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Chair

Mr. Rodney Weston

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• (1540)

[English]

The Chair (Mr. Rodney Weston (Saint John, CPC)): I call this meeting to order.

I'd like to take this opportunity to welcome our guests here this afternoon. Thank you very much, gentlemen, for agreeing to come and appear before our committee.

There are a couple of housekeeping items I'd like to go over before we begin.

We try to adhere to some fairly close timeframes throughout the meeting. We generally allow about 10 minutes for presentations from our guests; you'll hear a beeper go off up here to signal that the 10-minute period has expired. I'd ask you to begin to wrap up your comments or try to bring them to a conclusion when you hear the beeping noise. I generally don't cut our guests off in their remarks, but our members have certain timeframes that they need to adhere to for questions and answers, and they're well aware of that. If you hear a beeping noise up here, you'll be aware of what it is.

Once again, thank you very much for taking the time to appear.

Anytime you're ready to go, gentlemen, the floor is yours.

Mr. David Vardy (Retired Public Servant, As an Individual): Thanks for the opportunity to present to you on a topic of great importance—the management of the fishery outside of Canada's exclusive economic zone.

When I served as deputy minister of fisheries and aquaculture for the Province of Newfoundland and Labrador, this was a major concern of the government. The province was extensively involved in Law of the Sea discussions and in presenting evidence nationally on the heavy toll exacted by the collapse of the fishery, largely due to foreign overfishing by both NAFO member fleets and vessels fishing under flags of convenience. It was during my term as deputy minister that the concept of custodial management was advanced.

I'm trained as an economist and I hold graduate degrees from the University of Toronto and Princeton University. I've taught at three universities. My career as a policy adviser to government includes close to 30 years as a deputy minister in the Government of Newfoundland and Labrador, including clerk of the executive council, deputy minister of fisheries and aquaculture, president of the Institute of Fisheries and Marine Technology, and chair of a regulatory board, namely the Public Utilities Commission. I've worked as a non-partisan and professional public servant, having served four premiers.

While Canada does establish the TAC for northern cod, we remain only one of 12 contracting parties, and have at best only one-twelfth of the governance. Canada bears 100% of the pain when NAFO does not work, and 90% of that pain strikes directly at the heart of Newfoundland and Labrador.

Only in theory do we have one-twelfth of the governance. The objection procedure can be used and has been used to usurp the collective management decisions of NAFO. However, it has to be understood that contracting parties don't always invoke the objection procedure before ignoring national allocations and fishing well beyond their allocations. They can and have simply overfished without seeking permission in advance.

There are three major issues from the new convention, to which I will refer. The first is the provision for dispute settlement. The procedure for settlement and dealing with objections filed under the convention is protracted and does not allow for settlement during the fishing season. There's no provision to prevent re-filing the objection once an arbitration ruling has been rendered.

Once overruled, the objection may be re-filed, thereby triggering re-enactment of the laborious dispute settlement procedure. In the meantime, the objecting state continues to fish. If a contracting party does not follow this procedure and fishes in excess of its assigned quota, the dispute settlement process does not get triggered until after the damage is done. I would expect fewer objections to be filed under the new convention.

The second issue relates to the provision for NAFO management within the extended exclusive economic zone. Paragraph 10 of the proposed amendments to article VI reads as follows:

The Commission may adopt measures on matters set out in paragraphs 8 and 9 concerning an area under national jurisdiction of a Contracting Party, provided that the coastal State in question so requests and the measure receives its affirmative vote.

I can see no circumstances in which this should ever be contemplated. I have heard no convincing case in support of this amendment, nor do I think it's practical to neuter this provision by requiring that the Minister of Fisheries and Oceans seek the concurrence of affected provinces before extending the invitation to NAFO.

This provision was added without much fanfare in the dark of night, as it were. It reflects a mindset that the management regime established by NAFO and the regulatory areas should be imposed within the EEZ to ensure consistency inside the zone. NAFO should instead ensure consistency by applying management principles outside the zone similar to those adopted by Canada within the economic zone.

