



**HOUSE OF COMMONS
CANADA**

**FOREIGN OVERFISHING:
ITS IMPACTS AND SOLUTIONS**

**CONSERVATION ON THE NOSE AND TAIL OF THE
GRAND BANKS AND THE FLEMISH CAP**

**Standing Committee on
Fisheries and Oceans**

**Wayne Easter, M.P.
Chair**

**John Cummins, M.P.
Vice-Chair**

**Paul Steckle, M.P.
Vice-Chair**

June 2002

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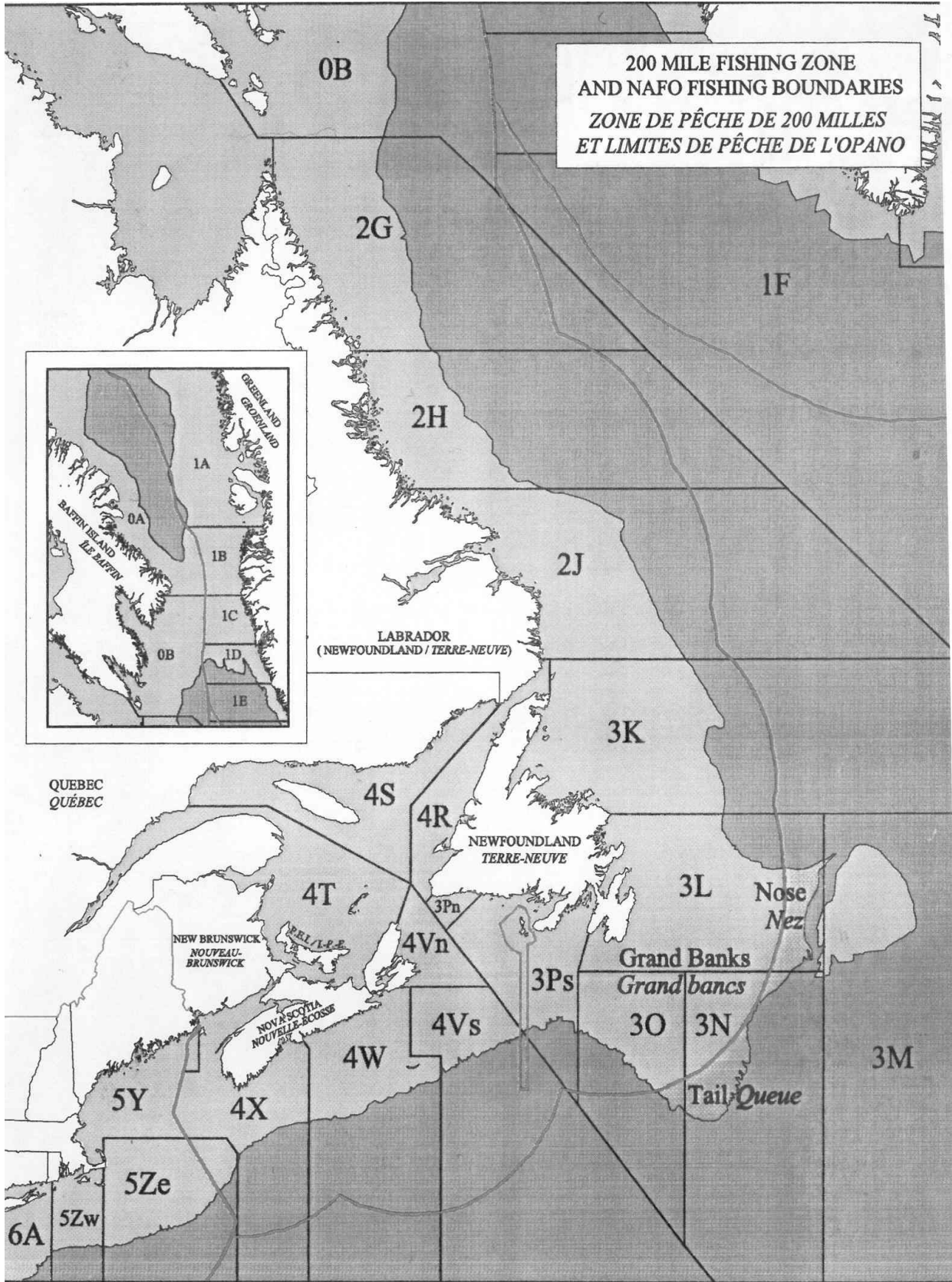
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THE STANDING COMMITTEE ON FISHERIES AND OCEANS

has the honour to present its

TENTH REPORT

In accordance with Standing Order 108(2), the Committee undertook a study on the implications of extending Canada's Exclusive Economic Zone to include the Nose and Tail of the Grand Banks and the Flemish Cap.

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FOREIGN OVERFISHING: ITS IMPACTS AND SOLUTIONS

CONSERVATION ON THE NOSE AND TAIL OF THE GRAND BANKS AND THE FLEMISH CAP

INTRODUCTION

In our December 2001 report on the problems faced by Newfoundland and Labrador shrimp fishermen and processors, the Committee noted that the amount of shrimp being harvested on the Flemish Cap greatly exceeded the Total Allowable Catch (TAC) recommended by the Northwest Atlantic Fisheries Organization (NAFO). In March 2002, the Russian factory-freezer trawler, *Olga*, was arrested for allegedly discharging oil in an area of the ocean southwest of Newfoundland. It was subsequently discovered that the *Olga* had 49 tonnes of cod in its hold and federal officials have also alleged that the *Olga* had been illegally fishing for shrimp on the Grand Banks in December of 2001. The master of the *Olga* and one of its officers were charged with pollution-related offences; however, the *Olga* was allowed to leave Newfoundland with its illegal catch intact because Canada lacks the authority to enforce fisheries infractions beyond the 200-mile limit.^{1, 2} Under NAFO rules, it is the responsibility of the flag state to prosecute charges. Although the Russians have promised to charge the vessel, we have no guarantee that they will follow through.

These incidents highlight a growing trend of non-compliance by NAFO members with measures established by NAFO intended to conserve fragile groundfish stocks in the fishing areas of our continental shelf outside Canada's 200-mile limit. Excessive bycatch³ of species under moratoria and worse, directed fishing, appears to be increasingly accepted practice. In fact, during the 2000 fishing season, the harvest of species under moratoria would have been enough to keep several plants in Atlantic Canada operating.⁴

Failure to respect conservation measures halts the recovery of fragile groundfish stocks, stocks that straddle the boundary between the Canadian zone and the high seas.

¹ The 200-mile limit is expressed in "nautical miles." A nautical mile equals 1.151 statute mile or 1.852 kilometres. The "200-mile limit" is 230 statute miles or 370 in kilometres.

² The 200-mile limit is the maximum extent of the Exclusive Economic Zone (EEZ) established by Part V of the United Nations Convention on the Law of the Sea.

³ According to DFO, observer-reported catches of several moratoria species were excessive in 2000. Catches of 3LNO American plaice exceeded 5,000 tonnes; 3NO cod exceeded 1,000 tonnes; and, 3LN redfish exceeded 4,000 tonnes. *Canadian Assessment of Compliance in the Regulatory Area*, Canadian Presentation to Special Fisheries Commission Meeting, Helsingor, Denmark, January 2002.

⁴ For example, the town of Canso in Nova Scotia requested an allocation of 3,000 tonnes of redfish in order to keep the Seafreez Inc. plant, the area's only major employer, open. (That request was turned down by the Minister of Fisheries and Oceans in March 2002.)

This is not just a problem in international waters. Overfishing outside the 200-mile limit threatens the recovery of stocks in Canada's Exclusive Economic Zone (EEZ), inside the 200-mile limit. While vessels from some other countries fish with apparent abandon and little regard for the protection of straddling stocks, Canadian vessels and plants sit idle.

