I think they've used the expression—lock in the existing allocation shares. What it does is, yes, it makes it a little harder to change the allocation shares. You need another vote with the current membership to change them. If another country, a foreign country, can get that other vote and change the shares, once they've changed, Canada has to get the extra vote next time to be able to change them back. The two-thirds voting vote goes against Canada as soon as we lose a vote on the proportional shares.

Hon. Gerry Byrne: And we did, indeed, hear testimony from Mr. Bevan that there's activity right now by contracting parties to actually use the ratification—well, he did not say that; he said there is activity by contracting parties to change the quota structure. For example, he did acknowledge that the Faroe Islands were currently looking for bigger shares of shrimp.

I'm sure other contracting parties are doing that right now, because as I noted, in order for ratification to occur, if any one contracting party dissents and does not ratify prior to a three-quarters majority, then the entire convention fails. So Canada, again, is in a very difficult position. We either acquiesce and provide more quota today or the Canadian official position could be torpedoed and the

convention not ratified. So there is an appetite, it appears, to provide whatever is available.

This is my last question. Mr. Parsons, you made reference to the election campaign and commitments. Did the department work very hard, in your experience or opinion, to provide some sort of perception of a win? A commitment was made that custodial management would occur and changes to the NAFO convention, whatever they actually materialized to be, were perceived to be true. What do you think about that?

The Vice-Chair (Hon. Lawrence MacAulay): Mr. Parsons, or whoever, please give a short answer, if you can.

Mr. Scott Parsons: Obviously, Mr. Byrne, I wasn't present at the discussions that occurred in DFO. I know the kinds of discussions that can occur, from my experience.

Certainly, the result suggests to me...and I have no interest in partisanship in this issue. The result can only be explained to me that this amended package was a result of desperation, the desperation being the need to be seen to be fulfilling a commitment.

• (1205)

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

Monsieur Blais.

[*Translation*]

Mr. Reynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ): Thank you, Mr. Chairman.

Good day, gentlemen.

First of all, I would like to hear you speak about your experience with the old NAFO. It was a failure, it did not succeed, it was a failure as far as cod is concerned.

Today, we are hearing about a new NAFO which, in your opinion, will also be a failure and does not represent an improvement. When an organization is not a success, I tell myself that it must be changed. Its way of doing things, of negotiating must be changed. A new way of doing things has been proposed. I have no guarantees or assurances that this will be either a failure or a success. However, I know that the old NAFO didn't work and does not work. Why not give the new NAFO the benefit of the doubt, given what we have been presented with?

[*English*]

Mr. Scott Parsons: Thank you, Mr. Blais.

You're correct. The old NAFO did not work, and I see no reason to think, based on what we have in front of us in this amendment package, that the amended NAFO will work.

The reason I say that is part of the reason the old NAFO, the existing NAFO, didn't work was, number one, this objection procedure. For many years, year after year, the contracting parties would sit at the negotiating table in NAFO and arrive at decisions—it was a simple majority vote—and then the party that didn't like the decisions would go away and lodge an objection, and fish freely, overfish.

It's well documented—the case of Spain and Portugal, in particular. In 1986 they acceded to the European Union and then the European Union completely changed its position and started doing what Spain and Portugal wanted, and objected and objected. So although there was this theoretical agreement to a total allowable catch at the table, in reality there was free fishing.

The second thing is there was no effective enforcement scheme in the convention. There have been repeated attempts to fix that under the existing NAFO. Mr. Bevan claims it's working better now. Mr. Byrne suggested a possibility as to why it might be perceived that way. I don't know if that's correct or not, but we're all aware of the global economic situation.

However, the new NAFO, the amended NAFO, the proposal that's before you, doesn't deal with the objection procedure. It just provides for some long, convoluted review process, where people will talk and talk, and the result will be that a country is still free to do what it wants.

It doesn't provide for effective enforcement provisions in the convention. There might be agreement today that we will agree to do such and such on the high seas, but next year, government changes, everything changes, so in our view....

If I might, Mr. Chair, Mr. Bevan said to you there were only two alternatives. Mr. Bevan said your alternatives are to adopt this package of amendments or to live with the existing NAFO organization.

I understand the tenor of your question is that given that the old NAFO didn't work, maybe we should try this new arrangement, but in reality, we know now that a new arrangement will not work because it hasn't fixed the problems of the old arrangement.

I suggest to you there is a third option. That third option is to shred these amendments. Reject them on behalf of the Canadian people. Exercise your privileges. Reject this package of amendments. It's not sufficient. It's not adequate. And then send new Canadian negotiators back to the table at an appropriate time to secure an arrangement that will work in Canada's interests.

