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Chair

Mr. James Bezan

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• (1530)

[English]

The Chair (Mr. James Bezan (Selkirk—Interlake, CPC)): We'll call this meeting to order. We're kicking it off a little bit late, so we'll try to get caught up.

We're going to continue with our study of the Species at Risk Act and we have an industry panel before us today. Appearing on behalf of the Fisheries Council of Canada, we have Patrick McGuinness, president. From the Forest Products Association of Canada, we have Andrew de Vries, director of conservation biology and aboriginal affairs. From the Mining Association of Canada, we have Julie Gelfand, vice-president of sustainable development.

We welcome all of you to the panel and welcome your opening comments to the committee. We're looking forward to the discussion.

Mr. McGuinness, please kick us off.

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

The Fisheries Council of Canada is a national association with members in British Columbia, Manitoba, Ontario, Quebec, the Maritimes, Newfoundland and Labrador, and the northern fisheries of Nunavut, Nunavik in Quebec, and Nunatsiavut in Labrador.

The fishing industry is a \$5 billion industry. We employ about 80,000 people, which is a small number, I guess, compared to those for my friends from the mining industry and the forestry industry. Our industry is particularly important to Newfoundland and Labrador. It is important both culturally and in terms of GDP for Newfoundland and Labrador, P.E.I., New Brunswick, and the northern fisheries that I mentioned, and also for the aboriginal communities that increasingly are participating in our fisheries in British Columbia and the Maritimes.

With respect to species at risk, we're looking for policy changes or updates in recognition of the uniqueness of the aquatic species. Unlike other wild species, aquatic species actually have three acts—the Fisheries Act, the Oceans Act, and SARA—to protect and conserve the species. We want to see more convergence of those three acts in dealing with aquatic species that become threatened or endangered.

In the Department of Fisheries and Oceans, we have seen efforts to converge the fishing act he says the fishing act and the Oceans Act, which seem to be moving fairly well and seem to be quite progressive. We'd like to see a little more of that happening with

respect to SARA. In other words, work still needs to be done in order to try to harmonize those three acts with respect to endangered species. I should say that it looks as though the drafters of SARA witnessed that or recognized that, because, as you'll note, the preamble does say that SARA will complement existing legislation.

Parliament has given the Department of Fisheries and Oceans quite a bit of money and quite a bit of human resources to manage the fisheries and to be concerned with conserving and preserving the fisheries. They have considerable resources to make science-based decisions and to protect species and their habitats. They have the regulatory tools to manage the fisheries and the resources to enforce and monitor the fisheries.

So what do we want? We want basically three things. One is assessments. I don't know if you've had a chance to read the document that we've provided, in English and in French, but we're saying that there is a disconnect between the methodologies of COSEWIC and the Department of Fisheries and Oceans with respect to how you determine the status of the stock.

In COSEWIC, they use mainly the rate of decline over a defined period. That's basically what determines whether the stock is in good shape, of special concern, endangered, or threatened.

In Fisheries and in fisheries science generally, fisheries science takes a broader view of the issues. It looks at a precautionary approach within an ecosystem-based approach. So instead of simply looking at the rate of decline, Fisheries will look at a stock and ask what is the extent of the decline at a certain point in time, with respect to, if you will, the precautionary approach reference point. If, for example, the current extent of decline of that species is to the right of the line, if you will, it's in generally good health. If it's to the left, it's in what we would call a red or critical zone. If it's very far left, it's into endangered or threatened.

So basically that's an element, and they also look at the recent and current trajectory of the stock. If you look at the stock and you see that it's in fairly bad shape, but that the current and recent trajectory is one of growth, that gives you a different indication than what you would have if you looked at the status of the stock currently and saw that the fact it was trending down. So you make, if you will, risk-based types of decisions.

•(1535)

The other element they introduce is what they call the current productivity situation of that stock. For example, a high degree of mature fish in that stock is a positive sign. A high degree of mature fish means that they are regenerating and that they have the capability of regenerating. If the natural productivity of that stock is down at the current time, which may be because of salinity in the water or because of ocean temperatures, that's a bad sign.

All we're saying is that we have a disconnect: we have the relatively formula-like approach of COSEWIC and then we have a complex aquatic ecosystem type of arrangement. Over the years, our fishing communities have basically bought into this type of regime that we're talking about: the precautionary approach and ecosystem-based approach. To try to get that community to buy into a rather straightforward type of rate-of-decline approach has been difficult and, really, in our view is not appropriate.

So that's one thing: get the assessments right.

The other thing we're looking for is governance. Basically what we want to see is some form of upfront transition protocol as to when the species, as it's recovering, if you will, exits the blunt tools of SARA—that is, prohibition when it's endangered and threatened—and moves into “special concern”. Then, instead of having just one tool, it can be governed by the Fisheries Act, which has a suite of management tools, such as just closing the area during the spawning stock. You have all these types of management tools available in terms of managing the fisheries once it's into special concern.

All we're asking for is that. To me, that's good governance. If we have fishing communities and aboriginal communities that are dependent on the fisheries, they should be able to be advised that if the stock recovers to a certain biomass then it can be moved into special concern and can be managed with tools other than prohibition.

That's what the mining industry and the forestry industry do when they have a community that is suddenly closing down. In mining, for example, they tell their people that they're closing down because there's no more ore in the area, and that's it. On the other hand, if they're closing down because of economics or markets or because there's a glut on the market, they tell their employees they're closing but it looks like they may be able to reopen at some point. That's all we're asking for. We're asking for that for fishing communities and aboriginal communities that are depending on the fisheries, with respect to commercial fisheries or fisheries that are significantly impacted with respect to species that are listed as endangered or threatened.

Our last point is on subsection 83(4) in SARA, which is the exemption for permitted activities. There seems to be confusion there. The Fisheries Council of Canada has been on every task force on endangered species going back to Minister Sheila Copps. This was a very important paragraph for us.

It envisaged that if you have a listed aquatic species and a fisheries management plan and it's part of an authorized recovery type of program, if there's an incidental catch of the listed species whereby it's brought up and it's dead and it's food, rather than throwing the dead fish and food back into the water, we are allowed to bring it to

shore and have it enter the food system, if you will. We always thought that was what that subsection meant, but recently I hear a lot of confusion about it.

•(1540)

Obviously there have to be all sorts of constraints around that. For example, right now one listed species is wolffish. Fortunately it does not swim at deep levels, and we are part of a recovery thing. If we catch that in our nets, we are able to return it to the water live.

My last comment is that we find SARA is needlessly prescriptive in some areas. Most legislation that we get involved in now is outcome-oriented, in the sense that “this is the outcome and let's work towards that”. For example, when SARA was introduced, an arbitrary nine months was introduced, and nine months of consultation for our industry is difficult because of the seasonal nature of the fisheries. It's also difficult because of the increasing participation of aboriginal communities in the B.C. fisheries, the maritime fisheries, and our northern fisheries, and, if you will, the complications that has with respect to their being consulted and coming to a decision.

Thank you very much. I apologize for going over my limit.

The Chair: Thank you, Mr. McGuinness.

Go ahead, Mr. de Vries, please.

Mr. Andrew de Vries (Director, Conservation Biology and Aboriginal Affairs, Forest Products Association of Canada): Thank you.

Good afternoon, committee members.

I am Andrew de Vries from the Forest Products Association of Canada. We represent member companies from coast to coast, working in all the provinces.

We are very pleased to be here today to discuss the five-year review of SARA. We strongly supported the development of SARA and lobbied with a variety of diverse groups to ensure its eventual passage. Our member companies have been working with SARA on the ground, in recovery meetings, and in meetings with federal and provincial officials for the last six years to discuss its implementation and see how it's working on the ground. Through that experience, we believe that there are a few areas of SARA—on both the legislative and the policy sides—that can be improved while maintaining a workable framework for maintaining species at risk.

We've identified seven areas of concern: first, implementation; second, consideration of socio-economic interests; third, definitions around terms such as “residence” and “critical habitat”; fourth, permitting for incidental effects; fifth, exemptions, as my colleagues have indicated; and sixth, conservation agreements. For the sake of brevity today, when I deal with points four, five, and six, I'll be lumping them in a generic fashion because we see these as tools that we can use on the ground. Finally, and seventh, we see the need for additional parliamentary review after this review is complete.

In regard to implementation, FPAC has found the implementation of SARA to be very slow, as have several other presenters you have heard from. For us, the essence of SARA is in the recovery and action planning stages of the act, to ensure the survival and recovery of the species while allowing the planning and conduct of activities such as forestry through appropriate permitting and conservation agreements.