I turn now to the decision-making rule, which has been changed from 50% plus one to a two-thirds majority. Over two years ago, on July 26, 2007, I wrote a letter to DFO Minister Loyola Hearn. I quote in part from that letter on the subject of the voting rule. This letter was written the day after a public meeting on the NAFO convention held at the Marine Institute of Memorial University, at which Bob Applebaum was the keynote speaker. That was July 25, 2007.

• (1545)

What I said in the letter was that:

Those who view NAFO as a strong and effective regulator of fisheries may be comforted by the imposition of a stronger threshold for approval. Those who question the effectiveness of NAFO will be alarmed to find that the approval of stronger conservation and enforcement measures will now be more difficult. Most of the people in Applebaum's audience at the Marine Institute last night, including the undersigned, fall in the latter camp and are alarmed at what has happened, because our perception is that NAFO is far from being an exemplar of strong management, conservation and enforcement.

The Government of Canada committed in its election platform to implement custodial management, which reflects a major reform of the governance of the regulatory area and that of the regional fisheries management organization. This new convention is a move away from custodial management, not toward it. Canada's attempts to reform NAFO have been ongoing for a long time, preceding my term as deputy minister of fisheries and aquaculture for the province. Progress has been painfully slow. In the meantime, the Province of Newfoundland and Labrador has paid a big price. The damage inflicted on our groundfish resources, including cod, flatfish, turbot, and redfish, has been enormous.

There was a tendency to downplay the importance of groundfish and the effort being directed to straddling stocks. Compared with prior experience, the level of fishing effort is perceived to be relatively small. The number of ships on the Grand Banks is down sharply from what it was. Does that mean we have solved the problem? Does it mean the stage has now been set for the recovery to take place? No. It means there is nothing left to catch—and there never will be if we perpetuate the existing system of governance outside of 200 miles. Dramatic changes are essential, rather than tinkering to fix something that is beyond repair.

Canada's position is different from that of most countries who host highly migratory or straddling stocks. Our shelf extends beyond 200 miles and includes important seasonal concentrations of mature and juvenile fish. For most countries who signed the Law of the Sea Convention, the 200-mile limit fully encloses their continental shelf and the species that live on the shelf.

The other difference is that we operate in a non-reciprocal environment. What I mean by that is the 11 other contracting parties fish in our waters; we do not fish in theirs. Their fish stocks do not migrate into our waters. We do not fish in the waters of Russia,

Cuba, Japan, or Iceland. Generally speaking, other regional fisheries management organizations deal with reciprocal fishing activity.

Moreover, the governance structure of NAFO does not reflect the fact that the non-reciprocal benefits and costs of the organization are not equitably distributed. The cost of management failure to Canada is disproportionately high and is not reflected in the governance structure of NAFO.

I am not convinced that the new convention is a step forward. The net benefit is ambivalent at best and outright dangerous in the worst case. Taken as a package, Canada would be well-advised not only to reject the new convention but also to lodge an objection against it.

I want to conclude by congratulating the four retired executives who have spoken out on this major public policy issue. As someone who has served as a deputy minister for close to 30 years, I understand the culture of our society is that public servants should be seen and not heard, that they should be eunuchs. However, there are times when public servants must speak truth to power when they are in active service, and sometimes even when they are retired. When they speak truth to power, they have to be prepared to put their jobs and reputations on the line.

Good fishery policy requires input from a wide spectrum of society, and not just from those who have a vested interest. In our fishery in Canada, the regulators and the regulated are closely intertwined in a complex web that mitigates transparency and discourages public input. As a former regulator in both the fishery and energy sectors, I can tell you that the best practice in contemporary public administration for regulatory agencies is for an arm's-length relationship between the regulator and the industry regulated.