Thank you.

• (1210)

[*Translation*]

Mr. Raynald Blais: I feel that there is a very serious problem that is not being dealt with, and I hope you will be able to do so in your answer. Sovereign states agree to negotiate. If there are no constraints or obligations, or if there is no tribunal that can impose anything, negotiations take place between sovereign states. They will do as they wish in the way that they wish, as the old NAFO allowed.

What portions could be negotiated that would allow us to arrive at a permanent solution? We must remember that in the end, we are appealing to the sovereignty of each of these countries. The implementation becomes terribly difficult at some point because every country hides behind that sovereignty and decides in the end to enforce what they wish. At the end of the day, we are not making any progress, whether it is with the old NAFO or the new NAFO.

[*English*]

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

As short as you can and keep it on the time schedule.

Mr. Scott Parsons: It's not the first time I've been admonished by a chair of a committee to be short.

Yes, Mr. Blais, they are sovereign states. And you're right, you have to try to achieve some kind of agreement.

The reason we're now in this situation where you have this proposed amendment package before you is that there was an aura of desperation, the desperation being that we need an agreement at any cost.

I can't say this happened for a fact, okay, but I can imagine a situation where Mr. Hearn—I'm not talking about the Conservative Party per se, I'm talking about Mr. Hearn, who made this commitment during the election campaign, going back to his constituency in Newfoundland and Labrador, wanting to deliver on a commitment, as any politician would. That's the name of the game. I can imagine Mr. Hearn saying to officials, "Gentlemen, I need to be able to say that we have improved the existing situation."

Based on the statements that Mr. Hearn made subsequent to Lisbon, which have no foundation in the amended convention, I can only conclude that he was determined to achieve an agreement at any cost.

You've all been in negotiations. If you have to have an agreement, then your negotiating position is weakened. If you cannot walk away from that negotiating table and say we'll come back in months, a year, whatever, then basically you're going to end up having to capitulate, and this is what happened in this situation. They had to agree to certain things that they didn't want, probably, in order to say we have an agreement.

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

Okay, Mr. Applebaum, as short.

Mr. Bernard Applebaum: Just to add a comment to Mr. Blais' point, it's certainly true that it's very difficult to negotiate something under which sovereign states will agree to be bound. It's difficult, but it's not impossible. You do have to set it out in the first place as you're negotiating your position, not to be negotiated away. You have to send negotiators out and say, you must bring back an appeal process that produces a compelling, binding decision in the end. It's not impossible.

We just went through those UNFA negotiations—just—at the United Nations with all the countries in the United Nations there who agreed in UNFA to binding processes. The world is open now to binding, judicial processes that will result in binding conclusions. It's just that when Canadian negotiators went out this time, they didn't get one.

• (1215)

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

Mr. Stoffer.

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

If I'm not mistaken, I believe that between the two of you and Dr. Art May and Mr. Earl Wiseman, the four of you have over a hundred years of collective, international, national, executive experience within DFO and elsewhere. Am I correct?

Mr. Scott Parsons: I have 35.

Mr. Bernard Applebaum: And I have 28. I don't know if it will add up quite to a hundred, but probably reasonably close.

Mr. Peter Stoffer: So when people like you speak, there is a resonance, as compared to when politicians speak. We tend to speak on a political slant.

Mr. Applebaum, you had indicated that under certain conditions Canada would have to acquiesce to allow a country to come in to manage or to patrol or do whatever was in our exclusive zone.

Mr. Bevan was quite clear. When I asked him repeatedly, he said—I'm paraphrasing now—he could never see when that could happen in Canada, that we would actually acquiesce. You just indicated that there may be certain conditions where that may happen. Can you outline a few conditions where Canada may be forced to acquiesce in this particular concern?

Mr. Bernard Applebaum: Yes, I can, but the first point I want to make is that the European Union that proposed this provision that allows NAFO to manage and enforce inside 200 miles didn't propose it and get it and insist on it for fun. They did it because they intend to use it. That's why it's there and why they said they would not sign a convention, a new agreement, without it being there.