For example, on May 9, 2002, Fisheries Products International (FPI) announced that it was stopping fishing for yellowtail flounder five weeks earlier than the scheduled closure of the fishery due to high bycatches of American plaice, a species under moratorium. This decision was made collectively by FPI, the Fish, Food and Allied Workers' Union and the Department of Fisheries and Oceans (DFO), and will affect about 10 vessels, 100 crew and 600 plant workers.

Various options have been put forward to deal with this problem. At one end of the scale is the proposal for Canada to unilaterally extend its jurisdiction over the fishing areas outside the 200-mile limit, the Nose and Tail of the Grand Banks and the Flemish Cap. At the other end of the scale are those who believe that the best option is to work to improve the situation within the current system. There is also a third intermediate proposal: custodial management. Given the importance of this issue, the Standing Committee on Fisheries and Oceans undertook to initiate a study on the implications of extending Canada's EEZ to include the Nose and Tail of the Grand Banks, and the Flemish Cap.

Although the problem of foreign overfishing has received scant attention in the nation as a whole since Canada's dispute with the European Union (EU) in the mid 1990s, it has been a longstanding subject of debate in Newfoundland and Labrador. This is not a new issue, nor are the solutions being proposed particularly novel. In 1990, the *Independent Review of the State of the Northern Cod Stock*, better known as the Harris report, recommended that Canada seek international agreement to permit its management of all fish stocks indigenous to the Canadian Continental Shelf and which extend beyond the 200-mile limit. Failing that, the report recommended that Canada take unilateral action to acquire management rights in accordance with provisions of the Law of the Sea Convention.⁵ Around the same period, the Oceans Institute of Canada, in a report prepared for the Fisheries Council of Canada, put forward a series of options that included, among other things, seeking amendments to the NAFO Convention to accommodate Canadian concerns, and unilateral extension of "functional jurisdiction."⁶

The Committee held hearings in Ottawa with officials from the Department of Fisheries and Oceans and from the Department of Foreign Affairs and International Trade. It also travelled to St. John's, Newfoundland and Labrador, in March 2002 to hear from witnesses representing the provincial government of Newfoundland and Labrador,

⁵ Northern Cod Review Panel, *Independent Review of the State of the Northern Cod Stock*, Communications Directorate, Department of Fisheries and Oceans, Ottawa, February 1990, p. 152.

⁶ Oceans Institute of Canada, *Managing Fisheries Resources Beyond 200 Miles: Canada's Options to Protect Northwest Atlantic Straddling Stocks*, Fisheries Council of Canada, Ottawa, 1990, p. 82-85.

the House of Assembly, municipalities, fisheries organizations, and individuals with a long-standing interest and expertise in the issues. The question before the Committee was not whether the status quo is acceptable; it is not. Rather, the issue was how should Canada deal with an increasingly blatant disregard for protection and conservation measures in the NAFO Regulatory Area.

This is an appropriate time to undertake such a study. This year is the 25th anniversary of the extension of Canadian jurisdiction to 200 miles in 1977. NAFO itself is almost a quarter of a century old and 2002 will mark the 10th anniversary of the moratorium on Canada's greatest fish stock, and one of the world's greatest natural resources, the northern cod.

THE ESTAI

On March 9, 1995, Department of Fisheries and Oceans Fishery Officers and an RCMP emergency response team boarded and seized the Spanish fishing vessel *Estai*. The vessel was apprehended in international waters after having cut loose its nets and attempting to flee. The *Estai* halted its flight only after shots were fired across its bow. The *Estai* was brought back to the Port of St. John's, Newfoundland, where its master was charged in Newfoundland and Labrador Provincial Court with four violations under Canada's *Coastal Fisheries Protection Act*. (Fishing for a straddling stock in contravention of a prescribed conservation and management measure; failing to stop when required to do so on the signal of a government vessel; throwing overboard or destroying, after the signal to bring to, part of the *Estai*'s fishing gear; and, wilfully obstructing a protection officer in the execution of his duty.) This incident represented the breaking point of Canada's increasing frustration over illegal fishing activities on the Nose and Tail of Newfoundland's Grand Banks and Canada's refusal to tolerate further such activities.

Earlier in the season, at the February 1995 meeting of the NAFO Fisheries Commission, the EU had initially proposed that it receive over 75% of the TAC of 27,000 tonnes of Greenland halibut⁷ (turbot) (for the whole Convention Area) while Canada would receive 13%. Canada's proposal would have given Canada 62.2% and the EU about 12.6%. The EU had also disagreed with the decision of NAFO, made the previous fall, to reduce the TAC from 60,000 tonnes to 27,000 tonnes. The February meeting eventually settled on a Cuban proposal to split the TAC: Canada — 60.4%, EU — 12.6%, Japan — 9.6%, Russia — 11.9%, others — 5.6%. The EU subsequently lodged an objection under NAFO rules and proceeded to fish the last quota they proposed during the NAFO negotiations in February 1995 (18,630 tonnes i.e. 69%).

The arrest of the *Estai* sparked a diplomatic war between Canada and the EU. Canada alleged that the *Estai* had been fishing using an illegal net liner with an 80-mm mesh allowing it to catch very small fish; that 80% of its turbot (Greenland halibut) catch

⁷ Greenland halibut (*Reinhardtius hippoglossoides*) is also known as "turbot" but is not the same species fished as turbot in the eastern Atlantic (*Scophthalmus maximus*).

was smaller than 38 cm; that the vessel had a hidden hold containing a large amount of small turbot and about 26 tonnes of illegally caught American plaice; and finally that the *Estai* had been maintaining a dual set of logbooks. The charges were flatly denied by EU officials who insisted that the Canadian allegations were fabricated by the Minister of Fisheries, Brian Tobin, for media impact. The EU accused Canada of “piracy” and of acting as if Canada had turned the Grand Banks into the “Wild West.”

European Union denials, however, rang hollow as Canada had recovered the net cut loose by the *Estai* complete with its illegal liner. (The net was later put on display outside the United Nations conference on straddling stocks.) While the EU condemned Canada at the diplomatic level, Canada’s action received a good deal of popular support, particularly in the United Kingdom, which had its share of complaints about the continental European fishing fleet.

THE CANADA-EU FISHING AGREEMENT

Canada and the EU subsequently reached an agreement on April 15, 1995 on the conservation and protection of stocks straddling Canada’s 200-mile limit. The agreement provided for a new mandatory enforcement regime to govern all Canada and EU vessels fishing in specific areas regulated by NAFO. Major components of the agreement included:

- independent, full-time observers on board vessels at all times;
- enhanced surveillance via satellite tracking;
- increased inspections and quick reporting of infractions;
- verification of gear and catch records;
- timely and significant penalties to deter violations;
- new minimum fish size limits; and,
- improved dockside monitoring.

In return, Canada gave up 40% its quota for Greenland halibut for 1995 to the EU. The Agreement established the 1995 TAC for Greenland halibut within the area concerned. Quotas were reset to 10,000 tonnes for Canada vs. 16,300 tonnes previously allocated and 5,013 tonnes for the EU from April 15 on (diplomatically omitting mention of how much Greenland halibut EU boats had already harvested), and 7,000 tonnes for others. This allocation effectively split the TAC; Canada — 37%, EU — 37%, and

others — 26%. Starting at the September 1995 meeting, NAFO, made separate allocations for the 3LMNO and 2+3K zones, with Canada receiving 100% of the allocation for the latter. Canada's overall share for all zones remained at 37%.

In addition, the charges against the master of the *Estai* were dropped. The \$500,000 bail for the vessel and the \$8,000 bail for the master were reimbursed and the *Estai* was allowed to retrieve 180 tonnes of confiscated fish.