• (1550)

My advice is that this committee carefully weigh the evidence coming before it and assign appropriate weight to the evidence heard from parties who have a direct interest, compared with evidence given from knowledgeable parties who are at arm's length and can provide a more dispassionate perspective. So-called armchair quarterbacks can offer useful and independent advice because of the fact that they have nothing to gain from it.

I thank you for your invitation to speak on this important topic. I would be happy to answer any questions you may have.

Thank you very much.

The Chair: Thank you, Mr. Vardy.

Mr. Dean, do you have any comments you would like to make?

Mr. Leslie Dean (Retired Public Servant, As an Individual):

Mr. Chairman, I want to thank the standing committee for extending me an invitation to appear before this committee on a very critical public policy issue that will have major implications for many thousands of Canadians and many hundreds of coastal communities in Atlantic Canada, Quebec, and Nunavut in the decades ahead.

The proposed new NAFO convention, if ratified in its present form, will not safeguard the future interests of Canadians who depend on the fishery resources of the northwest Atlantic for their livelihood, nor will the proposed new NAFO convention provide assurances that these resources will be managed any more effectively than they are under the existing NAFO convention.

Mr. Chairman and honourable members, I have followed the NAFO issue closely in my retirement over these past several years. The public discussion and debate on the matter in recent months, including the testimonies of a number of previous witnesses who have appeared before this committee and before the Senate committee on fisheries, convinced me to accept your invitation to appear.

I would note, however, that when concerns were first raised over the proposed new NAFO convention some 18 months or more ago, I conveyed my concerns at that time in a private letter to the Honourable Loyola Hearn, then Minister of Fisheries and Oceans. More recently, I conveyed similar concerns through the media.

I have not conveyed these concerns as an armchair observer with no direct knowledge of or direct involvement with NAFO down through the years; I am presenting my candid views on the proposed new NAFO convention as a senior retired public servant and concerned citizen of this country who was directly and indirectly involved with NAFO and the very frustrating NAFO decision-making process for approximately 25 years, primarily in my capacity as assistant deputy minister of fisheries and deputy minister of fisheries and aquaculture with the Government of Newfoundland and Labrador.

In related NAFO matters, I also participated in the discussions leading to the adoption of the United Nations agreement on straddling and highly migratory fish stocks in 1995. I was an adviser to the Canadian negotiation delegation on the Canada-France boundary arbitration. I represented the province on various past international negotiations between Canada and other countries in the 1980s, particularly the Canada-Spain bilateral fisheries agreement and the Canada-EU fisheries agreement, including the discussions that led to the resolution of the infamous turbot war. I was also one of the principal coordinators of a massive national and international foreign overfishing campaign that the Government of Newfoundland and Labrador was forced to undertake beginning in the late 1980s.

I am a graduate of Memorial University of Newfoundland and the University of British Columbia. I was born in a coastal Newfoundland fishing village where extended members of my family have had an uninterrupted 260-year history in the fishing industry.

Mr. Chairman, virtually every witness who has appeared before this committee has stated that NAFO has been a dismal failure. I fully agree. I also fully agree with a statement in August 2007 by Dr. Arthur May, a former deputy minister of Fisheries and Oceans, an Officer of the Order of Canada, and the first chairman of NAFO. His statement was that "NAFO is so broken that it can't be fixed." I also fully agree with his stated position that the current plan to amend the convention could come with some serious consequences for Canada.

The issue before us, therefore, is what it will take to give every assurance that northwest Atlantic fish stocks will be managed in a far

more sustainable manner in the future and in a manner that safeguards Canada's interests in the future far more effectively than in the past.

NAFO and its 1949 and 1976 predecessor, ICNAF, both failed because there was little or no political will on the part of some of its key foreign members to make them work for the long-term sustainability of the fishery resources that were being managed and for the very sustainability of adjacent fishing communities with a critical dependence on the resources of the northwest Atlantic.