So that's the starting point. I'll give you an example, because things start slowly. They don't start with the deluge coming in and everybody pouring across the 200-mile limit. An example: Canada goes to a meeting. There's a particular stock, call it Greenland halibut. The scientists suggest a TAC of 35,000 tonnes. The EU people say they need 5,000 tonnes more. The EU people say, "We want 5,000 tonnes more and we'll agree to 35,000 tonnes provided we have that rule apply inside Canadian waters as well." All you can do is just ask. You don't have to ask for the whole shebang. You're only saying, "You, Canada, make the request to NAFO to manage the total stock inside 200 miles, and we'll go for 35,000, but if not, 40,000 is it."

It seems like such a small thing, right? So they'll manage the whole thing inside 200 miles. What does that really mean? We were going to manage it inside anyway. We were going to live within the limit. It doesn't seem like anything worth fighting about. So why don't we just make the request, get the TAC down, and go home with a big press release, "Canada gets new lower TAC for Greenland halibut"?

That's the way it starts. The next year, maybe they add a stock. In the third year, maybe they add another little thing. They say, "We don't like the way the Canadians are enforcing. How about we have international enforcement just for this one stock, just in the area inside the 200 miles? Just agree to that little thing. What are we going to do? After all, you're enforcing yourselves. Everything will be okay. What's the likelihood? We just want to be able to board your vessels and see if they're following the rules. We don't trust you."

You say, "You don't trust us? We don't trust you, either." So Canada says, "You're right. We're totally trustworthy. Sure. Let your enforcement vessels come in, board Canadian vessels inside 200 miles, and check them out."

That's the way it starts and that's the way it goes.

Mr. Peter Stoffer: I couldn't see that the United States would agree to this, but Mr. Bevan had indicated that because the United States is part of NAFO the same rules would apply to the United States. I will assume he's correct in that estimation. In your experience dealing with Americans, can you see the American administration or Congress or Senate agreeing to allowing foreign-flag states to in any way, shape, or form manage or even enter the United States' 200-mile zone?

Mr. Bernard Applebaum: Never, but of course the United States has no straddling stocks. We are the ones. Canada is the coastal state in the northwest Atlantic that has straddling stocks and that depends on control outside 200 miles to be able to stop overfishing out there. There is no similar situation for the United States, not to mention that given that the United States is the United States, they can get away with a lot of things that we can't and they can do a lot of things that we can't.

● (1220)

Mr. Peter Stoffer: This is the last question, and I know the answer. We'll just put it on the record.

The Vice-Chair (Hon. Lawrence MacAulay): Mr. Stoffer, I think your time is over. Sorry.

Mr. Peter Stoffer: I just wanted to know how many countries are in NAFO.

Mr. Bernard Applebaum: I've forgotten the number—twelve, thirteen, something like that. I'm sorry. I don't know the number offhand. I can tell you afterwards when I look it up.

The Vice-Chair (Hon. Lawrence MacAulay): I understand it's 12.

Mr. Bernard Applebaum: Thank you.

The Vice-Chair (Hon. Lawrence MacAulay (Cardigan, Lib.)): Mr. Kamp.

Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC): Thank you, Mr. Chair, and thank you, gentlemen, for appearing. I appreciate the time you've taken to help us on this issue.

For my benefit—I'm sorry if I missed it earlier—can you remind me what positions you held while you were with the Department of Fisheries and Oceans, and in what years you held those?

Mr. Bernard Applebaum: I was the director general of the international directorate that was engaged in all the bilateral and multilateral negotiations that were being done, and that was from about the mid-1980s until I retired in 1996. So we're running about 12 years, I think, that I was the director general, and I was in the international directorate before, at lower levels, for the previous 10 years or so.

Mr. Randy Kamp: And you said you had a key role in the old NAFO that didn't work.

Mr. Bernard Applebaum: That's right. I was one of the team that negotiated the old NAFO convention.

Mr. Randy Kamp: Mr. Parsons.

Mr. Scott Parsons: I worked for the Department of Fisheries and Oceans, or its predecessors, for 34 years. I started my career as a biological scientist under the Fisheries Research Board in St. John's, Newfoundland. Then in the late 1970s, around the time of the extension of the fisheries jurisdiction, I came to Ottawa and I was director of fisheries research for a while. I was director general responsible for fish inspection and various things for a while. I could give you all the specifics, but—

Mr. Randy Kamp: What was the highest position you went to?

Mr. Scott Parsons: You want to know the latter part of my career. After being on the fisheries side for a while, I was assistant deputy minister of science from 1986 to 1988. For four years I was away from the Department of Fisheries and Oceans, writing a book on the management of marine fisheries in Canada and doing a Ph.D. at McGill University. I returned to the department in the 1990s. I again became assistant deputy minister of science from 1994 to 1998. In 1998, during the latter part of that period, I worked with this committee on the Oceans Act. I was responsible for leading the development of the Oceans Act and working with the committee to get it through Parliament. Then the department established the position of assistant deputy minister of oceans, and I became the first assistant deputy minister of oceans. That was the last executive position I held in the Department of Fisheries and Oceans.