The federal departments, working with provinces and territories, have been making strong efforts on recovery planning, and recovery plans are beginning to be published. But we're all aware that many of these plans are late. In addition, there is still only one published action plan to date, and that is for the Banff springs snail in Banff National Park in Alberta.

Also, as you've heard from other presenters, there are no published or effective mechanisms regarding permitting, exemption, or conservation agreements for large industries such as our own.

We believe this slow implementation has led to frustration for some groups, and we are beginning to see the implementation of SARA through litigation rather than cooperative and voluntary measures. We encourage the federal government to continue to seek ways to speed the implementation of SARA, and we believe that our recommendations may assist you in this.

In regard to socio-economics, Parliament was clearly aware of the balancing act of ensuring species survival and recovery with socio-economics when SARA was enacted. As we start to implement SARA, we believe that the role of socio-economics in this balancing act requires greater clarity. The minister has considered socio-economics when listing species. We suggest that this practice be codified in the act.

We find that there is confusion in the application of socio-economics at the recovery planning stage. SARA is very explicit that socio-economics be considered at the action planning stage, but is not explicit about what to do at the recovery stage, and we believe there is some confusion resulting from this.

For many species, the balancing act between habitat conservation and socio-economics will begin at the recovery planning stage. We suggest that subsection 41(1) of the act be revised to consider socio-economics, especially as it can take some time to develop action plans, as we are seeing.

Briefly, on definitions such as "residence" and "critical habitat," ultimately, as you guys know, any legislation comes down to the definitions of words within the act as we work to implement them on the ground. With SARA, we have the added complexity of trying to make nature fit our words, with species under consideration as diverse as snails, whales, and cottontails.

Some of these creatures do not have residences, such as nests or dens. Others clearly have distinct spaces that can be defined as critical habitat, while still others, such as caribou or salmon, roam or swim daily through large parts of Canada that are not critical to their survival but are areas where industries such as ours operate.

In addition, we find that SARA places an inordinate amount of weight on critical habitat when in fact for many species there are other environmental limiting factors to be considered, such as

predation, disease and parasites, weather, and, for birds, wintering grounds in other countries.

So we'll come forward with some changes to policy and amendments to subsection 41(4) of SARA for your consideration to assist with those definitions.

For permitting, exemptions, and conservation agreements, as I noted earlier, we find the essence of SARA to be in recovery and action planning, while allowing the planning and conduct of other activities through appropriate permitting and conservation agreements. Although each of those are distinct areas of the act, for the sake of brevity I'll share with you some of our overall concerns in these areas in a somewhat generic fashion, as ultimately they are each tools that allow us to conduct our forest management activities while conserving species.

- (1545)

We have no evidence that there are published and effective mechanisms to ensure that permits, exemptions, or conservation agreements can be applied for, negotiated, and put into place in a timely fashion for large industries such as ours. The forestry industry operates throughout Canada on a daily basis. There will be examples whereby our industry could use one of these mechanisms to ensure the appropriate conservation of species.

For example, in the permitting sections of SARA, there's no allowance for permits for more than five years in length. This can be problematic. We have existing industrial facilities in place and our forest management planning works on the scale of decades. We could find ourselves in the position of having completed significant planning for provincial processes only to have to redo our work to come into compliance with the federal permit a year or two later.

On the role of conservation agreements, we strongly support the role of conservation agreements in cooperation with others, and voluntary stewardship measures to achieve SARA's goals. Indeed, our companies are already engaged in such activities, having conserved over three million hectares of boreal caribou habitat in the last 10 years.

We believe the provisions for conservation agreements should be expanded to provide for the authorization of activities. In addition, the exemption provisions should be clarified, as my colleague has suggested, to ensure that they apply when there is compliance with the conservation agreement.

Specifically with regard to permitting, we have suggestions for subsections 73(3), 73(9), and 73(10). With regard to exemptions, we would like to look at subsections 83(1) and 83(4). Finally, with regard to section 11, we would like to make some suggestions there.

Just prior to closing, I'll note that it appears to us that there is much work to be done on SARA, both legislatively and from a policy perspective. We've had six years of significant progress, but I don't think we fully understand the act or its nuances. We respectfully suggest that Parliament consider another review seven years after the first review is completed in accordance with section 129. We'll be able to submit our detailed proposals to the clerk early next week, in both official languages.

Thank you.

• (1550)

The Chair: Thank you very much for your report, Mr. de Vries.

Ms. Gelfand, please.

[*Translation*]

Ms. Julie Gelfand (Vice-President, Sustainable Development, Mining Association of Canada): Good afternoon to all of the members and thank you for this invitation to testify before you today.

[*English*]

I'm sorry that I didn't get a chance to send my submission ahead of time. I was feeling ill yesterday and am on the cusp today, so I'll do my best.

• (1555)

[*Translation*]

I will answer questions in French or in English after my statement.

• (1600)

[*English*]

At the end of my presentation, I also have a submission to make to you on behalf of a joint group of industry partners and environmental groups.

The Mining Association of Canada is the national organization of the Canadian mining industry. We represent companies engaged in mineral exploration, mining, smelting, refining, and semi-fabrication. We account for the vast majority of Canada's output of metals and major industrial minerals. In 2005, the MAC was honoured by the GLOBE Foundation, winning an industry association award for environmental performance for our "Towards Sustainable Mining" initiative, which requires companies to report and score themselves on a variety of different sustainability indicators.

As one of the world's largest producers of minerals and metals, Canada has prospered over the past two decades from mineral policies that benefit all Canadians. Canada is recognized as an industrial leader in mining, with mineral exploration, production, and supply and service companies second to none in the world and the envy of all mineral-producing nations. One just has to go to the Prospectors and Developers Association of Canada's 20,000-person conference every year in Toronto to see how the world comes to Canada when it comes to mining.

MAC, like FPAC and the Fisheries Council, as well as many of our other industrial partners, has worked with non-government stakeholders and government officials from the very beginning of the debate on the Species at Risk Act. We were a member of the species

at risk working group, along with FPAC, the Sierra Club Canada, Nature Canada, and the Canadian Wildlife Federation, providing the government with joint recommendations during the act's nine years of development. Since SARA was proclaimed, MAC has been an active member of the species at risk advisory committee to the ministers for the environment and DFO.

Just recently, we approved a policy framework on biodiversity conservation for MAC members. I have it right here and can provide a copy. It states: "MAC members recognize that access to land and a company's social license depend upon responsible social, environmental, and economic practices and that there is a strong business case for supporting biodiversity conservation".

The policy statement goes on to say that "MAC members will work with key communities of interest to develop and implement responsible policies and practices to...integrate the importance of biodiversity conservation, including respect for critical habitat, into mining and land-use planning and management strategies, including considering the option of not proceeding with a project". That's just part of the framework. Just last November, the MAC membership approved a new indicator, and MAC members will be scoring themselves on biodiversity conservation in the future and making all of that public.

MAC members have quite a bit of experience in working with species at risk. I'd like to provide you with a few examples.

The Xstrata Nickel Raglan Mine in Rouyn-Noranda, Quebec, announced last May that they were investing \$350,000 in a large-scale research program that aims to further understand the dynamics and space use of migratory caribou populations in Quebec and Labrador in the current climate change context.

Vale Inco in Newfoundland has supported research on and transplanting of the globally critically endangered boreal felt lichen, stemming back to the 1990s. Canada and Newfoundland have one of the last remaining major sources of population of this lichen. That investment over the last seven years was again over \$350,000 for the research.

Vale Inco in Manitoba has mineral leases covering 140 square kilometres. The land is used by two herds of boreal caribou. Vale Inco has partnered with the northeast regional woodland caribou advisory committee to work on recovery planning.

Another Vale Inco operation, this one in Sudbury, is dealing with the peregrine falcon issue in an open pit mine, where a peregrine falcon is actually nesting in the mine, on the cliff, and there is another peregrine falcon nest in a building that contains some toxic chemicals and is scheduled for demolition and refurbishing. In both cases, Vale Inco is working with bird biologists to set up nesting boxes and with the Ministry of Natural Resources to try to figure out how to operate the mine and how not to disturb the peregrine falcon and ensure its recovery.

Based on all that experience, MAC members do have some recommendations to the committee. They are very similar to the recommendations you have heard from the forest products and other industry associations.

In our first recommendation, we encourage the federal departments to speed up the development of definitions, policies, programs, and regulations under SARA. It has been five years since the coming into force of this legislation and there are still many questions on many aspects of the implementation of the act. We don't know what the definitions are for "effective protection" and "critical habitat". Recovery plans are late. COSEWIC does not have enough money to produce species assessments. Policies on issues such as stewardship agreements, compensation programs, and permitting systems, etc., have not been developed, and this is leading to uncertainty.