Mr. Chairman, by way of illustration, over the 1986-1994 period, the European community was assigned NAFO quotas of various NAFO-managed stocks totalling 164,000 tonnes. During this same period, the EU admitted to harvesting 851,000 tonnes of these same stocks, in addition to catches from Canadian-managed stocks to which the EU had no entitlement whatsoever, such as 2J3KL cod. To make the picture even more appalling, the Department of Fisheries and Oceans estimated that the actual catch exceeded 1.3 million tonnes, a staggering nine times the actual EU entitlement. And people wonder why the fishery resources outside 200 miles collapsed.

• (1555)

A recent witness before this committee and the Senate committee stated that there is nothing new or better in this convention than the existing convention that will change the behaviour of fishing captains on the water. If that were the single biggest problem, we might make progress. However, I should point out that foreign fishing captains aren't the individuals on the NAFO member delegations that lodge formal objections to NAFO decisions or reject NAFO's Scientific Council decisions in the Fisheries Commission of NAFO. Indeed, in large measure, decisions like these actually enable captains, with the full blessings of their member states, to exceed what otherwise would pass as sustainable and precautionary quota levels as required under the United Nations fisheries agreement.

We have been assured by the Minister of Fisheries and Oceans that NAFO's old ways have changed. Yet at the most recent NAFO meeting, the Fisheries Commission of NAFO did what it has excelled at best for most of its history: rejecting specific recommendations of NAFO's Scientific Council on several important stocks—and suprisingly, I might add, with Canada's full concurrence at the past September NAFO meeting. In the case of the reopened 3M cod fishery under moratoria for 10 years, the United States and Norway—Norway being the only NAFO member to have ratified the proposed NAFO convention to date—voted against this decision.

A new NAFO, if that is the route to be taken by Canada in the management of stocks straddling and immediately adjacent to a sovereign territory, must have the teeth to safeguard the interests of our coastal communities in the future; otherwise Canada's influence over the management of these stocks will leave Canada, in the words of Dr. Arthur May, with a minority of one in its own backyard, not a majority of eight on all critical NAFO management decisions. I ask rhetorically, is this the solution for our hundreds of coastal fishing communities in response to NAFO's dismal past performance?

This committee has been told the following by a number of those witnesses supporting ratification of the proposed NAFO convention.

The difference between a majority plus one and the two-thirds majority needed on future changes to quota allocation shares is neither here nor there, even though this amendment was earlier touted as a plus for Canada. Moreover, the two-thirds vote will apply to conservation measures as well, thereby making it far more difficult, I might add, for Canada to get support for effective measures in the future, given NAFO's past dismal conservation record.

Proponents of the new convention have stated that there is nothing in the new convention that will change the behaviour of fishing vessels in the NAFO regulatory area. What comfort does this give our coastal communities?

At least one NAFO commissioner has stated that we need not rush to ratify this convention.

Several witnesses, including at least one NAFO commissioner, have stated that it would be preferable not to have the obnoxious, potentially sovereignty-compromising clause in the convention.

Of course, the objection procedure remains in the new convention, and in the words of Professor McDorman, who appeared before this committee, the dispute settlement will take years; moreover, the proceedings of any ad hoc panel established to address any dispute are non-binding.

These concerns are not trivial, and it is absolutely clear that language of the new convention will not serve Canada's interests as the principal coastal state in the NAFO convention and regulatory area. These concerns must be revisited and addressed; otherwise Canada will be entering into an agreement that is terribly flawed when tested against the very reasons that made the existing NAFO convention and NAFO itself dismal failures. If the Government of Canada is not prepared to revisit these concerns, then the proposed new NAFO convention must be rejected outright.

Thank you.

• (1600)

The Chair: Thank you, Mr. Dean.

Mr. Byrne.

Hon. Gerry Byrne (Humber—St. Barbe—Baie Verte, Lib.): Thank you, Mr. Chair.

Thank you to our witnesses. It certainly was valuable to have you here to speak to us and to provide us with your expertise and your experience on this issue. I thank you for coming before us.