Subsequent to that, I was on special assignment as president of the International Council for the Exploration of the Sea, ICES, the intergovernmental marine science organization headquartered in Copenhagen, 19 members who provide advice to the European Union and other countries.

Then I retired.

Mr. Randy Kamp: That's a long career, and I get tired just listening to it.

Mr. Scott Parsons: Not as tired as I was.

Some hon. members: Oh, oh!

Mr. Randy Kamp: Is it fair to say that you were in key positions when the east coast northern Atlantic cod fishery was going through its most difficult times? In fact, we can blame foreign overfishing for the collapse of the cod stocks, but I think this committee knows, and others know, that there's more to it than that. Were you part of the decision-making during those years?

Mr. Scott Parsons: Shame on you, Mr. Member. Shame on you and shame on the people at DFO who provided you with that question.

Mr. Randy Kamp: Nobody provided me with that question. It's a valid question, and I want—

Mr. Scott Parsons: I will answer the question, but it's a shame that the question should be asked on this topic.

I was assistant deputy minister of science from 1986 to 1988. I returned to that position in 1994. Before returning to that position in 1994, I worked with the establishment, under Mr. Crosbie, of the Fisheries Resource Conservation Council, and in that capacity I worked to ensure that in fact moratoria were introduced on the cod stocks. I was not present in an executive capacity at DFO, contrary to the popular perception that some people have perpetrated. I was not

present in an executive position at DFO during the period 1988 to 1992, leading up to the cod collapse.

• (1225)

Mr. Randy Kamp: Fair enough.

Let me go to the negotiations, then. You've made some pretty strong statements about a number of people, I think. You've sort of impugned the EU negotiators and their motivations in this. You've said you've got an idea of what was motivating the fisheries minister to approve this new convention. You've questioned, I think, at least the ability if not the motivations of the Canadian negotiators.

I just wonder what information you have that leads you to that. I assume you weren't part of the negotiations. I know you've read some documents and so on, but these are strong statements, and I'd like you to back them up with some facts, if you could—not just the outcome, because I know you have the right to question the outcome. You can say you think what they've come up with is poor. That's fair enough. That's the job of this committee to look at that as well. Questioning the motivations of both the minister and the negotiators, to me, requires a little bit of support from you.

Mr. Scott Parsons: On my comments about the process leading up to the result and the role of various people in that process, first of all I would make a clarification. I didn't question the ability of the negotiators. I suggested they were under a compulsion to arrive at an agreement. Given that they couldn't walk away from the negotiating table, they had to achieve an agreement in a certain timeframe, and they had to agree to things in order to achieve that agreement.

With respect to Mr. Hearn's role, Mr. Hearn was very public about his commitment to custodial management, extended jurisdiction, and so forth. Mr. Hearn was prominent in the press in Newfoundland and Labrador—I read the papers and listen to the radio there—making statements and outrageous claims about what was being achieved through these negotiations.

You're right, I cannot see inside Mr. Hearn's brain to know exactly what he was thinking, but if I look at his situation in terms of what he had publicly pledged, and then the outrageous claims he made about the results of the negotiations, I then arrive at the conclusion that he was a desperate man in a desperate situation to be able to sell whatever minor improvements he could get as success. I'm not questioning him as a moral individual.

The other thing that's missing in this is that we didn't go out and publicly criticize Mr. Hearn and the negotiations. In the beginning, Mr. Applebaum met with officials in the Department of Fisheries and Oceans, and it was through that process that it came to light that these problems were emerging. He attempted to bring these problems to their attention so they would take steps in the negotiations to fix them.

It was not one individual. There were four of us, with different backgrounds and different roles in the department at different times, but as Mr. Byrne pointed out, we had a lot of experience. At one point we were invited to a meeting with Mr. Bevan in his office to listen to our concerns. When the young lady from his office phoned me at home to invite me to that meeting, I asked who would be present. She said the invitation had been extended to Mr. Rowat, Mr. Wiseman, and me. I asked about Mr. Applebaum, as he's the one who's really been flagging these issues. She said that Mr. Applebaum had not been invited and would not be invited. After consideration, we collectively, respectfully, declined the invitation.

Mr. Randy Kamp: I don't know anything about that, and I'm not sure it's relevant to what we are doing.