We recommend fully funding the species at risk branches within the Department of the Environment, Parks Canada, and the Department of Fisheries and Oceans to allow for timely development of policies, procedures, and programs. We also believe that COSEWIC needs full funding.

Our second recommendation is around amending SARA to provide longer permitting time and to deal with existing facilities, which is the same issue that Andrew brought up. Mines last for 10 years minimum and for 80 years in some cases. Some communities are built on a mine; Sudbury is an example. So we need some kind of mechanism to allow a permit before you make such a major investment. In our case, there is also going to be the need for some kind of grandfathering of existing mine sites.

Our third recommendation is, again, around the promotion of conservation agreements. As far as we are aware, there have been no conservation agreements signed since the beginning of SARA's implementation, and we think the provision for conservation agreements should be expanded and encouraged with mining companies and other industrial people on the landscape.

Finally, we believe that COSEWIC and RENEW should be mandated to consult with private sector entities for information on species status. Many of our companies take down data on which species are coming near or around their facilities. In fact, they all do. That information should go into the development of recovery plans and action plans as well.

Now I need to read some specific wording for you.

A number of organizations representing some of Canada's most prominent resource-based industries have prepared submissions to this committee in respect of the SARA statutory review. A number of these organizations, along with several that have not made specific submissions, and the multiple entities they represent, have a common concern over the difficulty in obtaining authorization for their activities under SARA despite being extremely involved in local recovery efforts in cooperation with government agencies.

These groups formed an alliance to develop specific proposals for amendments to SARA to alleviate these concerns. To that end, they prepared a draft brief submission to this committee regarding the common issues they face and proposed fixes to SARA to deal with them.

A number of environmental non-governmental organizations have also prepared submissions to the committee with respect to amendments that they submit are necessary for SARA to be properly implemented. You will hear many of their recommendations on April 27, when they appear before this committee.

In the past few weeks, the joint industry partners and the ENGOS have instituted a process to discuss their respective proposals and to determine whether or not there is potential to come to agreement on the amendments that are needed to address the deficiencies both groups have identified in SARA. The specific issues the joint group has been discussing are as follows: the issuing of permits; conservation agreements; decisions not to list a species; action plans and recovery strategies; and definitions of survival and recovery.

Both groups have determined that in some of these areas there is general agreement on a need for improvement and the approach to be taken to the amendments. However, coming to agreement on the details of the specific wording of the solutions is, perhaps not surprisingly, proving to be a difficult task in some areas.

Nevertheless, the parties are hopeful that the discussion will proceed quickly enough—we have been having weekly conference calls—that they will be able to be in a position to provide this committee with an agreement on proposals for amendments before the committee completes its review. Both groups are asking this committee to direct Environment Canada and the Ministry of Fisheries and Oceans to prepare recommendations regarding SARA to provide for an effective framework.

Merci beaucoup.

The Chair: Thank you very much.

Before we open it up for questions, I just want to say to members that we're going to try to save about 10 minutes at the end of committee for us to go in camera and discuss next Tuesday's meeting, if that's okay.

With that, we will go with our seven-minute round.

Mr. McGuinty, can you please start us off?

Mr. David McGuinty (Ottawa South, Lib.): I can. Thank you, Chair.

Ms. Gelfand and gentlemen, thank you for being here.

I want to go back to your last comment. You say that you now have a process whereby industry and environmental groups are cooperating, are working together, to achieve some consensus on the kinds of changes required.

When you last appeared here, on June 2, 2009, I asked if you could distill to one page the recommendations you were making. At the time, we were debating SARA, and at that time, you committed to returning a page or two to us with kind of a balance of recommendations.

We haven't seen that, Chair. I don't think it's been followed up on.

It certainly would be helpful, whatever you can put forward, and the more diversified the better. If you can bring forward recommendations for change that have gone through a process before arriving here and that bear the thumbprints and fingerprints of environmental groups and industrial sectors that are in agreement on the kinds of changes that might be made, it certainly would make our job easier in terms of the recommendations in the report.

If I could, I want to go to all three of you, just to help us understand something.

Mr. McGuinness, you said something about the differences between DFO's and COSEWIC's approach to determining the status of stock—I really appreciated that insight—and the difficulty of reconciling two fundamentally different scientific approaches. You said that the aquatic community, writ large, would be hard pressed to buy into COSEWIC's rate-of-decline approach as opposed to the precautionary ecosystem management approach that has evolved over time. Why?

Mr. Patrick McGuinness: I should say that DFO is generally what we would call “fishery science”. Our community just feels that the current approach, with respect to being a precautionary approach and an ecosystem-based approach, and with the natural fluctuations of the aquatic species, is a reflection of reality. That's the real world.

We've seen stocks go down. We've seen them come back up. You really need to have some fairly good science and a picture of the various factors at the present time to make a decision. They are all risk-based decisions, and the issue, at this point in time, is whether this species is vulnerable to extinction. Scientists can look at a number of factors and make that type of assessment.

Mr. David McGuinty: Mr. McGuinness, would the COSEWIC scientists agree with your assessment?

Mr. Patrick McGuinness: As an example, I can have a fisheries scientist take the COSEWIC model and come up with a decision, a recommendation, that this species is threatened. They've done that just recently with American plaice. The same scientist goes with the other model, and this model on American plaice is saying that the stock status is, if you will, in the red zone. All the indicators right now are up and....

• (1605)

Mr. David McGuinty: I understand. You're telling me that two different scientific models would give you two different outcomes.

Mr. Patrick McGuinness: Yes.

Mr. David McGuinty: I'm asking whether the scientists who comprise the board of COSEWIC and its chair would agree with your assessment that we need to shift from the rate-of-decline approach at COSEWIC to the precautionary ecosystem management approach you're calling for.

Would they agree with that and support that recommendation for change?

Mr. Patrick McGuinness: With respect to, say, marine fish species, perhaps they would. Certainly, the model they have is absolutely excellent for terrestrial animals in terms of their type of natural biology. We're saying that we have a significantly different type of biology. And if you're going to have, in essence, a

responsible type of position, you're going to have to take that into account.

There may be one or two fish specialists on the board of COSEWIC out of 12 or 13. So to answer your question, the board wouldn't agree with it, no. That's why we're asking this committee to perhaps throw into your report that there is an issue here, and it's a real issue.

Mr. David McGuinty: I'm glad you raised that and flagged it, but I'm sure that everybody around this table would agree that what we should look at doing here is to pursue and adopt the best science. That's what we're talking about here: science-based decision-making or evidence-based decision-making.

However, that leads to the next question I want to put to Mr. de Vries, and perhaps to anybody else who wants to comment on this. That has to do with the really difficult interface between evidence- or science-based decision-making, which really ought to dominate what we're talking about here, and socio-economic interests.

Mr. de Vries, you flagged the need for a major re-examination of what this means. You're on the front lines, you're in the money business, and you represent an industrial sector.

So do you, Ms. Gelfand and Mr. McGuinness, in large part.

At that interface between the two, where are the big problems? What are the top two or three problems this report should flag and try to address?

Mr. Andrew de Vries: We absolutely support a science-based approach to recovery planning and action planning listing. Our industry employs a number of scientists and wildlife biologists, including me, who are engaged in this type of work. We absolutely support the best available science.

I think we're finding that it's unclear whether or not SARA requires socio-economics to be dealt with at the recovery planning stage. It's explicitly required at the action planning stage. We would suggest, given the amount of work that goes on in recovery planning, that it would also be appropriate to include a socio-economic approach at the same time that you're doing your conservation science.

Mr. David McGuinty: Have you—

The Chair: The time has expired, so we're going to move on.

Monsieur Bigras, s'il vous plait.

[Translation]

Mr. Bernard Bigras (Rosemont—La Petite-Patrie, BQ): Thank you, Mr. Chairman, and thank you to our witnesses.

Like my colleague Mr. McGuinty, I am surprised to hear what the Fisheries Council of Canada is proposing to us today.

First, you tell us that before we list a species on the endangered species list, the species should be the object of concern, it should be threatened, or facing extinction. Moreover, something struck me: we need a new governance model—I am using your words. Now it seems to me that this new governance model should be based on giving scientists greater independence. We have to trust science in our decision-making.

You told us at the same time that there has to be a kind of harmonization between the statements and indications of the COSEWIC and the recommendations of the Department of Fisheries and Oceans. I am having trouble understanding how in the final analysis we can really protect the species.