At the time, the Agreement was hailed as a victory for conservation and it was proclaimed that NAFO had adopted “the toughest set of control and enforcement measures of any fisheries management organization in the world.”⁸ As it turns out, the victory was somewhat hollow and certainly impermanent, although the behaviour of NAFO members and the EU did improve for a time after implementation of the Agreement. The Agreement has since ceased to apply as most of its measures were adopted by NAFO at its September 1995 Annual Meeting.

BILL C-29

Prior to the *Estai* incident, in June of 1994, Bill C-29 amended the *Coastal Fisheries Protection Act* (CFPA) to provide the government with the authority to make regulations to conserve fish stocks straddling the Canadian 200-mile limit on the high seas, beyond the 200-mile limit. The amended CFPA and its regulations empowered Canada to board and seize vessels fishing in contravention of conservation measures outside the 200-mile limit. Initially, regulations under the Act applied only to stateless or flag-of-convenience vessels but in March 1995, the week before the seizure of the *Estai*, Canada amended the Coastal Fisheries Protection Regulations (CFPR) to make it an offence for Spanish or Portuguese vessels to fish Greenland halibut on the Grand Banks. (The designation of Spain and Portugal in the regulations has since been repealed.)⁹

THE UNITED NATIONS FISHERIES AGREEMENT

The other pivotal event that occurred shortly following this turbulent period with important implications for conservation of fish stocks on the Nose and Tail of the Grand Banks and the Flemish Cap was the signing, in New York on December 4, 1995, of the United Nations High Seas Fisheries Agreement (UNFA).¹⁰ Canada played a leading role

⁸ Brian Tobin, Minister of Fisheries and Oceans, quoted in DFO News Release, *Tobin Welcomes Tough Fisheries Enforcement Measures*, NR-HQ-95-108E, September 15, 1995.

⁹ Section 5.2 of the *Coastal Fisheries Protection Act* prohibits foreign fishing vessels of a **prescribed class** from fishing for a straddling stock in the NAFO Regulatory Area in contravention of prescribed conservation and management measures. Thus, in order for this section of the Act to be applied, the flag state of a fishing vessel must be designated in the Coastal Fisheries Protection Regulations, Table IV.

¹⁰ The actual name of the agreement is *The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of December 10, 1982, Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks*. It is generally known as the United Nations Fisheries Agreement or UNFA for short.

in developing UNFA and its adoption was hailed by the Minister of Fisheries and Oceans, Brian Tobin, as a “permanent, practical and enforceable means to end high seas overfishing.” UNFA was certainly an important achievement but, like the Canada-EU enforcement agreement and the subsequent adoption of its measures by NAFO, it has not lived up to its promise.

UNFA is intended to provide for compatible conservation measures both inside and outside the 200-mile limit and that measures taken outside the 200 mile-limit do not undermine those taken inside the limit. Under UNFA, conservation measures established by regional fisheries organizations (such as NAFO) would in general be binding on all parties. UNFA makes provisions for members of a regional fisheries organization to take enforcement actions against vessels fishing on the high seas when the flag state is unable or unwilling to do so. UNFA also provides for a compulsory and binding dispute settlement mechanism. In fact, in the view of the Committee, the Agreement has been totally ineffective.

UNFA came into force on December 11, 2001, after receiving the required 30 ratifications. Canada ratified UNFA on August 3, 1999, following the passage of Bill C-27, which amended the *Coastal Fisheries Protection Act* to enable Canada to implement the provisions of UNFA under domestic legislation. To date, of the 18 NAFO parties, only Canada, Iceland, Norway, Russia and the USA have ratified UNFA. The other NAFO states have not yet done so, although we understand that the EU and its member states have made a political commitment to ratify the Agreement together as a group. As the provisions of UNFA do not apply to states that have not ratified the agreement, Canada cannot take action against those states under UNFA.

THE NORTHWEST ATLANTIC FISHERIES ORGANIZATION

The Northwest Atlantic Fisheries Organization (NAFO) was established by the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries on January 1, 1979, following ratification by seven signatories.¹¹ NAFO’s mandate is the conservation and management of fish stocks within the Convention Area and outside the 200-mile limits of the coastal states, which comprise Canada, the USA, France (for Saint-Pierre et Miquelon), and Denmark (for Greenland). NAFO’s objectives are to promote the optimum utilization, rational management and conservation of the fishery resources of the Convention Area. NAFO endeavours to meet these objectives by encouraging scientific research and co-operation among the contracting parties.¹² NAFO replaced an earlier organization, the International Commission for the Northwest Atlantic Fisheries (ICNAF), which had operated for almost the 30 preceding years.

¹¹ Canada, Cuba, the European Economic Community (EEC), the German Democratic Republic (GDR), Iceland, Norway, and the Union of Soviet Socialist Republics (USSR).

¹² There are now 18 contracting parties to the Convention: Bulgaria, Canada, Cuba, Denmark (for the Faroe Islands and Greenland), Estonia, the European Union (EU), France (Saint-Pierre et Miquelon), Iceland, Japan, the Republic of Korea, Latvia, Lithuania, Norway, Poland, Romania, the Russian Federation, the Ukraine, and the United States of America.

The structure of NAFO consists of a General Council, Scientific Council, Fisheries Commission, and Secretariat. Each of these constituent bodies has specific roles and functions set out in the Convention and Rules of Procedure. The General Council is responsible for the general organization and administration of the Organization, including external relations and membership. The Scientific Council provides a forum for the exchange of scientific information, compiles, maintains and disseminates statistical data; provides advice to coastal States, when requested, and to the Fisheries Commission. The Fisheries Commission is responsible for the management and conservation of the fisheries resources of the Regulatory Area.¹³ Finally, the Secretariat provides operational support to NAFO. NAFO headquarters are located in Dartmouth, Nova Scotia.

NAFO makes stock assessments on the basis of scientific data, which are then used to establish Total Allowable Catches (TAC). These are in turn partitioned into quota allocations to each of the contracting parties. NAFO establishes conservation measures such as minimum fish and mesh sizes, bycatch rules, marking of boats and gear, and reporting requirements. Under a system of Joint International Inspection and Surveillance, NAFO conducts surveillance, coordinates inspections, monitoring and control measures including observers, satellite tracking devices and dockside inspections.

Canada currently pays almost 40%¹⁴ of the cost of supporting NAFO. Canada's overall share of NAFO-managed stocks in Convention sub-areas 3-4 is 48%; however, Canadian fishermen harvest only a small portion of the overall catch in the Regulatory Area outside the 200-mile limit.¹⁵ On the other hand, the EU, which makes a relatively minor financial contribution to NAFO (3.3% for 1999), harvests the bulk of the Greenland halibut in the Regulatory Area (70% in 2000).¹⁶ Russia harvests the largest share of the Redfish TAC (47%), while Estonia (25%), Iceland (18%) and the Faroes (16%) harvest the largest shares of shrimp.

Despite its admirable mandate, NAFO has not met the expectations established by the Convention. DFO officials detailed problems with NAFO in the past (pre-UNFA). These included:

- the increased influence of Spain after it joined the EU in 1986.
- ineffective compliance with NAFO conservation measures.

¹³ The Regulatory Area is the part of the Convention Area outside of the areas where the coastal states exercise jurisdiction i.e. the 200-mile limit. The fishing grounds of the Regulatory Area comprises the approximately 30,000 square miles of the Nose (Division 3L) and Tail (Divisions 3NO) of the Grand Banks and the Flemish Cap (Division 3M).

¹⁴ In 1999, the Canadian contribution was \$364,145 out of a total of \$921,846.

¹⁵ Redfish, 0.1%; Greenland halibut, 7%; Shrimp, 1% (2000 provisional data). Source: NAFO.