Mr. Scott Parsons: It's very relevant.

Mr. Randy Kamp: I think you should have attended, frankly.

I'm not sure I understood the direction of Mr. Stoffer's question, but let me ask the question this way.

Can NAFO, under this new convention, patrol in Canadian waters without Canadian request or approval?

• (1230)

Mr. Bernard Applebaum: The answer is no.

Mr. Randy Kamp: Okay, thank you very much.

Mr. Bernard Applebaum: Could I add one thing?

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

Mr. Bernard Applebaum: Mr. Kramp said that Mr. Parsons had "impugned" the EU negotiators. Most of the focus was on the Canadians.

I just want to make the point that no one is impugning the EU negotiators. They had their interests. They pursued their interests, and they got what they wanted out of this negotiation. They didn't give in on what they didn't want to give in on, which was to have a binding dispute settlement, a binding process that would override objections. No one is impugning the EU negotiators. They have my congratulations.

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

Mr. Byrne.

Hon. Gerry Byrne: Anyone who has ever known this particular witness—Dr. Parsons—friend or foe, Mr. Chairman, has never questioned his integrity the way I have heard it questioned today. I categorically would remind Mr. Kamp that when future witnesses, current members of the Department of Fisheries and Oceans, come before us in the next couple of weeks, this side of the table will be respectful of their role in fisheries management when we hear from them.

Mr. Parsons, the EU is about to embark upon a seafood certification process.

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

Mr. John Weston (West Vancouver—Sunshine Coast—Sea to Sky Country, CPC): In reviewing the transcript, I saw no question

of integrity raised at all. It was a question of background. I had the same questions. As a new committee member, I simply wanted to know the background, and I don't see any impugning at all. I think the allegation is out of order.

Hon. Gerry Byrne: You're pretty naive then, but anyway.

May I continue with my line of questioning, Mr. Chair?

The Vice-Chair (Hon. Lawrence MacAulay): Yes, that's the point of debate.

Go ahead, Mr. Byrne.

Hon. Gerry Byrne: The EU and the United States, two major NAFO convention partners, are about to engage in a legal certification process for fish harvesting practices. In order for Canada to potentially sell fish into the EU or the U.S., we will have to be certified under their standards. If such legislation were ever to occur, could that be justification, potentially, for the EU to demand entry into Canadian waters to investigate our practices so they can determine whether they meet certification standards? In other words, could changes to the NAFO convention allow the EU, in their certification requirements of Canadian seafood practices, to say, "Allow us into Canadian waters or we won't certify you"?

Mr. Scott Parsons: I am not totally familiar with the process you're referring to, Mr. Byrne. I'm aware of the more general Marine Stewardship Council certification process. It's becoming the interest of industry around the world to enter into certification processes to establish that fisheries are sustainable because of market considerations down the road in terms of consumers everywhere. There's a big movement out there, generally, attempting to raise the question of the sustainability of fisheries. In Canada we've had the recent example of shrimp. Parties asked for a review and certification process. In fact, the northern shrimp fisheries and the Gulf of St. Lawrence shrimp fisheries were certified by the Marine Stewardship Council, as I understand it.

I know that's not answering your question. I'm not answering your question directly, because it would put me in the position of making a lot of assumptions about what would go on in the European Union process.

Hon. Gerry Byrne: Thank you, Mr. Parsons.

I'm going to turn the questions over to my—

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

We'll go to Mr. Andrews.

Mr. Scott Andrews (Avalon, Lib.): Thank you to our expert witnesses for coming in today to give us some insight into this matter.

DFO has admitted that the 1978 NAFO convention is flawed, and it continues to be flawed to this day. They are trying to take steps to improve it.

I'd like to get into this whole custodial management area that was alluded to and to the former minister masking the convention as custodial management of the stocks.

Could you give me some insight as to why DFO continues to push NAFO as the way to manage our stocks outside the 200-mile limit? Why wouldn't DFO be more aggressive in going after our jurisdiction, extending the 200-mile limit, and trying to get the custodial management ourselves? If this process in the past was flawed, and we can't come to some reasonable compromises and corrections, why hasn't the department in the past—and looking at the department now—put more custodial management outright on the nose and tail and the Flemish Cap and the continental shelf?