I will give you an example. As compared to historical levels, the Atlantic cod stock has diminished by 99%. In addition to overfishing, this is due to oceanographical changes. Everything was done under the aegis of the Department of Fisheries and Oceans. That said—the COSEWIC did not exist at the time—how can we better protect the species?

I would like to hear you on this, Ms. Gelfand, and you as well, Mr. McGuinness.

• (1610)

[English]

Mr. Patrick McGuinness: You brought up an interesting situation. As you say, a number of years ago, COSEWIC did identify that the cod stocks should be, if you will, put on as either threatened or endangered. But at that time, those stocks were under a moratorium under the Fisheries Act.

So you're quite right. I think what happened then was that stocks were under a moratorium, there were no directed fisheries, and there was a very limited or incidental bycatch. Also, if you encountered cod, there was monitoring and a protocol that you had to move away from that area by three, four, or five miles, I think.

So in reflecting on that, I think the government made the decision that adding on a simple prohibition, which is all that SARA has—that's all it has—would have significant social and economic consequences for Newfoundland and Labrador, the north shore of Quebec, and throughout the Maritimes. So what they did...

I mean, the thing you have to remember is that we do have the Fisheries Act, and the Fisheries Act has a lot of clout and a lot of capabilities in regard to introducing all sorts of measures. So the regime that's in place now for cod is extremely strict, and I can report that there are early signs—not in the Gulf of St. Lawrence, but off Newfoundland and Labrador—of cod coming back.

So to me—and I think to people in our industry—there was no question that the stock was in terrible shape. We all knew that. As for the fact that COSEWIC comes out and does the rate of decline, as you said, and says that it is in really bad shape, well, thank you very much. But it was the fishing industry of Newfoundland and Labrador, if you remember, that advised early on in the campaign that there were problems.

In any event, I would simply say that the Fisheries Act can introduce very stringent measures, and basically it did. All we're looking for is some sort of convergence of the acts and, particularly, hopefully to have the excellent scientists from COSEWIC and DFO operating with a model that is generally in keeping with how we recognize the world of fish.

[Translation]

Mr. Bernard Bigras: I have a second question about the COSEWIC criteria. We know that an evaluation is done of species

that are considered endangered when there is a 50% decrease in the stock.

You seem to be suggesting a change to that threshold. You are proposing that the figure go from 50% to 70% for endangered species, and from 70% to 90% for species that are threatened with extinction. What led you to ask for this change? What is the scientific basis for your recommendation?

[English]

Mr. Patrick McGuinness: First of all, we didn't request that change. There was a workshop established at the University of Ottawa between the marine fish scientists COSEWIC subcommittee and the Department of Fisheries and Oceans. They had two days of bantering back and forth and that's one of the recommendations they came up with. Because they did agree, if you will, that aquatic species were somewhat different. So really, they in fact now are using that as an operating model in the COSEWIC subcommittee for fisheries. For something to be threatened, you must have a 70% decline, and to be endangered, it's something like a 90% decline. They've adopted that.

We're saying that's a modification, but it still doesn't get to the heart of the issue. We want a model that fishery scientists are using around the world to attest to what is the current status of that stock based against a precautionary point reference point. If it's below the precautionary point, that stock is in bad shape. If it's considerably below that point, then it's probably endangered or threatened.

• (1615)

The Chair: Your time has run out. *Merci beaucoup.*

Go ahead, Ms. Duncan.

Ms. Linda Duncan (Edmonton—Strathcona, NDP): First of all, I'd like to ask Ms. Gelfand about this joint proposal that's being developed. This is the second time I've heard about this and it's encouraging and laudatory. I think I can speak for the committee in saying that we very much look forward to receiving it, hopefully before the time is up for our review. That date is fast approaching. Also, the sooner it can be reached, the more it would help our qualified staff in coming up with recommendations.

I know what the difficulties are when you get down to the wording of specific amendments. If I could make a recommendation, you could make recommendations to us on specifics and say that you would appreciate support from the government for your initiatives in trying to reach agreement on potential amendments. Even that might be helpful, rather than trying to force an agreement when you can't reach it.

I have one question, Ms. Gelfand. I might have asked you this the last time you were here. My association with mining is perhaps quite different from the association the rest of Canada has. Are the tar sands mines members of your association?

Ms. Julie Gelfand: Yes, we have three members who mine bitumen: Shell, Suncor, and Syncrude. They are members of MAC.

Ms. Linda Duncan: It sounds as though some of the members of your association have been making great efforts to move towards setting aside habitat. Are you aware of the CEMA recommendation that habitat be set aside, particularly for caribou, but that the Government of Alberta has refused? Would that be an example of a situation in which it would be important for the federal government to step in?

Ms. Julie Gelfand: I'm aware of CEMA. I'm not aware of their recommendation, but please repeat what you said after that. I have heard of CEMA. I know who they are.

Ms. Linda Duncan: CEMA is an association similar to your mining association. It consists of industry, first nations, the government, and NGOs, and it recommended, through their organization, that lands be set aside for the protection of habitat. That recommendation was rejected by the Government of Alberta, so that might be an area where the federal government would have to intervene.

Ms. Julie Gelfand: That's possible.

Ms. Linda Duncan: I did notice, particularly from the forest products and mining associations, a number of overlapping recommendations or observations about the act that are really worthwhile for the committee. They seem to reiterate other submissions to the committee.

One is that you seem to be berating the government for the delays on recovery plans and action plans. It seems to be an ongoing complaint by all the submitters.

An interesting one is failure to promulgate the necessary regulations and policies. I really appreciate your bringing that to our attention. Obviously it's a part of the act that helps provide legal clarity for everybody.

With reference to the full funding of SARA, I wouldn't mind hearing you supplement a bit on that.

Mr. de Vries, I also noted your concern with the lack of progress on moving on the action plans and the need to refer matters to the courts. I'd appreciate hearing from both of you on that.

Mr. Andrew de Vries: Yes. With the implementation of SARA, some 300-odd species were instantly brought to bear for the federal government, and the staff in Environment Canada and Fisheries and Oceans have been doing an admirable job in trying to tackle that amount of paperwork. They are making progress, but it is slow.

Because of that slow pace, various elements of society get upset and target particular species, so I think we're finding is that the federal government is in a reactive role rather than a proactive one. We would like to see officials in a proactive role. We're certainly working with those officials to help bring some of these ideas forward, as you've indicated.

So I think that's really it. It's a lot of work for them to do. They are trying very hard, but it is just a massive amount of work. What we're seeing is frustration and people trying to move policies forward by litigation. We would much rather see the federal government take a proactive role by working with the provinces and territories, and our industry, and see those policies move forward more quickly.

• (1620)

Ms. Linda Duncan: Ms. Gelfand, before you throw in your two cents, which would be appreciated, one of the aspects you both mentioned was the lack of government support for using conservation agreements. I've discussed your proposal with a number of other presenters as well, and there seems to be a reluctance.

I actually looked at the statute to see about your proposal. The statute itself does not in any way suggest that the conservation agreements would in any way replace the legislated mechanisms. Are you suggesting that the law be changed so that you can have a binding law that could be enforced by any party, or are you suggesting conservation agreements, which of course would only be a contract model, and then only the parties to the agreement would be able to enforce those terms? I always have concerns about proposals for something outside the statute.

Mr. Andrew de Vries: It's a good point. We would very much like to see conservation agreements move forward as a tool, whether it's a contract or a specific in the act. I'd have to do a little bit of homework to give you a specific answer, but I think what we need to recognize is that individual groups—or companies, in the case of my industry—are already doing this work.

We're working cooperatively with the NGOs and the provinces and other industries. CEMA would be an example of that. What we're finding is there's not a place to park these agreements within SARA. We've done the work on the ground, we would like to get some recognition under the act, and we find that we can't because it doesn't fit.

Ms. Linda Duncan: Maybe it's something, Ms. Gelfand, that could be pursued in further discussions that you're tasked to look at.

Ms. Julie Gelfand: Absolutely. I think the fear on some people's part is that the conservation agreement would somehow mean that you're not fulfilling the protection of the species.

From my limited experience with the industry associations, I don't think that's their intent. Their intent is to continue to do the work to protect the species at risk, but to find some place to say they're already doing all this work so where do they get some form of credit for it, and can it potentially affect the permit so that they can continue to operate? I mean, you're going to continue to have a hole in the ground in Sudbury, and the peregrine falcon is going to continue to go to the cliff face, so we have to figure out a way to protect the peregrine and not create huge economic problems for the workers in Sudbury.

In the end, this comes down to a clash of values: the value that you place on the industrial activity and the value you place on the species at risk. Most people would say that there's probably a way, if we're creative, to figure out a way to do both.

The Chair: Thank you.