¹⁶ Plus 35% of the redfish and 3.4% of the shrimp. Source NAFO 2000 provisional data.

- the repeated use of the NAFO objection procedure, primarily by the EU to set unilateral quotas much higher than those allocated by NAFO, on top of which the EU fished far in excess of its own unilateral allocations, resulting in total catches exceeding NAFO set TACs.
- EU objections to the NAFO enforcement regime.^{17, 18, 19}
- unregulated fishing by non-contracting parties.²⁰

Many of the witnesses who appeared before the Committee identified the “**Objection Procedure**” as the fundamental flaw in the NAFO Convention. The Objection Procedure, under Article XII, allows members to opt out of allocation proposals made by the Fisheries Commission by lodging an objection with the Executive Secretary (the Chief Administrative Officer of the Secretariat). The EU, in particular, repeatedly used the objection procedure to unilaterally set quotas far in excess of those recommended by the Commission with complete disregard for any principles of conservation or equity.

Over the years 1986 to 1991, the EU set itself unilateral quotas exceeding those set by NAFO, sometimes by very significant margins (greater than 400% and 500% years 1988 and 1989 respectively). Then, having set itself quotas more generous than those allocated by NAFO, the EU, even according to its own data, proceeded to overfish those quotas, again in some years by substantial margins. Even this does not represent the full extent of the problem as Canadian estimates for the years 1990 and 1991 indicate that EU catches were considerably underreported. Perhaps, the most egregious behaviour of the EU relates to the 2J3KL cod stock, for which NAFO made no allocation to the EU; nevertheless, the EU set itself generous quotas of this stock and harvested tens of thousands of tonnes each year.

¹⁷ According to Malcolm Rowe, QC, the EU used the objection procedure more than 50 times to establish unilateral quotas for its fleets far in excess of those set by NAFO. Letter to the editor of *Canadian Foreign Policy*, Vol. 3, No. 3 (Winter 1995/96)

¹⁸ DFO records that, from 1986 to 1990, the EU objected to most of its NAFO quotas. By doing so it turned its trawler fleet loose on a wide range of commercially important NAFO-regulated stocks that had been fished traditionally by other NAFO members, primarily Canada, but not the EU. DFO Backgrounder, *European Union Overfishing in the Northwest Atlantic, B-HQ-95-4E*, March 1995.

¹⁹ One of the most flagrant examples of the use of the objection procedure is described by Parsons and Beckett and concerns the attempt in 1985 by the EU to bring the 2J3KL cod stock (Northern cod stock) under NAFO management. This stock had been managed by Canada since the extension of its 200-mile limit. The NAFO Fisheries Commission voted to prohibit fishing for that stock in the Regulatory Area on the grounds that it was fully subscribed by Canada; however, the EU lodged an objection and set a high autonomous quota, a situation that persisted for eight years until 1992 when Canada imposed a moratorium 2J3KL cod within the 200-mile limit and the EU subsequently announced a suspension of fishing for the stock. L.S. Parsons and J.S. Beckett, *The “NAFO Model of International Collaborative Research, Management and Cooperation,” Journal of Northwest Atlantic Fishery Science*, Vol. 23, 1998, p. 1-18.

²⁰ It was fishing by non-contracting parties, i.e. stateless and flag of convenience vessels (Belize, Cayman Islands, Honduras, Panama, St. Vincent and the Grenadines, and Sierra Leone), unconstrained even by NAFO regulations, that led to the passage of Bill C-29 in 1994.

Building frustration over the continuing recalcitrance of the EU, the failure of NAFO to control overfishing, and the incursion of unregulated non-contracting parties onto the fishing grounds culminated in 1994 with the introduction of Bill C-29. To a significant extent, it was the use of the objection procedure by the EU that led up to the *Estai* incident. It is important to appreciate that the TACs set by NAFO are done so on the basis of scientific evidence collected by all of the nations participating in the fishery outside the 200-mile limit. NAFO then works collectively to set quotas and to establish harvesting plans in a manner that is sustainable. **That is why the blatant disregard of NAFO quotas in pursuit of shameless self-interest was so offensive.**

The combined result of these failures of NAFO resulted in significant overfishing, leading to the decimation of fish stocks. In response to these problems, Canada developed a three-pronged strategy that included diplomatic initiatives, a public information campaign and a legal approach that eventually led to the UN Straddling Fish Stocks Agreement (UNFA). The problem of foreign overfishing in the NAFO Regulatory Area culminated in 1994 with Bill C-29 to deal with non-contracting parties and in 1995 with the Canada-EU turbot dispute.

NAFO'S DECLINING EFFECTIVENESS

For years DFO put a positive spin on progress within NAFO as illustrated by the following press releases:

Tobin Welcomes Tough Fisheries Enforcement Measures

September 15, 1995

NAFO Recognizes Canadian Decision Making for Northern Cod

September 16, 1996

Canada Welcomes Progress at NAFO Annual Meeting

September 19, 1997

NAFO Confirms 100% Observer Coverage

September 18, 1998

Dhaliwal Announces Canada Successful in Pushing for Conservation-Based Management at NAFO Meeting

September 17, 1999

Canada Announces Progress at the NAFO Annual Meeting

September 22, 2000

In February 2002, however, the Department finally admitted its disappointment with NAFO.

Canada Disappointed with Outcome of NAFO Meeting

February 5, 2002
DFO News Releases, 1995 to 2002

Following the 1995 Canada-EU Agreement there were improvements in management, conservation and enforcement in the NAFO Regulatory Area. For example, in 1995, only five violations of NAFO conservation and enforcement measures were reported. The trend since then has been one of increasing non-compliance. In 2001, 26 violations were reported. While this still represents an improvement over the situation that prevailed before 1995, when the number of violations averaged around 45 a year, the trend is disturbing. We fear that these numbers represent only the tip of the iceberg. For example, it appears to be only happenstance that illegal fishing by the Russian vessel, *Olga*, was detected.

DFO witnesses were candid about Canada's problems with NAFO:

We also saw directed fishing for species under moratoria, to which I alluded earlier. There are some vessels that actually engage in directed fishing, and we have evidence from observer reports that document the extent of this. We have seen situations where parties have exceeded quotas. We are seeing more recently misreporting of catch from vessels catching 3L shrimp. There are increasing incidents of use of small mesh gear, and we are finding in some cases parties have not been providing observer reports.

Patrick Chamut
Assistant Deputy Minister
Fisheries Management
Department of Fisheries and Oceans

Many of the other witnesses who appeared before the Committee were blunt in their assessment of NAFO:

I guess if you want to look at what happened at the last NAFO meeting back in January [2002], it becomes obvious that NAFO is not working for the benefit at least of Canada, and Newfoundland and Labrador in particular.

The Honourable Gerry Reid
Minister of Fisheries and Aquaculture
Government of Newfoundland and Labrador

NAFO was an organization that failed desperately in controlling and managing the stocks on the edge of our continental shelf.

Jim Morgan, Spokesperson
Newfoundland and Labrador Rural Rights
and Boat Owners Association

NAFO is really an extremely ineffective organization in terms of enforcing its members to be compliant with its own rules and regulations.

Alastair O'Rielly, President
Fisheries Association of Newfoundland and Labrador

NAFO is clearly not working as it is presently structured.

Earle McCurdy, President
Fish, Food and Allied Workers Union

NAFO is a useless organization because of the objection procedure.

Gus Etchegary, Spokesperson
Fisheries Crisis Alliance

I can tell you, NAFO is not working, and NAFO will not work.