• (1235)

Mr. Bernard Applebaum: The term “custodial management” is a term that usually gets used without people trying to put a definition on it. In its simplest concept it means that Canada would unilaterally be able to control fishing outside 200 miles for the purposes of conservation. That's essentially what it means. The international legal advice has always been that it's high seas outside 200 miles under international law. No country can have that kind of authority or jurisdiction outside 200 miles in the absence of the consent of the flag states that are being brought into this custodial management process, and that is what has held up progress so far in proceeding toward this description of custodial management.

The term “custodial management” can also mean a lot of other things, or at least lesser things than unilateral control outside 200 miles. NAFO, in negotiating this new convention, could have granted Canada custodial management even in the broad sense. They wouldn't. They could have legally done that, and then Canada would legally have custodial management outside 200 miles. The NAFO members wouldn't because of sovereign rights, sovereignty, high seas, and that kind of thing. They wouldn't do it, but they could have granted Canada something more had Canada demanded something more than we have now, something that would give Canada a greater handle on controlling fisheries.

One thing is what the UNFA convention proposes, and the EU is part of the UNFA convention. The seizure I described to you would allow Canada to bring a vessel into port and hold it and take it off the water. They could have done that. They could have been pushed to do that. They never did. Whether they were pushed, I don't know; I wasn't part of those negotiations.

NAFO could have said as well, or Canada could have said, “We have a new proposal—we now have it in this draft convention—that Canada can request NAFO to manage inside 200 miles. Why don't you put in another provision that says NAFO can request Canada to do this, that, and that outside 200 miles? You'd have to request it. You couldn't do it unilaterally, but if we could get you to agree to it, that would give us this kind of handle outside 200 miles.” No. What happened was NAFO got a form of custodial management inside 200 miles through this provision that says Canada can request it and we can do it. Canada got nothing outside 200 miles.

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

Mr. Blais.

[Translation]

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

Do you agree with the principle that we need negotiations on fishing in the northwest Atlantic, that it is mandatory that we have negotiations and a convention?

[English]

Mr. Scott Parsons: It is certainly necessary to have some form of management regime in a place outside of 200 miles. We've seen the pillaging that occurred under an ineffective NAFO organization. We need an improved management regime that includes the provisions Mr. Applebaum and I have mentioned—and not just us, by the way. These have been well documented in the reports I referred to earlier, the task force in 2005 and so on.

An absence of management, no regime, would lead to total plunder, total pillage, and without restraint, without any controls. Some people would argue that maybe you could go that way because then they would fish out the stocks and they would go home, but the reality is we're dealing here with straddling stocks of importance to Canada. We're not dealing with isolated stocks on the high seas beyond Canadian jurisdiction that are not of interest to Canada except for the Flemish Cap. We're dealing with this fishing that occurs outside the Canadian 200-mile zone because of the nature of the continental shelf and the extension of the shelf beyond the Canadian 200-mile zone.

As one former fisheries minister used to say, fish don't carry passports. They cross back and forth across that boundary, so it is vitally important to Canada to have some form of effective management outside 200 miles.

• (1240)

[Translation]

Mr. Raynald Blais: I am in fact in agreement with this principle.

What is the principle when we undertake negotiations? What pitfalls are to be avoided and what principles must be upheld that we cannot compromise on? We can make compromises, but we cannot compromise our principles. When we are negotiating, of course, that means that there is give and take. However, there are principles that we cannot back down on, though we can accept changes or compromises elsewhere if need be.

In your experience, on what principle or principles should negotiations rest that would be to the advantage of the resource, and potentially to Canada?

[English]

Mr. Bernard Applebaum: Thank you for that question. Some of the answer will be things you've heard before, but I'll have a try at the major principles for a new convention to replace or amend NAFO. One is that the integrity of the Canadian 200-mile zone has to be protected. There should be no provision that allows, in any way, any international meddling with Canada's sovereign rights inside 200 miles. That's one. That's a protective thing.

The other one, which Mr. Parsons mentioned earlier, is to have a provision locked into the convention that provides for an enforcement regime that cannot be changed by NAFO meetings or avoided by other NAFO members. One enforcement regime is the one that's already been agreed to by the EU in what is now the UN fisheries agreement, UNFA. That allows any member of an organization to seize a vessel that is outside 200 miles and keep it off the water for a while.

Another one is that I think you have to have some form of objection procedure, a real, effective appeal procedure that would result in a binding conclusion so that objections could be overruled when it's right that they be overruled.

Those are the three main points I can think of. There are lots of other little points, of course, and maybe not so little.

[Translation]

Mr. Reynald Blais: Thank you very much, gentlemen.