What you had to say pretty well speaks for itself. You put it together quite professionally, and while at times you were passionate about it, it is obviously in balance with the evidence that's been put before you as well, so all committee members have to respect your point of view and appreciate the way you put it. That was done very well. I don't really have very many questions on any of your presentations. They speak for themselves.

I want to ask for your expertise to help resolve a bit of a new issue that's come before us. Through the work of some of the armchair

quarterbacks who sit around this committee, we've been able to discover a communiqué of September 28, 2007, from NAFO, which says:

Further to the 2006 precautionary closure of four seamounts in international waters, this year NAFO decided to also close to bottom fisheries a large area on the Grand Banks for the next five years.

Testimony we were given by DFO scientists confirmed that the area that NAFO closed to bottom fisheries is indeed on the Grand Banks outside of 200 miles but on the continental shelf. It is closed to bottom fisheries. I immediately raised the concern that in closing bottom fisheries, probably for the purpose of protecting corals and sponges, NAFO has now closed the scallop fishery prosecuted exclusively by fisherman from Canada. In fact there was an arrest of two American scallop draggers and an American crabber for fishing sedentary species outside of 200 miles on the Canadian continental shelf, showing that jurisdiction is exclusively Canada's as a result of the UNCLOS convention. Canada is now banned from fishing scallop and crab on its continental shelf in the area of the closure that NAFO declared when they banned bottom fisheries.

However, the minister, in a letter today in the *Telegram*, disputes what I have to say. She says that—and I don't understand this—"the water column above the extended shelf is high seas and that, under UNCLOS, other states have the right to fish on the high seas."

Mr. Dean, are scallop and crab fished in the water column or on the bottom using bottom fisheries?

• (1605)

Mr. Leslie Dean: Mr. Chairman, both of these species are bottom-dwelling species and are acknowledged as being Canadian-managed resources as per the Law of the Sea. If one is fishing for scallops or crab, one has to fish with gear that will come in contact with the bottom.

Hon. Gerry Byrne: This is really confusing. Do you fish scallops with gill nets, or do you get divers to go down and try to pluck them out of the water column? What I'm trying to figure out is why the Minister of Fisheries and Oceans for Canada would say that my argument is irrelevant because the water column is under international jurisdiction?

My point, and NAFO's point, was that the bottom fisheries are now closed due to a NAFO decision, not a Canadian decision.

Do you fish scallop and crab using bottom fisheries?

Mr. Leslie Dean: Mr. Chairman, when the U.S. crab vessel was intercepted several years ago fishing crab on the continental shelf, a resource under the Law of the Sea managed by Canada, technically that American vessel was fishing in the water column, but of course it was fishing in the water column for a species that was under Canadian management, and that's what prompted the Canadian government to arrest that vessel and it was subsequently fined.

Hon. Gerry Byrne: So in other words, by banning bottom-fishing activities, by banning bottom traps—because that's a bottom-fishing activity—banning bottom trawls, NAFO has now effectively shut down the capacity for Canada to manage exclusively and afford the right to Canadian fishermen to fish scallop and crab in the areas that NAFO has now shut down on the continental shelf.

We've now lost our jurisdiction. Is that what you're saying?

Mr. Leslie Dean: I'm assuming that if there were crab and scallops to be found and fished in the past in that specific area, which is now closed, then effectively it basically prevents Canadian fishermen from fishing in that area.

Hon. Gerry Byrne: And even if there weren't, they cannot fish any more because it's under a NAFO ban. Canada had the exclusive jurisdiction over the sedentary resources on the bottom. They had the Canadian right to fish it. NAFO has now decided, with the support of Canada, obviously...but NAFO, not Canada, has now banned bottom dragging, bottom-fishing efforts in areas that have traditionally been and legally been—recognized under international law—an exclusive Canadian jurisdiction. Is that a loss of sovereignty for Canada?