John Efford, Owner
Pinhorn Consulting
(former Minister of Fisheries and Aquaculture,
Government of Newfoundland and Labrador)

The reason it's not working is because the enforcement is left to the member nations. Clearly, they feel that they can flagrantly violate the regulations and rule. They can go and vote the quotas, and participate. The conservationists can be outnumbered by those with self-interest. It fails on two levels: it fails because the rule setting is not in compliance with scientific advice; and secondly because the enforcement is left to the nations who are violating it for their own benefit. They are not enforcing it. Clearly, if you can be as flagrant as they have been, if you can fail to file your reports and still go fishing out of these countries, then it's just not being taken seriously.

Jack Harris, Leader
New Democratic Party of Newfoundland
and Labrador

Groundfish stocks in the NAFO Convention Area remain depressed. For example, the Fisheries Resource Conservation Council made the following comment about the 2J3KL northern cod stock in a 2001 report:

The stock is widely acknowledged to be at its lowest levels in recorded history.²¹

There has been no recovery of most stocks. Yet, despite moratoria on directed fishing on a number of NAFO stocks (3NO cod, 3NL redfish, 3NO witch flounder, 3LNO American plaice) catches of these stocks have been increasing as bycatches in other fisheries. Fishing effort on some of these stocks (3NO cod, 3LNO American plaice for example) approach levels that could be considered acceptable for healthy stocks (F0.1)²²

²¹ Fisheries Resource Conservation Council, *2001/2002 Conservation Requirements for 2J3KL Cod*, Report to the Minister of Fisheries and Oceans, FRCC.2001.R.5, May 2001, p. 6.

²² F0.1. This is the level of fishing effort at which the next boat entering the fishery has a catch rate per unit of effort of one tenth that of the first boat. The value of F0.1 in terms of the percentage of biomass varies with factors such as fecundity and growth rate. F0.1 is always less than Fmax.

but which will jeopardize the recovery of weak stocks and may in fact cause them to decline further.

The NAFO Scientific Council has itself repeatedly expressed concerns about excessive bycatches in fisheries targeting other fisheries and has expressed the view that bycatches should be kept at the lowest possible level. In fact, it is well known that, in some cases, so-called “bycatches” are actually the result of directed fisheries. The fact that allowable bycatches are being treated, not as a restriction, but as a ceiling to fish up to illustrates the lack of meaningful commitment of NAFO members to conservation.

In addition to excessive bycatches and directed fishing for moratoria species, other compliance problems include as indicated above a significant increase in infringements since 1995, quotas exceeded, misreporting of catches (particularly 3L shrimp), the use of small mesh gear, and the failure of some parties to provide observer reports.

Compounding all of these difficulties has been the growing isolation of Canada within NAFO and the growing influence of the EU. This was highlighted by events at the recent NAFO meeting in Helsingor, Denmark, in January 2002. At this meeting Canadian officials made a presentation detailing Canadian concerns over unacceptable levels of non-compliance by NAFO parties in the NAFO Regulatory Area and the inability (or unwillingness) of contracting parties to control the activities of their fleets. Non-compliance issues highlighted in the Canadian presentation included:

- directed fishing/excessive bycatch of moratoria species;
- excessive allocations and misreporting of catches;
- directed fishing after closure for 3L shrimp;
- increasing frequency of mesh size violations;
- an increase in the issuance of Apparent Infringements;
- non, or late submission of observer reports.

Canada went to the Helsingor meeting with three primary objectives:

- to ensure adherence to scientific advice for stocks;
- to adopt conservation measures (i.e. reduce excessive catches of moratoria species, increase the mesh size for the skate fishery, and implement a depth restriction of 700 metres for the Greenland halibut fishery)²³; and,

²³ Restricting fishing to depths greater than 700 metres has little impact on the Greenland halibut fishery but reduces the bycatch of other vulnerable species.

- to address abuses and misreporting of 3L shrimp.

The EU opposed the depth restriction for Greenland halibut and supported a 10% increase in the Greenland halibut TAC. Although there were a number of positive results (an increase in the mesh size for the skate fishery for example), other important Canadian objectives were not met. The depth restriction for Greenland halibut was rejected and the meeting adopted the 10% increase in the Greenland halibut TAC, from 40,000 tonnes to 44,000 tonnes, contrary to scientific advice. Canada was outvoted by the EU block (EU, Poland, Estonia, Latvia, Lithuania), and some others. It appears that the latter four countries were prepared to support the EU to advance their own agenda of seeking admission to the EU rather than defend conservation.

The Helsingor meeting underscores several problems with NAFO, the non-compliance of foreign fleets and the difficulty of achieving adequate conservation measures. The outcome of the meeting demonstrated the influence of the EU and has raised fears that objectives for stock rebuilding will be compromised and indeed that measures now in place will be eroded. For example, the 100% observer coverage requirement is slated for review in September 2002 and there is strong opposition to its continuation as some members regard full coverage as both unnecessary and expensive.

Full observer coverage was one of the elements of the April 1995 Canada-EU Agreement, subsequently adopted by NAFO on which Canada insisted and for which it paid a price. Witnesses agreed that, although the observer program has flaws, by and large it works. It is one of the most effective tools, not necessarily for ensuring compliance but at least for assessing the extent of compliance. In some cases, as in Canada for example, observers are independent contractors; in others, they may be public servants. They may also be retained directly by the owner of the vessel. It is this last category that is the most problematic as these are the most likely to be subject to pressure. Observers are also nationals of the flag state of the vessel, which raises the potential for bias. In addition, conditions may be difficult for observers. They are generally isolated on the vessels and they cannot be available 24/7 to view everything that happens. Some, we were told, actually participate in fishing activities, which puts them clearly in a conflict of interest.

Despite these problems, the assessment of our witnesses was that observer reports are generally remarkably candid. The real problem is that there are generally no consequences to the reports. There is no follow-up and no linkage to compliance. There are generally no charges laid as a result of observer reports nor can observers, for example, call a fisheries enforcement vessel while the fishing vessel is engaging in an illegal activity. They file their reports and that is it. The Committee believes that stronger action should be taken as a result of observer reports but we recognize that if there were greater scrutiny of reports and action as a result, observers are likely to come under a good deal more pressure than they already do.

The Committee recommends:

RECOMMENDATION 1

That the Government of Canada pursue discussions with the NAFO Fisheries Commission to establish a process whereby observer reports would be more transparent and would be submitted in a timely fashion.

The failure of NAFO to guarantee conservation and compliance by its members has prompted a growing debate in Canada over the effectiveness of NAFO and a call for greater Canadian management jurisdiction in what is now the NAFO Regulatory Area in order to safeguard stocks that straddle the 200-mile limit.

THE IMPACT OF OVERFISHING ON NEWFOUNDLAND AND LABRADOR

We are dealing here with a famine of biblical scale — a great destruction. The social and economic consequences of this great destruction are a challenge to be met and a burden to be borne by the nation, not just those who are its victims.

Richard Cashin, Chairman
Task Force on Incomes and Adjustment
in the Atlantic Fishery

These words, written in 1993, still ring true today. It is difficult to comprehend the scale of devastation that the loss of the northern cod stocks and of virtually every other groundfish stock has caused not only across Atlantic Canada and Quebec but especially in the rural areas and outports of Newfoundland and Labrador. This Committee has documented these impacts a number of times since 1994.^{24, 25}

The year before the Cashin Report was released, the Fisheries Minister of the day, the Honourable John Crosbie, declared a two-year moratorium on northern cod on July 2, 1992. “With the stroke of a pen” approximately 40,000 fishermen and plant workers lost their jobs in what has often been described as the “greatest layoff in Canadian history.” Tens of thousands of other workers not directly employed in but also dependent on the fishing industry were also affected. To put this calamity in perspective, it has been likened to the complete collapse of Ontario’s auto manufacturing industry or to the total loss of wheat farming in the Prairie Provinces.