[English]

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

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

Mr. Parsons, as a former scientist—I guess you're never a former scientist in this regard—on the fish stocks, at the last two meetings we talked about who has the right to fish, when and where. Mr. Bevan did allude that there are.... I'm not quite sure how many stocks he said were on the rebound; they're improving. But I want to ask you, sir, if you have any up-to-date knowledge in terms of the status and health of the stocks now.

The reason I ask is that you're aware of Dr. Ransom Myers, who passed away, and Dr. Boris Worm, from Dalhousie, who indicated, many times, that these stocks are in serious decline and trouble and that if we didn't stop bottom trawling and dragging and things like that we would annihilate these stocks, possibly permanently.

Sir, are you aware of the health of the straddling stocks we're talking about? Are they improving, or are they at serious risk?

Mr. Scott Parsons: Mr. Stoffer, I had intended last night to check the scientific council reports to update myself on this topic, but I didn't. I am aware that these stocks have been under siege for quite some time. There have been moratoria in effect for many of them. There has been some recovery—the yellowtail flounder, for example, is a case where I think there has been some recovery. But many of the stocks still remain in dire straits.

On the reference to Dr. Myers and Dr. Worm, their statements about the state of the world fish resources were global in nature. In fact members may be aware that on Monday of this week, the FAO, the Food and Agriculture Organization, at the meeting they have annually in Rome, released their latest status report on the state of world fisheries and aquaculture. In that report the situation globally has become more alarming, in the sense that the number of stocks now deemed to be fully exploited and over-exploited is at 80%, which is an increase from an already alarming level previously.

• (1245)

Mr. Peter Stoffer: The reason I ask that question is I remember Pierre Trudeau was once asked a complicated question on the east

coast fishery, and he said the problem with fish is that they swim...as you were talking about, back and forth without the passports.

It appears that what the negotiations have been doing, and I'm of course not privy to them, is they're really arguing about who has the right to fish when, where, how, under what jurisdiction, and what provisions can be made to object to this and that. But it doesn't appear, at least in my thinking, that the fish stocks themselves are at discussion here.

When you were negotiating, Mr. Applebaum, these concerns, was the health of the fish stocks a paramount decision-maker, so that no matter what we agreed to, nationally or internationally, the health of the stocks overruled every other aspect before that?

Mr. Bernard Applebaum: Unequivocally I can answer yes to that, not only in the annual and more than annual NAFO negotiations I attended, but in the negotiations for the original NAFO convention.

Mr. Peter Stoffer: Because in the end—and I just say this as a comment—if these stocks continue to go south, as the northern cod did, all of us, it doesn't matter whether it's Canada, Spain, Portugal, or wherever...our children will look at us and say we failed miserably in protecting a very healthy food resource.

Mr. Scott Parsons: You've raised a very important point, Mr. Stoffer.

If you go back to the presentation you were given earlier this week about the objectives of this NAFO reform process, there was one page that said "stated objectives", and the first objective was to protect Canadian shares. Nowhere on that page was there any reference to conservation, or putting in place mechanisms to assist in rebuilding fish stocks.

It appears that in these negotiations, conservation was not a dominant consideration—*appears*, certainly from the documentation, from the discussions and so forth. In my view, one of the major shortcomings of the situation is that people were driven by other issues and other considerations. And this two-thirds majority vote thing that we referred to earlier, in our view, will make it more difficult for Canada to achieve restrictive conservation measures for the straddling stocks.

Mr. Peter Stoffer: Thank you.

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

Mr. Weston.

Mr. John Weston: First, I applaud your commitment to the preservation of fish stocks—clearly it's been a career-long commitment—and your commitment to Canadian sovereignty.

I would disagree with a couple of your assumptions.

I'm a newcomer to this committee, so you tower over me in experience in this area, but one of your assumptions is that sovereignty has to be absolute, Dr. Applebaum. I just say to myself, if we have sovereignty over nothing, then it doesn't really matter. If preservation of fish is near the top of the priority, that seems to make sense to me.

Therefore I ask myself, what were these negotiators thinking? What did they think they got out of this?

One interpretation is that it was out of a political agenda, which you mentioned, and I can understand that interpretation. But we also heard that there have been improvements under the existing NAFO agreement that might be leveraged under the new one. We were told that infractions had declined over the years. I assume they're declining because of a fear of enforcement or because of the enforcement itself.

Mr. Byrne brought up a very powerful objection to the enforcement mechanism. It relies on the state actors to actually take action against their own party. We heard about Spain imposing a €200,000 fine against a Spanish vessel, which surprised me. Why did that work? I'm assuming that works because if the contracting countries don't enforce against their own vessels, then there will be some implicit or explicit repercussion upon them that maybe...Mr. Byrne mentioned some negotiations going on extrinsic to the NAFO arrangements.