Mr. David Vardy: In my opinion it is. NAFO has taken jurisdiction, which it doesn't have under the Law of the Sea. Under the Law of the Sea agreement these are sedentary species. It's as simple as that.

• (1610)

Hon. Gerry Byrne: Thank you.

I'll pass my time over, Mr. Chair, to Mr. Simms.

The Chair: You have three minutes remaining, Mr. Simms.

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Wind-
sor, Lib.):** Thank you.

I have a very quick question. It's on the concept of reciprocal management regimes that you talked about in the early part of your presentation, Mr. Vardy—and, Mr. Dean, I invite you to weigh in on this as well.

My understanding is that in the other regimes you talked about—let's talk about the northeast Atlantic and all these areas—this is a very common practice simply because there are so many states involved over a small area of ocean. Therefore, the idea of allowing people to fish within your 200-mile limit per se is quite common, and the management regimes in those jurisdictions are set up in that way. However, we find ourselves now under the same operating principle on the northwest Atlantic, or the NAFO, high seas.

My question is, therefore, why would they request that? More importantly, why would we acquiesce to that? Is there any benefit for us, given the fact that it's not the same? You even said yourself that other jurisdictions fish in our waters; we don't go to theirs.

Mr. David Vardy: What we've done is adopted a cookie-cutter approach to regional fisheries management organizations. We've emulated other organizations that have no relevance to our situation here because they don't have those same reciprocal organizations. I think NAFO needs to be designed to accommodate Canadian situations, and that's what we haven't done. NAFO needs to be reformed so that it is more attuned to the situation with—

Mr. Scott Simms: Do you care to offer an opinion as to why we would acquiesce to this?

Mr. David Vardy: Why would we acquiesce to this? I don't know. I can't give you the answer to that. But in terms of the new article VI, with regard to jurisdiction and sovereignty—you're taking sovereignty within Canadian waters—I see no justification for it. There's provision under the United Nations agreement for straddling stocks, the UNFA, for the regulatory area to govern, to manage their stocks, in accordance with the management rules that are followed inside the

200-mile limit. So I see no reason why Canada has to be turning over its jurisdiction to NAFO.

Mr. Scott Simms: If I were to say to you, as a minister, “I need custodial management, and this is a way that it could possibly be done”, what would your response be?

Mr. David Vardy: This is the absolute opposite of custodial management, because custodial management basically involves Canada extending its jurisdiction while respecting the historical rights of other countries.

We have found that it is very difficult to extend custodial management. It's not an easy thing to do, and nobody suggests it is easy to extend custodial management, because you have to deal with all of those contracting parties. But it was a commitment of government to extend custodial management—and presumably they knew what they were about. Now that the commitment is there, what I see happening is that we're attempting to reform NAFO instead of dealing with custodial management. This is an attempt to prove that NAFO can work and that we can somehow emulate or reproduce the attributes of custodial management through NAFO. Everything that I have seen suggests that it has not been done. Whether it's possible is another question.

If you look at these amendments in this convention, some of them are dangerous and some are benign. When you look at the change with regard to the dispute settlement and the objection procedure, in my opinion, it makes no progress—but there is no slippage either. It's not dangerous. On the other hand, the sovereignty question is absolutely dangerous. When it comes to adopting conservation measures, the two-thirds majority instead of 50% plus one is dangerous.

On balance, what I would say is that we're moving away from custodial management big time.

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

We'll have another round, Mr. Simms.

Monsieur Blais.

[Translation]

Mr. Raynald Blais (Gaspésie—Îles-de-la-Madeleine, BQ): Thank you very much.

Good afternoon, gentlemen. Thank you for making the trip to be here and especially for exercising your right to speak. I think it is important to hear your version of events.

Correct me if I am wrong, but, after listening to your remarks, I get the sense that you have lost confidence in NAFO, in terms of its track record. That is also how I feel about NAFO, given the results it has achieved, particularly with respect to Atlantic cod. You were right on the mark, in my opinion.