The cost of the collapse of the groundfish fishery to the people of Atlantic Canada and Quebec has been high but Canadian taxpayers also paid a substantial price. From 1990 on, the federal government introduced a series of major adjustment programs

²⁴ Standing Committee on Fisheries and Oceans, *Atlantic Fisheries Adjustment Programs*, April 1994.

²⁵ Standing Committee on Fisheries and Oceans, *The East Coast Report*, March 1998.

designed to address the crisis in the Atlantic groundfish industry. In May 1990, the government introduced the Atlantic Fisheries Adjustment Program (AFAP). This was followed by the Northern Cod Recovery Program (NCARP) in 1992, the Atlantic Groundfish Adjustment Program (AGAP) in 1993 and lastly, The Atlantic Groundfish Strategy (TAGS) in 1994 and the Atlantic portion of the Canadian Fisheries Adjustment and Restructuring Program. The total price tag for these programs was approximately 4.2 billion dollars.²⁶

A present day visitor to St. John's might be excused for believing that the devastation caused by the collapse of Atlantic groundfish stocks has been relegated to the past and that the province of Newfoundland and Labrador is now thriving. The economic boom of St. John's however obscures the gloomy reality for much of the rest of the province — towns such as Burgeo, Marystown, Twillingate and Trepassey.

Figures from the 2001 Census, released in March 2002, show that Newfoundland and Labrador's population drop²⁷ is the largest of any province in the country, and the largest drop in the history of the province, all of which is directly attributable to what has happened in the fishery. Out-migration from Newfoundland and Labrador is greater than in any other province. It is primarily the young who have left for jobs on the mainland because most have no future in the small communities of coastal Newfoundland and Labrador. The legacy of depopulation is plainly visible with empty and boarded-up houses in the smaller centres.

The Newfoundland and Labrador Minister of Fisheries and Aquaculture, described his district on the north-east coast of Newfoundland:

Well, 90% of those people depend directly or indirectly on the fishery for a living. For the past 10 years the town of Twillingate and Twillingate Island, at 4,000 people, have done nothing in the fishery. You should really get out and look at what that has done to our communities and see the houses that are boarded up, and the young people have left to go to the mainland because there's nothing here for them.

The Honourable Gerry Reid
Minister of Fisheries and Aquaculture,
Government of Newfoundland and Labrador

The Mayor of Burgeo put it even more simply:

Rural Newfoundland is dying, particularly my town is dying

Allister Hann
Mayor of Burgeo

²⁶ AFAP (and Québec Federal Fisheries Development Program), \$637 million; NCARP, \$587 million; AGAP and related programs, \$381 million; TAGS, \$1.9 billion; CFAR, \$730 million.

²⁷ The population of Newfoundland and Labrador has fallen 7% during the period 1996-2001 and almost 10% in the last 10 years. The national average is 4% growth.

It is now more than 500 years since John Cabot first set foot on Newfoundland. The fishery is what first attracted people to settle in Newfoundland, it is what has kept people there since then and it has formed the backbone of the Newfoundland economy for the last 450 years. The prosperity of Newfoundland and Labrador has always been highly dependent on the resources of the sea. The province now has other resources to draw on, oil and gas and potentially nickel. These resources will undoubtedly bring a measure of prosperity for a time but they will eventually run out. The fishery properly managed, however, can continue indefinitely.

I know where I come from I don't think that people could care less if there's ever a spoonful of ore come out of Voisey's Bay. I say that in all sincerity, because if it starts coming out by the truckload, the buses and the U-Hauls will still be leaving Burgeo. It's not going to give any employment in our towns. Definitely not!

Allister Hann
Mayor of Burgeo

EXTENSION OF CANADIAN JURISDICTION

When it joined Confederation in 1949, Newfoundland brought with it a remarkable resource. That resource has since been dangerously mismanaged. The northern cod stock (also referred to as the 2J3KL cod stock), the pre-eminent fisheries resource of the Northwest Atlantic and one of the richest natural resources of the world once sustained the great fishing fleets not just of North America, but also of Europe, Spain, Portugal, Russia and other countries. But within a period of a scant four or five years, from 1989 on, the spawning biomass of the northern cod stock declined precipitously to 1% of its former level. Other groundfish stocks met a similar fate and Canada eventually declared moratoria on a total of 14 groundfish stocks.

The collapse of Northwest Atlantic groundfish stocks has been attributed to a variety of factors: changing environmental conditions, overfishing both by Canadian and foreign fleets, inaccurate reporting, poor scientific advice and decision making motivated more by political considerations than conservation. Canada, however, has taken firm measures to conserve and rebuild the groundfish stocks, measures which were deemed essential but which have not always proven popular. These include initiatives to reduce harvesting capacity by at least 50% over the long term and the introduction of conservation harvesting plans. Despite these initiatives most groundfish stocks remain weak and have not recovered. Moratoria have been lifted on a few stocks but even for those, TACs remain minimal.

Clearly, what is required is a comprehensive, conservation-based fisheries management regime outside the 200-mile limit that is as rigorous as that inside the

200-mile limit. To expect such parity of conservation standard is hardly unreasonable. It is after all what was promised by UNFA²⁸ but which it has failed to deliver:

This new UN convention gives Canada the means to end foreign overfishing permanently. When fully implemented, this new UN convention will replace the current inadequate regime for international control of high seas fisheries.²⁹

The Honourable Brian Tobin
Former Minister of Fisheries and Oceans Canada

A constant thorn in the side of Canadian fishermen is that different management regimes are applied inside and outside the 200-mile limit. Canadian fishermen face more restrictive conservation-oriented measures such as small-fish protocols, larger minimum fish sizes and larger minimum mesh sizes compared to those fishing in the NAFO Regulatory Area.³⁰

These differences raise two fundamental issues. One is that the more liberal regime outside the 200-mile limit has inhibited the recovery and rebuilding of straddling stocks. The other is a question of fairness. Canadian fishermen and plant workers are currently paying a heavy price for benefits seized by other countries fishing outside the 200-mile limit. Again, it is important to realize that the mismanagement of fisheries resources in the Regulatory Area has a serious impact on the resources within Canada's 200-mile limit.

The status quo is not acceptable. The situation has led to increasingly vociferous calls for Canada to withdraw from NAFO and unilaterally claim jurisdiction over the Nose and Tail of the Grand Banks and the Flemish Cap by extending its EEZ beyond the 200-mile limit to include those areas of its continental shelf.

The diplomatic assessment, however, is that any attempt by Canada to unilaterally extend jurisdiction over the Nose and Tail of the Grand Banks and the Flemish Cap would be fraught with difficulty for four main reasons:

- First, there is no international support for the unilateral extension of EEZs;
- Second, unilateral extension would be contrary to the international fisheries priorities Canada has pursued since the establishment of modern EEZs;

²⁸ Article 7 of UNFA provides for the compatibility of conservation and management measures on the high seas and those adopted for areas under national jurisdiction in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety.

²⁹ DFO News Release, *Tobin Foresees Permanent End to Foreign Overfishing when New UN Convention Implemented*, NR-HQ-95-94E, Ottawa, August 1995.

³⁰ Fisheries Resource Conservation Council, *Uncharted Waters*, Annual Report of the Fisheries Resource Conservation Council and Conservation Requirements for Atlantic Groundfish Stocks for 2000, FRCC.2000.R.5, September 2000, p. 10.

- Third, repudiation of a tenet as fundamental to UNCLOS³¹ as the 200-mile EEZ would make it very difficult for Canada to fully partake in the rights, duties and organizations the Convention creates; and,
- Finally, unilateral extension of the EEZ would practically guarantee a drawn out and expensive legal challenge against Canada with a significant risk that Canada would lose.

That there would be little international support is hardly surprising. Few countries would benefit directly from an extension of EEZs over the continental shelf. At the same time the countries that are now fishing essentially unregulated on the Nose and Tail of the Grand Banks and the Flemish Cap today are not likely to lend their support if it prevents them from continuing to overfish.