The time has expired.

Mr. Warawa.

Mr. Mark Warawa (Langley, CPC): Thank you, Chair.

Thank you to the witnesses for being here while we do this legislative review of SARA.

It's also interesting that at this time we are looking at sustainable development. Industry cannot be successful in the long term unless it goes to the model of being sustainable, which includes the environment, the economy, and social impacts. That's the three-legged stool, so to speak. Also, the recommendations coming from science will depend on the model that is used.

Your recommendation, Mr. McGuinness, was that the model be a model that would be international, so to speak. I appreciate that input.

I'd like to focus on two things. Could you comment on when, in SARA, socio-economic considerations should be taken? For COSEWIC, my understanding is that there is no socio-economic consideration for the recommendation of a listing of a species. There is when it goes to the minister and the Governor in Council, but then, when critical habitat is identified, again there are no socio-economic considerations. Should there be? When should socio-economic considerations be considered at all levels of managing a species?

My other question is about the timeframes. Consultation is a very important part of this. Even for yourselves, in working with industry and ENGOs to come up with joint recommendations, that takes time. As a species, its listing criteria may change. What's the proper model for a timeframe with COSEWIC, with the minister and the Governor in Council, and also for the critical habitat?

Are these timeframes that we have realistic? It's been highlighted that litigation seems to be the only model or a model that's often used. Is that because the timeframes are not realistic to do proper consultation?

So my question is about the importance of socio-economic considerations and when they should be considered in managing a species and also about timeframes. Could each of you comment please?

• (1625)

Mr. Patrick McGuinness: My first comment is that in this area SARA itself is somewhat misleading, because in the Government of Canada, any time you're going to introduce a regulation, as part of that you have to take socio-economic considerations into account.

For example, in SARA, if you're going to list an endangered species, there has to be socio-economic consideration. That's the law of Canada. So you're quite right: at the time of going to the council of ministers, there has to be that socio-economic consideration.

Then, I would say, that if in fact you're going through and there's going to be a recovery program or an action plan that's going to entail some form of regulation, here again it's not a question: it must. That's basically one of the overriding rules of the Government of Canada. We went through that about 15 years ago. That's my comment there.

With respect to timeframes, I think you're right. If you look at the list of endangered species, you'll see a wide variety of flora and fauna and so forth. The consultation is basically a responsibility of government; it has to make sure there is that consultation. So I think it was a bit of a mistake to actually have a prescriptive time period. There are groups—industry groups, well-meaning bureaucrats, and very cooperative environmental groups—and the issue is to bring

them together and try to move this issue forward. Having legislation that puts in a little timeframe becomes a bit of a magnet.

I remember that in one of the task forces leading up to SARA we brought up the U.S. wildlife people. They basically said not to do what they did, in the sense that all of a sudden they found it was a magnet for litigation when they did such prescriptions. They said they were spending all their money with lawyers trying to fight this off, and they had no money for recovery, no money for this. So follow that advice—except for the nine months type of restriction.

The Chair: Briefly, Mr. de Vries or Ms. Gelfand.

Ms. Julie Gelfand: I don't think the timelines are particularly difficult. I think the issue with species at risk and not getting to recovery, not getting to action planning, and not getting all our policies in place is really a function of a lack of staff—a lack of staff within Environment Canada.

I think they've had a very difficult last few years. In the Government of Canada, it can take you one year to hire a biologist. Think about it: one year to hire somebody. In industry, that would never happen. They need many more people in order to help them get over that backlog of the 300 species that were first given to them. They didn't have that. That, to me, is the timeline issue.

On the socio-economic consideration, I think it is reasonable to have socio-economics come into the recovery planning and the action planning stage.

On the listing issue, if you were to forget about the Species at Risk Act—if there were no Species at Risk Act—then listing should be based purely on science. Is this species endangered or not? Do we have enough of them? Are they reproducing properly? Is it going to go off the table or not? Where I think the issue comes in is that some industrial folks feel that it becomes difficult to support that, because it becomes an automatic prohibition with SARA when listed, and that can have economic implications.

If you're thinking about sustainability and sustainable development, you want to have a functioning ecosystem in order to have a functioning economy. Species at risk are like canaries in the coal mine telling us whether the ecosystem is functioning. You sure don't want to have a lot of them going over the edge, because in essence that means the ecosystem is in trouble and your economy can be in trouble. So it's a little more difficult to deal with that issue of when to bring socio-economic considerations into listing.

•(1630)

The Chair: Unfortunately, we ran out of time there. I have to be fair to all members. We are now going into our five-minute round. I'd ask our witnesses to keep their comments as brief as possible, especially as we do have a number of panellists who want to comment. Please be fair to each other and to our members as well.

Mr. Scarpaleggia, please.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you, Mr. Chair.

I guess my first question is a bit of a naive question. It sounds to me as though the act is far from being truly implemented. You have one species that has a recovery plan, and you were saying, Ms. Gelfand, that a lot of policies haven't been properly developed yet, and so on and so forth.

So the question becomes, if the act really is not in a state of application—I'm simplifying, of course—how is it bumping up against your industries, if you understand my question? Are you just acting on your own in anticipation of it properly coming into force? Why is it such a problematic thing if the policies haven't been developed and there's not enough staff to produce recovery plans and...? I just don't understand where the friction is.

Mr. Andrew de Vries: Yes, absolutely we're going out ahead. Especially for my industry, we're primarily regulated by the provinces, and so we are working with the provinces and ENGOS to develop programs for species at risk, such as caribou. We are going out ahead. We don't want to be in a position five years from now where we've done a bunch of programming, we've conserved a bunch of habitat, and we've come to an agreement, only to say that's not enough, that's wrong, it's too much, or it's too little.

So what you're finding is that there's uncertainty. We can work within the provincial systems very well, as my industry does. Other industries are more directly impacted, since they're working under areas of direct federal law. Even in our industry, when we're dealing with fish or migratory birds, those are direct federal responsibilities.

We are doing work, but we find that there's no place to plug into, and then we're at risk. It's business uncertainty, and business doesn't like uncertainty.

Ms. Julie Gelfand: I think the other big issue is that many industries and many facilities feel that they're non-compliant. They hate that. To be non-compliant with any act is a huge no-no in this day and age. They feel as though they don't have a permit under SARA, so they're saying, "Oh my God, what does that mean?" They're saying that they're non-compliant. And that's not a good situation to be in.

Mr. Francis Scarpaleggia: So essentially you produce conservation plans under provincial legislation...? Now, even though they carry a different name, are they essentially the same as a recovery plan?

Mr. Andrew de Vries: We're trying our best to make them SARA-compliant, if you will, because there's a lack of certainty at the federal level. We're doing our best. We read the act and we try to anticipate actions that the federal government may wish us to undertake, but we're acting in a bit of a vacuum. We're doing the best we can and the provinces are doing the best they can.

Mr. Francis Scarpaleggia: So should the federal government do like it has done with CEPA and have a kind of equivalency agreements with the provinces? Should it say, look, we still don't have enough biologists, but you've dealt with this issue, and industry is producing proper conservation plans, so that's good enough for us? Is that sort of what you would like to see?

Mr. Andrew de Vries: That would be an option. We think that there are other simpler options that the federal government could undertake, but certainly—

Mr. Francis Scarpaleggia: Like what?

Mr. Andrew de Vries: —it's something we've considered.

Mr. Francis Scarpaleggia: When you say "simpler options", what are they?

Mr. Andrew de Vries: Those are the things we've recommended in our proposals: move more quickly on policies, implement the permitting, and implement the conservation agreements.

Mr. Francis Scarpaleggia: Mr. McGuinness, you say there's a question of somehow dovetailing or harmonizing the approach of the Fisheries Act with that of COSEWIC, but you seem to introduce almost a third approach. It's almost equivalent to traditional aboriginal knowledge, although in this case it wouldn't necessarily be aboriginals. You say that the people on the ground in the fishing industry know a thing or two about how we should be dealing with different species. Is that sort of a third prong that needs to be factored in?

•(1635)

Mr. Patrick McGuinness: We're not suggesting any changes to the Fisheries Act or to SARA with respect to endangered species. I guess what we've said is that our industry or our participants are working within a science regime called the precautionary approach or the ecosystem-based regime, which basically has a lot of traction. We're using that in international markets in terms of getting eco-certifications under the Marine Stewardship Council for a wide range of species. We've been very successful with that. We have three already certified and 14 in the process of becoming certified. I expect 30 by the end of the year.

So we've oriented our thinking towards this science model, which is basically FAO initiatives and then.... As I say, they just don't have confidence in the COSEWIC assessment. At the end of the day, the COSEWIC assessment is contracted out to a student for \$10,000 or \$11,000. We have \$2 million worth of science in there.