I'm getting around to my question. It seems to me that if one of your main objections is that this relies on enforcement of the host country against its own vessels, and there's a certain amount of consensus there, what is the alternative? The alternative is that we try to create another United Nations. The League of Nations failed. The United Nations fails in many respects. No one anticipates, I assume, NAFO vessels patrolling the seas, that we're creating an enforcement arm with a NAFO brand on patrol boats. The cheaper, more expedient approach is to have the states do it themselves, with acknowledged repercussions if they fail.

Isn't there some method to this madness? Maybe it's not perfect, maybe it's not even good, but is it better than the alternatives?

• (1250)

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

Mr. Applebaum.

Mr. Bernard Applebaum: First of all, Mr. Weston, I'm glad you picked up on one particular thing that I'm going to refer to now. It is much better to have flag-state enforcement when the flag states are willing to enforce. It's much better if flag states themselves take the necessary action to stop their vessels from overfishing, arrest them, bring them home, take them off the fishing waters.

This was acknowledged in the negotiations for UNFA. The reason UNFA went further than that was the recognition that in the real world this doesn't happen, or it does happen for some flag states but not for others, or times change and countries that were following the rules at one point stop following the rules. That's why under the UNFA rules it provided that non-flag states—any member of an international fisheries organization—could seize a vessel on the high seas, keep it off the water for a while, and hand it over to the flag state.

If you had that ability written into the NAFO convention, what you'd have is an ability you would hope you'd never have to use. The very knowledge that this is available would deter flag states from saying they're going to let their vessels get away with things. The alternative would then be that they'd be arrested by somebody else.

It's an important provision, and it took a lot of trouble and effort to put it into the UNFA convention. It's still there and it's still available if any country, including Canada, decided to take advantage of it and use it.

The best thing would have been to work it right into the proposed new NAFO convention, and it wasn't.

Mr. John Weston: Isn't that a difference in the NAFO convention, that there will be flag-state enforcement against the vessels of the flag state, and that's why, in the example that was used by Dr. Bevan, it was \$200,000 euros against a Spanish vessel in 2006, and then in 2007 there were no infractions at all? That suggests that in fact we're actually going in a way that will achieve that priority of protecting our fish stocks.

Mr. Bernard Applebaum: According to Mr. Bevan, who has been following it, this is the current state of affairs. It's very good, obviously, that it is. But will it hold in the long term? The fact that it seems to be working right now doesn't mean it will hold in the long term. If you're negotiating a new convention, as Mr. Bevan was, one of the objectives, logically, would have been to write in something that would solidify or incorporate in stone, or the new NAFO convention, the thing that is happening or make it happen in the future. That didn't happen in the proposed new convention.

The Vice-Chair (Hon. Lawrence MacAulay): Mr. Parsons, did you want to add to that?

Mr. Scott Parsons: Yes. Mr. Bevan testified about what's been happening in terms of perceived violations. You were referring to this. What we have to bear in mind is that you can't assume that what happened in 2007 and 2008 will continue for the next five or ten years. We've been here before.

Following the turbot war, the turbot incident in 1995, when Canada and the EU came eye to eye, there was an improvement. The number of violations did decline significantly for a number of years. Then in the early part of this decade, in 2001-02, there was a return to the previous fishing practices. The then-Canadian negotiator for NAFO, Mr. Pat Chamut, who is familiar to the longer-standing members of the committee, had to go to Copenhagen and denounce what was going on. It took quite a while to try to bring these practices back under control.

I don't know if it's right or not, but Mr. Byrne's thesis about the global economic situation, the cost of fuel and so on, may be affecting what's going on—the number of fishing vessels on the grounds now, declining fishing effort and so forth.

There's nothing to say that will not change in the future. It's happened before; it could happen again.

• (1255)

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

I want to thank Mr. Parsons and Mr. Applebaum for coming before us and giving us your views on the situation. It's very much appreciated. I think we've run out of time.

Mr. Stoffer.

Mr. Peter Stoffer: I don't know if it's possible. Mr. Parsons indicated that an FAO report is coming out on Monday, if I'm correct—it was last Monday. Is it possible to ask our researcher to get a copy for the committee?

Can I take that as yes?

The Vice-Chair (Hon. Lawrence MacAulay): The answer is yes, Peter.

Thank you very much.

The meeting is adjourned.

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