Extended jurisdiction means taking ownership, unilateral management and enforcement. Such action could be seen as motivated by pure self-interest on the part of Canada and would undoubtedly receive little support from outside Canada.

At the other end of the spectrum is the bureaucratic vision, which advocates continuing to work within the existing framework — against rocking the boat. The rationale for continuing to work with NAFO is essentially that, for all its failings, it is better than nothing. Without NAFO, the argument goes, there would be no constraints whatsoever on the fisheries on straddling stocks outside the 200-mile limit — in other words, a multilateral “free for all,” another tragedy of the commons in the making. In fact, under the management of NAFO, we are already heading in that direction.

This essentially seems to be the position of the Department of Fisheries and Oceans. In the view of the Department, the challenge is to find ways to make NAFO work better; although they concede there are no quick fixes. The difficulty here is that, while Canada adheres scrupulously to the letter and spirit of the law, others break the rules with apparent impunity to the disadvantage of Canadian fishermen, shore workers and our economy.

CUSTODIAL MANAGEMENT

We believe that there is a third option: custodial management. Under a custodial management regime, Canada would assume sole responsibility for the management and conservation of the areas of our continental shelf beyond the 200-mile limit: the Nose and

³¹ The 1982 United Nations Convention on the Law of the Sea.

Tail of the Grand Banks and the Flemish Cap. However, foreign fishing interests would not be removed; instead, historic allocation and access would be respected. In 1990, the Oceans Institute of Canada, emphasized this issue:

In short, conservation of fish stocks on the Nose and Tail of the Grand Banks must not be perceived as a “grab for a bigger piece of the pie” by Canada. ... Furthermore, Canada must make it clear that the purpose of such unilateral action would not be for Canada to claim a sole right to harvest straddling stocks on the high seas; rather, the purpose of such action is to preserve Canada’s interests, and the interests of the international community, in the conservation of these stocks.³²

The essential purpose of custodial management would be to establish a resource management regime that would provide comparable standards of conservation and enforcement for all transboundary stocks, inside and outside the 200-mile limit. In other words, precisely the kind of regime promised by UNFA but delivered by Canada rather than NAFO. By implementing such a regime, we would impose no greater burden on others than on ourselves nor would we demand less of others than ourselves.

Under such a regime, Canada would conduct the science, set the TACs, and implement and administer a conservation-based management system that would include monitoring and enforcement. As witnesses pointed out this would undoubtedly be costly³³ and Canada is currently challenged to provide adequate monitoring and enforcement within the 200-mile limit.

The Committee believes that imposing a custodial management regime is a necessary and reasonable response to the failure of NAFO to rectify its current problems and to bring its members under control. Time is of the essence and the Committee believes that this matter must be treated with urgency.

The Committee sees no fundamental reason custodial management cannot be implemented. By passing Bill C-29 in 1994, Canada has already demonstrated its willingness and ability to enforce conservation measures beyond its 200-mile limit. Amending the *Coastal Fisheries Protection Act* for this purpose would represent a difference only in scope and not in kind to the measures previously implemented under C-29.

³² Oceans Institute of Canada (1990), p. 85.

³³ A DFO official estimated the Canadian cost of patrol vessels and aerial surveillance to monitor the foreign fishing fleets at \$12 to \$15 million annually.

The Committee recommends:

RECOMMENDATION 2

That the Government of Canada amend the *Coastal Fisheries Protection Act* to empower it to implement Custodial Management of fisheries resources on the Nose and Tail of the Grand Banks and on the Flemish Cap.

The Committee recommends:

RECOMMENDATION 3

That the Government of Canada inform NAFO and its contracting parties that Canada will withdraw from NAFO and proceed with the implementation of custodial management on the Nose and Tail of the Grand Banks and on the Flemish Cap no later than one year following the September 2002 NAFO meeting.

The Committee recommends:

RECOMMENDATION 4

That the Government of Canada conduct a targeted public information campaign to increase awareness of violations of NAFO conservation measures by vessels under the flag of member states and to canvass for public support to end the abusive exploitation of the fisheries resources of the Northwest Atlantic.

The Committee believes that Canada must take decisive action to signal its refusal to tolerate any further abuse of fisheries resources. The Committee agrees with the Minister for having taking action in this regard by closing Canadian ports to Faroese and Estonian fishing vessels overfishing shrimp on the Flemish Cap.³⁴

³⁴ Canada closed its ports to Faroese vessels on March 21, 2002 because of continued violations of NAFO conservation measures. The violations included overfishing their shrimp quota in Division 3L (the Flemish Cap), misreporting catches, exceeding the number of vessels permitted at any one time and failing to submit observer reports. Canada closed its ports to Estonian vessels for similar reasons on April 9, 2002. According to DFO, Estonian vessels caught more than 1,000 tonnes of shrimp in Division 3L in 2001 compared to the 268 tonnes available to them through their NAFO quota and chartering arrangements with other countries. They also misreported catches, exceeded the limit on the number of vessels fishing in 3L at any one time, failed to submit timely observer reports, and appeared to be continuing in the same way in 2002.

The Committee recommends:

RECOMMENDATION 5

That Canada make clear that it is prepared to use the provisions of Bill C-29 against NAFO members who have not ratified UNFA and that in the case of NAFO members who have ratified UNFA, Canada is prepared to use its provisions to ensure conservation. Canada should confirm its intentions by prescribing offending countries in the Coastal Fisheries Protection Regulations.

CONCLUSION

While in Newfoundland and Labrador, numerous witnesses told the Committee in a variety of ways that they believed that not only has NAFO failed them but also Canada:

In summary, NAFO has failed us since its inception in 1978, and Canada has failed us as well. The political will, with the exception of a few brief moments in our history, has not existed in Ottawa to deal with foreign overfishing.

The Honourable Gerry Reid
Minister of Fisheries and Aquaculture
Government of Newfoundland and Labrador

There is also a sense that people elsewhere in Canada are not aware of the issues in this part of the country and that even if they do, they do not particularly care:

That's the problem. I suspect if a tree falls in the forest, nobody hears, and when the fish is caught on the Tail of the Grand Banks or the Nose of the Grand Banks nobody hears. The people of this country are not engaged in what's happening down here.

Trevor Taylor
Member of the House of Assembly of
Newfoundland and Labrador

It is probably true that foreign overfishing on the Nose and Tail of the Grand Banks has not received the level of attention elsewhere in Canada that it deserves. It is understandable that the fishing communities of Newfoundland and Labrador would assume that the rest of Canada has abandoned them. The Committee, however, does not believe that this is the case. In fact it is our belief that Canadians are generally appalled when they learn of the outrageous behaviour of some of the fishing fleets operating just outside Canada's 200-mile limit. We recall, for example, that at the time of the arrest of the *Estai*, the Fisheries Minister had overwhelming support from the vast majority of Canadians across the country.

We have made recommendations in this report but we recognize that a report is not enough. It has to be acted on. There must be drastic changes in the approach and the attitude of the federal government. Canada must take decisive action to deal with foreign overfishing on the Nose and the Tail of the Grand Banks and on the Flemish Cap.

We recognize that other countries, Spain and Portugal in particular, have a historic attachment to the fisheries of the Grand Banks; however, a historic attachment is not a licence to decimate the resource nor to fish without regard for the rights of other countries and in particular the rights of the coastal state. We now have a state of affairs that verges on the bizarre. All of the fishing grounds of the NAFO Regulatory Area are on the area of the Canadian continental shelf that extends beyond our 200-mile limit, yet Canada finds itself vastly outnumbered within NAFO by states many of whom do not have an Atlantic coast far less a Northwest Atlantic Coast. We are told that Canada finds itself increasingly isolated within NAFO, often for reasons that have nothing to do with conservation of fisheries resources.