The Chair: Thank you very much.

Mr. Calkins, it is your turn.

Mr. Blaine Calkins (Wetaskiwin, CPC): Thanks, Mr. Chair.

Mr. McGuinness, I know that you didn't talk about this specifically, but I'm going to ask you a question. Under the definition in the act, it says that a wildlife species means any "species, subspecies, variety or geographically or genetically distinct population of animal, plant or other organism, other than a bacterium or virus, that is wild by nature and (a) is native to Canada; or (b) has extended its range into Canada...".

The problem I see with this act isn't that it's poorly intentioned. It's just not really doing what it's supposed to do. When Canadians think of the Species At Risk Act, I think they think that we're down to the last 50 of something in the entire country, or that hypothetically these could be the last of the polar bears in the wild forever and ever. I think that's a vital concern. That's an important concern.

This is called the Species At Risk Act; it's not called the "Subspecies At Risk Act". There are three subspecies of peregrine falcon, including *anatum* and *tundricus* and so on. Some of them are at risk; some of them aren't at risk. When we deal with this, we're not dealing with species at all. We're actually dealing with populations of potentially genetically distinct creatures.

The reason there are not enough biologists is that it would take a lifetime for biologists to go to every lake to genetically identify every species of walleye just to study in vitro to see if they were all genetically independent from each other. After a certain amount of time, through a process of speciation—you can look at morphometrics and all of these things—you could actually say, yes, this population of walleye in Gull Lake, Alberta is different from the population of walleye in Pigeon Lake, Alberta. If we're fishing out Pigeon Lake, all of a sudden it would trigger COSEWIC to look at this and say that we're running out of walleye. Well, there could be 15 million walleye in Gull Lake and 15 million walleye in Sylvan Lake, and we're not really running out of walleye at all.

As a matter of fact, when you come to population recovery, we actually take pools of genetics from other places to reintroduce them into the wild. Take, for example, the bison herd in Wood Buffalo National Park. The population of wood bison is completely diluted with plains bison.

Herein lies the question: how can an act, as well-intentioned as it is, possibly look after the notion properly to address everybody's concerns? We had a gentleman in here the other day from northern Alberta talking about a particular bison herd or a particular caribou herd. We're talking about potentially genetically isolated populations, not the entirety of the species going extinct.

Mr. McGuinness, could you enlighten me, as a legislator—I'm also a trained biologist—as to how I can possibly wade through an act like this and deliver the right results for Canadians? Fisheries is

very important to me. I'm the only member of this committee who also sits on the fisheries committee. Of course, we have some serious issues pertaining to salmon, particularly in the Fraser River. You talked about the cod on the Atlantic coast. That is a great example.

Mr. de Vries, when I was in university 20 years ago, we were talking about the imminent end of woodland caribou, and 20 years later, we're still talking about the imminent end of woodland caribou. I don't think this act or this legislation is up to par. Help me try to solve this problem.

● (1640)

Mr. Patrick McGuinness: I agree with your assessment. The bottom line, as you say, is that at some point in time, they're going to have to take a triage approach to this whole issue. Say, for example, they looked at Atlantic cod and broke it into four or five different subcomponents. It is a fundamental problem with the implementation of this act. COSEWIC has a certain amount of money. At some point, they're going to have to take a triage approach so that they can in fact get on with those species in which a certain size of population is in difficulty.

Mr. Blaine Calkins: We had a gentleman here two days ago from northern Alberta talking about populations of wood bison and woodland caribou. He said that this act isn't living up to it, from his perspective. Can you elaborate or tell us...?

You work with forest management agreements within the provinces. It's a habitat issue. In your estimation, are the woodland caribou in northern Alberta threatened? Should there be a trigger on this? Are the wood bison threatened in northern Alberta? The Province of Alberta issued hunts on woodland bison a little while ago because the numbers were growing so fast.

Mr. Andrew de Vries: I won't speak to bison because our members don't operate in that area.

In regard to boreal caribou and the first question, which I think you posed to Mr. McGuinness, the Government of Canada needs to be careful, when it dives down, not to go too far, to population levels where possible.... I think we want to deal with species at risk and not populations at risk, generally speaking. There may be cases where you will have to make decisions on populations.

Some populations of boreal caribou are declining, some are stable, and some are increasing. But generally, boreal caribou across Canada exhibit declining trends. In Alberta that's true of most of the herds. It becomes a question of how governments want to deal with boreal caribou nationally.

This is where recovery planning and socio-economics at the recovery planning and action plan stages are important. Then you can make decisions within Alberta, Manitoba, or Ontario on how you are going to deal with populations that are stable or declining. For a species like caribou, which is a provincial species, those decisions need to be made there. Definitely there are trade-offs to be made, and I suggest that those trade-offs occur throughout SARA.

The Chair: Thank you.

Monsieur Ouellet, *pour cinq minutes, s'il vous plaît.*

[Translation]

Mr. Christian Ouellet (Brome—Missisquoi, BQ): My question is for all three of our witnesses.

Have you ever thought to integrate scientific observations on climate change into the scientific models you are currently using?

Mrs. Julie Gelfand: That is COSEWIC's work. When scientists prepare their report on what is left of an endangered species, they include climate change in their study so that they can try to predict whether the species can survive.

Mr. Christian Ouellet: And that applies to everyone?

Mrs. Julie Gelfand: At the COSEWIC, the scientists who do these studies tell us whether the species is endangered or not.

Mr. Christian Ouellet: Mr. McGuinness, and Mr. de Vries in particular, you have been talking about provincial and federal areas of jurisdiction. Can you give us some idea of where these jurisdictions begin and end respectively?

[English]

Mr. Andrew de Vries: The distinctions are fairly clear, at least to me. Aquatic species and migratory birds are the domain of the federal government. Caribou and other mammals are generally and foremost the domain of the provincial government. SARA would require the federal government to intervene if the provincial governments weren't demonstrating effective protection.

This is why we need to start making decisions about socio-economics and recovery strategies, because that's where the rubber starts to hit the road.

•(1645)

[Translation]

Mr. Christian Ouellet: Yes, Mr. McGuinness.

[English]

Mr. Patrick McGuinness: To go back to your question about climate change and how it's included in these types of analysis, in the fisheries model there is a provision for that with respect to looking at the current productivity rate of that stock. What you'll see from time to time is that the productivity rate will change. If you have a high productivity rate, it would mean, for example, that the water temperature is right, the currents are not too harsh, and other factors such as salinity are right. These factors are very positive in terms of regenerating that growth, and you can measure that.

We have seen, for example, that productivity of northern cod has declined. When you analyze that, you will see that there is an element of climate change, in the sense that the salinity has increased, which is basically a result of the icebergs melting off

Norway. That has had a significant impact on that portion of our ecosystems.

In those same waters we've gone from having our groundfish on the verge to now being the number one producer in the world of cold-water shrimp, so there is an ecosystem out there. All we're saying is that we—not the Fisheries Council of Canada, but the fisheries biologists—are developing science to try to bring that into their incorporation, as I say, and assess the state of the stock on a number of factors. One of the very important ones is the current productivity rate of that species.

On the other hand, I have no problems with COSEWIC's formula, which is appropriate for terrestrial growth. It's basically the rate of decline, something that you can see. It's something that you can see in terms of animals and the environment they live in, while we're living basically under the water.

[Translation]

Mr. Christian Ouellet: Do you think that the bill we are working on currently should mention climate change?

[English]

Mr. Patrick McGuinness: I look at it as climate variability. We always see climate variability. We've seen the Atlantic go colder, warmer, and now maybe...whatever. It's not a consensus on climate change; it's an approach to assessing the current conditions under which the fish species are living, continuously measuring that, and looking at a number of factors in terms of the regeneration of the stock and things of that nature.

There's a consensus, if you will, on the approach, but I don't term it as climate change. It's looking at the species itself in terms of its variability and its productivity rate. There's no question that climate variability causes a change, sometimes positive and sometimes negative. Sometimes climate change can have a negative impact on groundfish, and the negative impact on groundfish actually regenerates the shrimp fishery because of the predator-prey relationship.

[Translation]

Mr. Christian Ouellet: Do the fish in our rivers fall under your jurisdiction or that of the provinces?

[English]

Mr. Patrick McGuinness: The Fisheries Act is a federal act. It has responsibility over all marine aquatic species, but they delegate that administration to the provinces, so the rivers themselves are provincial. Basically they take the Fisheries Act and administer it on behalf of the federal government.

•(1650)

The Chair: Thank you.

Merci, Monsieur Ouellet.

Mr. Woodworth, go ahead.

Mr. Stephen Woodworth (Kitchener Centre, CPC): Mr. Chair, I'm going to surrender my time to the greater expertise of my colleague Mr. Calkins.

Mr. Blaine Calkins: Thank you to my colleague, Mr. Woodworth.

I'm going to come back to some points.

Mr. McGuinness, you would be aware that certain areas of the world—New Zealand is an example—have gone to strategies to protect their fisheries by having refugia. They create large areas of refugia to protect the habitat that groundfish use, and that even some of the local migratory fish use, in order to protect those species. I would like you to comment a little on that because the issue about wildlife is all about habitat and protecting that habitat.

Mr. Patrick McGuinness: The New Zealand industry took a very aggressive and proactive approach. They divided their part of the ocean into various segments. In each of those segments, they put a closed area, and theoretically they're representative.

Basically, in terms of the fishing industry, our deep-sea groundfish fleet and our deep-sea shrimp fleet have established a sizeable acreage in terms of a no-go zone for fishing. But you're right; the species that we are protecting here are basically deepwater corals, sponges, and certain sea mammals, so they—

Mr. Blaine Calkins: So the refugia is working.

Mr. Patrick McGuinness: Yes.

Mr. Blaine Calkins: If we take a look at lobster fishing area 34, with the refugia for the lobster fishery there, we can see the clear benefits at the south end of Cape Breton and Nova Scotia.

So from my perspective, and as you come here and you bring these recommendations, I would suggest to you, Ms. Gelfand, that you could hire every university graduate who has walked within 50 yards of a biological sciences building, whether they've even gone in or not, and you would not have enough people hired in Environment Canada to do a biophysical inventory across Canada that would let us know whether there's any realistic chance that we have how many species, subspecies, or whatever it is we have.

I conducted something for the City of Edmonton's parks and recreation department 20 years ago, where we identified 80 new species that had never even been seen in the park system in Edmonton, and I just took 10 little plots out of one—one—little area inside the city of Edmonton in Whitemud Park. So we don't even know where half of our stuff is, much less whether it's an independent species.

I'm going to leave that comment with you. But I want to stress and make the point that instead of actually talking about whether this act as it exists is of any use at all, if wildlife management, which was transferred to the provinces, with the exception of fisheries and with the exception of migratory birds, for which we have an international

convention, and we have a convention on the international trade of endangered species to deal with any illegal trade of endangered species.... Why aren't we suggesting or why aren't suggestions coming forward to say that management should fall within the purview of the provinces?

Habitat creation, such as our 30% expansion of our national park system, and through provincial parks, looks after the habitat. If we identify the right critical habitat, the species that we're talking about here today wouldn't even come into these kinds of equations.

Mr. Patrick McGuinness: I took notes.

Some hon. members: Oh, oh!

Mr. Blaine Calkins: Does anybody want to comment on that?

Mr. Patrick McGuinness: No, that's okay.

Ms. Julie Gelfand: We have a national parks system in this country. We have provincial parks. You're absolutely right that protecting habitat is the key.

I would argue that the federal government should have some jurisdiction over species when and if provinces aren't taking care of them, because in some cases it can become the last species on the planet of that endemic. In Canada, it's a moral question in the end: do you believe we should allow certain species to go extinct in this country even if they do exist in the States or somewhere else?

Mr. Blaine Calkins: I'm going to quote something to you, Ms. Gelfand. This is my time, so I don't mean to interrupt you, but I've had university professor after university professor teach me at the University of Alberta as I attained my zoology degree that the universal fate of all organisms is extinction, because everything either evolves into something different or it actually goes extinct. That is a law of biology. That is the only law of biology, so we have an act here to prevent natural law from occurring.

Mr. Patrick McGuinness: In terms of the Fisheries Act, that act is really quite extensive, and in terms of managing fisheries, the minister has the responsibility of sustainability and also protecting habitat.

For example, a recent report done by a group of scientists was published in *Science Magazine*. It rated the various science regimes around the world in terms of their adherence to the FAO code for responsible fisheries management. The Canadian regime came third; Norway came fourth.

So you're quite right. If you have a fisheries management regime out there notwithstanding some difficulties in its current shape with the Minister of Fisheries and Oceans, and a management regime that has been compared to the FAO code of conduct for responsible fisheries, there is a question: why do we then need another act such as the Species at Risk Act with very blunt tools? It's a good question.

•(1655)

The Chair: Thank you.

Mr. Trudeau, you're up.

Mr. Justin Trudeau (Papineau, Lib.): Thank you.

I actually found myself wondering what specifically I was going to ask you about, and then Mr. Calkins came forward with a number of issues that I'd certainly like to use my five minutes to respond to. I will, of course, ask for your opinion at the end.

The first issue he brought forward was the issue of the number of biologists it would take to accurately assess the species, the subspecies, and all the way down to the populations. Obviously, we're not going to know exactly how many of this particular speckled snail there are in this particular corner of the world and whether there are more or fewer, but one of the important functions of SARA is to try to get a *vue d'ensemble*, an overview of how our ecosystems are doing, and that was a point brought up earlier by Ms. Gelfand.

If one specific species or one specific population is threatened within a particular area, it's worthwhile for us to look into it and know why that is. SARA performs an admirable task in a very difficult situation, in a logistically prohibitive situation, in terms of the amount of science one needs to monitor those populations so that we know what kind of impact we have. Industry brings forward a number of credible.... And we've heard from a number of industry representatives that there are attempts at mitigation. We talk about hydro plants putting fish back into the rivers, which then become sources of risk for them. We talk about the various efforts that all the different industries are making to try to be good about the ecosystems in which they are operating, and the fact that SARA sometimes, because of limited capacities, because of bureaucracy, and because of the fact that it's just a five-year-old law, hasn't articulated perfectly the best way to engage with that.

That is legitimate. That is why we're having these discussions right now. It's very important that you bring forward the testimonies that you have, but the fundamental point of saying that we need to know how our natural world is doing is that human beings are not outside of the natural world. The air we breathe, the water we drink, and the food we eat depend upon the same ecosystem services that the speckled snail depends upon as well, to a smaller degree. Knowing how our ecosystems are doing is extremely important, and the fact that we can't monitor every single subspecies is not a reason to say that therefore we shouldn't have a SARA.

The other issue concerns the showcase that the Conservative government is trying to build around its parks. National parks are very important. Obviously I'm a big supporter of national parks, and I'm glad to see the Nahanni expanded, because it's a project I've been working on for 10 years at least. However, when you protect 2% or 3%, and even if it gets up to 4% or 5% of a country's territory, the issue becomes, what are you then saying about the lack of protection of the 95%, 96%, or 97% of the territory? That is something we have to understand. Provincial parks are not a panacea. They're an important element of protection, but they're not it, and you cannot build an environmental program only around them.

The final and most interesting reflection is on the natural law of extinctions. Mr. Calkins, I won't presume to make any assumptions about your religion, but I happen to be someone of faith. I believe that natural law was established by our creator, and that human beings over the past 100 years or 200 years have been hugely responsible, through our deliberate and knowing actions, for causing extinctions, something that I believe we need to be cognizant of.

● (1700)

To simply sit back and say that extinctions are a natural fact in the world, and that therefore we shouldn't be preoccupied with them, is exactly the kind of philosophy that is most worrying from a government that purports to be stewards of a country that includes natural non-human populations as well.

Mr. Mark Warawa: I have a point of order.

The Chair: Your time has actually just run out.

Mr. Mark Warawa: Mr. Trudeau is taking great liberties in saying things that the government has never said and would not say.... It's important that we be truthful with one another and that our statements be accurate. Through you, Chair, I would ask Mr. Trudeau to be honest in his commentary.

The Chair: That's an issue of debate, not a point of order, but—

Mr. Jeff Watson (Essex, CPC): I would have raised a point of order with relevance to a religious discussion at the table when we are discussing the Species at Risk Act.

The Chair: [*Inaudible—Editor*]...point of order.

Mr. Justin Trudeau: I'll respond to that.

The Chair: Mr. Trudeau, do you wish to respond to that point of order on relevance to the Species at Risk Act?

Mr. Justin Trudeau: I certainly wouldn't have brought it up if it hadn't been for the fact that one of the members opposite mentioned natural law and the evolution of.... I'm sorry, I don't mean to abuse the word "evolution"; I don't want to get into a religious debate over that. But I do want to say I wouldn't have responded if it hadn't been brought up.

The Chair: I think it was used in terms of talking about the extinction of other species, so I think it was okay when Mr. Calkins.... Maybe we got a little bit off track, but we'll get back on.