If the Fisheries Commission of NAFO is unwilling or incapable of controlling the fishing practices of its member states, or of implementing the necessary actions to promote rebuilding of straddling stocks, then Canada must look beyond NAFO. It must work in other fora to build alliances around the world and it must work toward isolating those countries that are overexploiting fish stocks not only in the NAFO convention area but globally.

We believe it is vital to persuade the central government to advance the best interests of our fisheries resources, of the fishing industry of Atlantic Canada and of the people of coastal Newfoundland and Labrador in particular. This is not an issue that affects just Newfoundland and Labrador. It deserves the support of all Canadians and we ask for that support to promote a common strategy to create the political desire and will to tackle a very serious problem.

By moving forward this way, the great fisheries resources of the Northwest Atlantic will have a chance to rebuild, not for the benefit of Canada alone but also for all the nations that have traditionally fished these stocks. **The time for action is now.**

Table 1: NAFO Regulated Stocks	
Straddling Stocks:	Discrete Stocks:
<ul style="list-style-type: none"> • 3NO Cod (moratorium since 1995) 	<ul style="list-style-type: none"> • 3M Cod (moratorium since 1999)
<ul style="list-style-type: none"> • 3LN Redfish (moratorium since 1998) 	<ul style="list-style-type: none"> • 3M Redfish (TAC — 5,000t)
<ul style="list-style-type: none"> • 3LNO American plaice (moratorium since 1995) 	<ul style="list-style-type: none"> • 3M American Plaice (moratorium since 1996)
<ul style="list-style-type: none"> • 3LNO Yellowtail (TAC — 13,000t) 	<ul style="list-style-type: none"> • 3M Shrimp (Effort regulation since 1997)
<ul style="list-style-type: none"> • 3NO Witch (moratorium since 1995) 	
<ul style="list-style-type: none"> • 3NO Capelin (moratorium since 1993) 	
<ul style="list-style-type: none"> • 2+3KLMNO Greenland halibut (TAC — 40,000t — 29,640t Regulatory Area)* 	
<ul style="list-style-type: none"> • 3+4 Squid (TAC — 34,000t) 	
<ul style="list-style-type: none"> • 3L Shrimp (as of 2000) (TAC — 6,000t) 	

Source: DFO/NAFO

* Increased to 44,000t at the NAFO Fisheries Commission Special Meeting in January 2002.

LIST OF RECOMMENDATIONS

RECOMMENDATION 1

That the Government of Canada pursue discussions with the NAFO Fisheries Commission to establish a process whereby observer reports would be more transparent and would be submitted in a timely fashion.

RECOMMENDATION 2

That the Government of Canada amend the *Coastal Fisheries Protection Act* to empower it to implement Custodial Management of fisheries resources on the Nose and Tail of the Grand Banks and on the Flemish Cap.

RECOMMENDATION 3

That the Government of Canada inform NAFO and its contracting parties that Canada will withdraw from NAFO and proceed with the implementation of custodial management on the Nose and Tail of the Grand Banks and on the Flemish Cap no later than one year following the September 2002 NAFO meeting.

RECOMMENDATION 4

That the Government of Canada conduct a targeted public information campaign to increase awareness of violations of NAFO conservation measures by vessels under the flag of member states and to canvass for public support to end the abusive exploitation of the fisheries resources of the Northwest Atlantic.

RECOMMENDATION 5

That Canada make clear that it is prepared to use the provisions of Bill C-29 against NAFO members who have not ratified UNFA and that in the case of NAFO members who have ratified UNFA, Canada is prepared to use its provisions to ensure conservation. Canada should confirm its intentions by prescribing offending countries in the Coastal Fisheries Protection Regulations.

APPENDIX A — LIST OF WITNESSES

Organizations	Appeared	Meeting No.
Department of Fisheries and Oceans	28/02/2002	41
Nadia Bouffard, Director, Atlantic Affairs Division		
Patrick Chamut, Assistant Deputy Minister		
Earl Wiseman, Director General		
Department of Foreign Affairs and International Trade	11/03/2002	42
David Ehinger, Deputy Director, Oceans Law Section		
Allison Saunders, Oceans Law Section		
Colleen Swords, Deputy Legal Adviser and Director General, Legal Affairs Bureau		
Government of Newfoundland and Labrador	15/03/2002	43
Gerry Reid, Minister of Fisheries and Aquaculture		
House of Assembly, Newfoundland and Labrador Government		
Trevor Taylor, Member of the House of Assembly		
Newfoundland and Labrador Rural Rights and Boat Owners Association		
Jim Morgan, Spokesperson		
Town of Burgeo		
Allister Hann, Mayor		
Efford Pinhorn Consulting	16/03/2002	44
R. John Efford		
Fish, Food and Allied Workers Union		
Reg Anstey, Secretary Treasurer		
Ches Cribb, Vice-President		
Earle McCurdy, President		

Organizations	Appeared	Meeting No.
Fisheries Association of Newfoundland and Labrador Alastair O’Rielly	16/03/2002	44
Fisheries Crisis Alliance Gus Etchegary, Spokesperson		
Fishery Products International Limited Ray Andrews		

APPENDIX B LIST OF BRIEFS

Department of Fisheries and Oceans

Department of Foreign Affairs and International Trade

Fish, Food and Allied Workers Union

Fisheries Association of Newfoundland and Labrador

Fisheries Crisis Alliance

Fishery Products International Limited

Government of Newfoundland and Labrador

Newfoundland and Labrador Rural Rights and Boat Owners Association

Official Opposition, House of Assembly, Newfoundland and Labrador Government

Town of Burgeo

Fred Winsor

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, your Committee requests that the Government table a comprehensive response to this report within 150 days.

A copy of the relevant Minutes of Proceedings of the Standing Committee on Fisheries and Oceans (*Meetings Nos. 41, 42, 43, 44, 52, 53, 55, and 56 which includes this Report*) is tabled.

Respectfully submitted,

Wayne Easter
Chair

MINUTES OF PROCEEDINGS

Tuesday, June 4, 2002
(Meeting No. 56)

The Standing Committee on Fisheries and Oceans met *in camera* at 9:12 a.m. this day, in Room 536, Wellington Building, the Chair, Wayne Easter, presiding.

Members of the Committee present: Sarkis Assadourian, Andy Burton, John Cummins, Rodger Cuzner, Wayne Easter, Georges Farrah, Loyola Hearn, Dominic LeBlanc, James Lunney, Bill Matthews, Lawrence O'Brien, Jean-Yves Roy, Paul Steckle, Peter Stoffer, Suzanne Tremblay, Tom Wappel.

Acting Member present: John Efford for Tom Wappel.

In attendance: From the Library of Parliament: Alan Nixon, Lorie Srivastava, François Côté, Research Officers.

The Committee resumed consideration of a draft report on the implications of extending Canada's Exclusive Economic Zone to include the Nose and Tail of the Grand Banks and the Flemish Cap.

It was agreed, — That the Draft Report, as amended, of the Committee's study of overfishing on the Nose and Tail of the Grand Banks pursuant to Standing Order 108(2), be adopted as the Committee's Tenth Report, and that the Chair present the said report to the House.

It was agreed, — That the Chair be authorized to make such typographical and editorial changes as may be necessary without changing the substance of the Report.

It was agreed, — That the Report be entitled, "Foreign Overfishing — Its Impacts and Solutions: Conservation on the Nose and Tail of the Grand Bank and the Flemish Cap.

It was agreed, — That, pursuant to Standing Order 109, the Committee request the Government to table a comprehensive response to the Report within 150 days.

At 10:38 a.m., the Committee adjourned to the call of the Chair.

Andrew Bartholomew Chaplin
Clerk of the Committee