Anyway, we'll continue with our round.

Mr. Armstrong.

Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC): Thank you, Mr. Chair.

I want to congratulate all of the witnesses. I've listened with great interest to your submissions today.

Mr. McGuinness, you mentioned something that I'm interested in, being from Nova Scotia. On the Atlantic coast, with the evidence of the cod stock recovering, do you believe that the support people have shown—including the government—for the seal hunt has positively impacted that cod stock?

Mr. Patrick McGuinness: It certainly hasn't helped, if that's the question in terms of.... There is a concern. I mean, it's an ecosystem. It's an ecosystem, and if you have more seals in the area, they will basically eat what becomes available. So as the cod comes back there is a concern that its natural productivity, if you will, would not be as high as it would be if in fact the seal population were lower.

The seal population was at 2 million. That was quite sustainable. It has grown to 5 million to 6 million now. They have to eat, right? So there is that type of negative impact in terms of the rate of increase.

Mr. Scott Armstrong: So in your opinion and that of your members, support for a continued seal hunt would help that cod stock recover, thereby helping one of our protected species recover.

Mr. Patrick McGuinness: I don't represent the sealers. There is the Canadian Sealers Association. I represent the fishing industry, and basically our interest, of course, is the rejuvenation of the fish species. There is no question in our minds, as I explained, that seal hunting is a legitimate endeavour in terms of seal hunting, and that we, as a fishing industry, do receive some residual benefit with respect to the predator-prey relationship.

It's the same thing in B.C., where there is a big issue with harbour seals and their impact on Pacific salmon. That's a growing issue.

Mr. Scott Armstrong: I have a second question for you, Mr. McGuinness. In your written submission, you suggested, "The ability to sell an at-risk species caught as an authorized by-catch under a recovery strategy should be allowed in certain cases".

How do we allow that without actually encouraging a bycatch of a species at risk?

• (1705)

Mr. Patrick McGuinness: In my introduction, I just said there had to be mitigation and things of that nature. Fortunately—or unfortunately—we are one of the most heavily regulated industries in Canada. Fisheries are federally regulated and there are fisheries officers and things of that nature.

So what you can do is to introduce fishing protocols. Basically you would get a permit, and the permit would specify what you had to do if you caught a bycatch of a listed species. So if you caught some listed species in your bycatch, you would keep them but would then have to take some action; generally what we find is that it has to travel at least three miles from that point of contact.

All we're saying asking here is, why waste food? For example, with wolffish, we're saying that we don't need to sell that fish because it is a listed species. We do harvest it from time to time in incidental bycatch. We take the moving action, but at the same time we can return that fish to the water because of the nature of the fish and the nature of that fishery.

But our concern, looking to the future, is in regard to species listed by COSEWIC for further analysis that are such deep sea-living species that we could not return them live to the sea.

Mr. Scott Armstrong: Thank you.

Mr. de Vries, other witnesses who have appeared before us have indicated that the ecosystem or multi-species approaches to recovery planning is the way to go. What are your views on this?

Mr. Andrew de Vries: I think under the right circumstances it's an effective tool, yes.

Mr. Scott Armstrong: How do you see a multi-species approach working in light of the need to identify a critical habitat that SARA seems to require to be species-specific?

Mr. Andrew de Vries: We've asked members of this committee to consider changes with regard to critical habitat. There will probably be some wording in the act around critical habitat. That's probably too complex a question to answer here, but I'll take a stab at it. I think multi-species is a good idea because there are species that overlap in their habitat requirements. Theoretically it would be possible to identify some of those areas as critical habitat for one or more species.

Mr. Scott Armstrong: Terrific. My question was difficult to answer, but the debate was between biology and religion before, so we'll move on.

The Chair: Before we get going down that road again, we'll stop it right there.

Mr. Watson, you're on.

Mr. Jeff Watson: I have no questions, but I would cede my time to another colleague. I think Mr. Calkins has been raring to respond.

Mr. Blaine Calkins: Thank you, Jeff.

In light of what Mr. Trudeau said, I think he and I—if we were being completely honest—both share an outstanding passion for Canada's wild spaces and our wildlife. I'm simply stating what I know as somebody who's trained as a biologist. I'm not even a professional biologist. I should admit that right up front. I've had the privilege of working in our national parks and for Alberta Environment on the ground.

I do want to get back to the issue pertaining to this bill. I do believe that Canada does need a species at risk act, obviously. I'm not suggesting that we throw out the baby with the bathwater, but I do think this bill needs some serious changes. I'm getting a little bit frustrated, and I'm not mad specifically at any particular.... But I haven't seen any really big, hard requests from anybody, whether it's environmental groups or industry groups, to give this thing the swift kick in the pants I think it deserves.

When you take a look at the consultative process—and I know we were talking about consultation—we're frustrated with how long things take. We're frustrated at the lack of information. COSEWIC has a very tough job to do. They have to determine, based on the definitions in here, things like the wildlife species and whether or not a wildlife species, a population, or a subspecies of that population, is indeed threatened. That's a difficult, time-consuming thing to do.

We look at this bill from the perspective of the Canadian Endangered Species Conservation Council, which is the body that's ultimately going to make the decision as to whether things progress in the schedules. The recommendations come from NACOSAR, which is strictly an aboriginal advisory group. The other advice comes from COSEWIC, which is strictly a combination of scientific and aboriginal traditional knowledge. There is no other mechanism in this bill that I can see outlined in this act to bring forward information and to get either the socio-economic or other types of interests brought into the Endangered Species Conservation Committee.

Can you elaborate on that? Are you satisfied with what this bill does as far as getting those particular realities in there is concerned? Because as the bill is outlined, it only takes advice from those particular groups.

• (1710)

Mr. Andrew de Vries: Thank you for the opportunity to answer that question.

We've outlined eight sections of the act we think could use work. I wasn't sure if there was an appetite to do more. We have highlighted concerns with definitions for the members of the committee to consider. I've also asked that you revisit this act again seven years from now, once you've done your review, to take into consideration these eight considerations we're going to be making.

It is a complex act. We're a complex country. I think if the members of this committee can consider our requests, that would be great.

Mr. Patrick McGuinness: As far as what we're asking for goes, we think these things can be done through policy development. We looked at the issue in terms of attacking the act, and I guess one of our first drafts was very much in that mode.

We saw two things. One, the federal government's presentation to this committee was generally that "it's a new act, and we're on the road to implementation, so give us time". We got the sense from their presentation that the government departments were looking for that type of direction.

Then we reflected on the fact that the road to SARA was a long, difficult, bitter one. There was quite a bit of fighting between industry and NGOs and so on. I sat on every task force that was established by the various governments at the time, trying to represent the fishing industry. It was a difficult process.

At the end of the day, we looked at it and said that if it were opened up again—and with the minority government—we would be concerned about what would come forward. We see very disturbing signs that the NGO community is trying to bring forward prescriptive types of timelines and so forth, which we're certainly not in favour of.

Our final decision was to take the path we have. We think our requests are reasonable, based on science, and are something that can be done.

The Chair: Very quickly, Mrs. Gelfand. Mr. Calkins is running out of time.

Ms. Julie Gelfand: What Andrew said is completely correct. It's a complicated country we live in. We have many different ecosystems, so we need many different tools. Many people in civil society have worked really hard to give us a variety of different tools to protect our natural ecosystems.

The Species at Risk Act is really for when the species is about to fall off the table, when it's almost too late. You really need to protect the habitat before that in our protected areas, and you have to properly manage the rest of the landscape and the seascape. You need a variety of tools. All together, I think they make a good package for protecting the ecosystem upon which we all depend. I wouldn't want to throw out the baby with the bathwater either. It is the act that protects the species just before it's about to go off the precipice. Absolutely, it's best to work behind that and protect the ecosystem.

Andrew and I are also both biologists—maybe Patrick is too.

The Chair: We don't have time to go into a third round. I need time with committee members in camera.

Before I dismiss the witnesses, you said that you were going to very shortly give the committee recommendations on amendments to the act, with actual drafting. I ask that you have them in before the end of the month, because it is our intention to get working on the report in the middle of May. It takes time to incorporate them.

Mrs. Gelfand.

Ms. Julie Gelfand: I have just one other comment in response to Mr. McGuinness's request.

We have done that work and we're surprised you don't have it yet. We are going to talk to the consultant who's been working with the NGOs and get it in to you, because it is completed.

• (1715)

The Chair: Please do. We want that homework submitted so we can have a good debate.

I thank all of you for appearing today, for your informed answers and presentations, and for the thought you've put into responding to the legislation.

[*Proceedings continue in camera*]

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