Consequently, is it preferable to have a weak NAFO, one that works so-so, or not to have NAFO at all? I would like to hear your opinion on that.

Am I correct in assuming that you have lost confidence in the way NAFO operates? Why or why not?

• (1615)

[English]

Mr. Leslie Dean: Mr. Chairman, I lost confidence in NAFO many years ago. The most frustrating years of my public service career were spent sitting around the NAFO table. The final indignity in the late nineties was to reach a point where even our closest ally, the Japanese, was voting against measures proposed by Canada.

The solution is not to have no effective management outside 200 miles. There must be effective management. What I'm saying is that NAFO, in its present form, won't fit the bill and that the proposed measures won't either.

So I think Canada basically needs to go back to the drawing board and take all the time it requires to construct an organization that will work. That's my view.

Thank you.

[Translation]

Mr. Raynald Blais: I assume that when you realized what was going on, you were not in a position to speak out. Why did you wait until now to do so?

[English]

Mr. Leslie Dean: Mr. Chairman, as a senior public servant in the Government of Newfoundland and Labrador for 25 years, the frustrations that I experienced with NAFO were echoed through 10 successive ministers and about three or four premiers. My voice on NAFO was clearly heard, including by Mr. Chapman, who sat around the table with me for about 20 years, by Mr. McGuinness, Mr. McCurdy, and Mr. Andrews. These gentlemen know the frustrations I shared over NAFO, and in fact they shared my frustrations for so many years as well.

[Translation]

Mr. Raynald Blais: Thank you.

Mr. Vardy.

[English]

Mr. David Vardy: Yes, I want to echo those comments. I likewise was in the same position of being an adviser to the Government of Newfoundland for a long period of time, during which the Government of Newfoundland took a strong position on this whole question.

It goes back in particular to the administration of Premier Clyde Wells, when he adopted custodial management as the approach that should be taken to NAFO, which essentially amounted to taking NAFO and reforming it totally to the point where it would bear very little relationship to what it is right now. You are looking at an organization now that would need to be much stronger than what we currently have. For this to happen, it has to become a high-level public policy priority of the Government of Canada. This doesn't mean simply going to a NAFO meeting and saying we want to change NAFO; it means we have to go to the contracting states and say that this is something Canada insists upon, that we are prepared to talk about it as a public policy priority, and that it has to be given priority at the highest political level. And it requires a campaign to educate the people of Canada that it's something that absolutely needs to be done.

This is a very major task, but it's fundamentally important for the future, not only of Newfoundland and Labrador but also of the east coast fishery. So I can't help but echo everything Mr. Dean has said.

• (1620)

[Translation]

Mr. Raynald Blais: So, from what I understand—and tell me if you agree—it is a leadership issue. Ultimately, we could show up at the bargaining table and not impose anything, negotiate with ourselves and agree to just about anything. Alternatively, we could impose ideas, show some leadership. Basically, what you have seen is that both Canada's current and previous governments have not shown that leadership.

[English]

Mr. David Vardy: Yes, I think there is a failure of leadership. There's no question in my mind about that. The issue of reforming NAFO has been a failure, because Canada hasn't really taken the leading role it needs to take at the table, nor has it seen the need to go outside the box. The cookie-cutter approach that we have to the organization is not appropriate, so we need to go back to the drawing board and develop a totally new convention.

Several years ago, I might add, Dr. Art May did a report that suggested some major changes to NAFO. His report, which was done for the Minister of Fisheries and Oceans, was a very comprehensive one, and I would commend it to you for your reading. It did not recommend custodial management; it recommended an alternative approach. I think a major review somewhat similar to what Dr. May did is in order again to chart a new approach to dealing with extended jurisdiction.

[Translation]

Mr. Raynald Blais: Mr. Dean, do you have anything to add?

[English]

Mr. Leslie Dean: The main concern I have is that NAFO functioned in the first four or five years of its history primarily because Canada, as a coastal state, was in a position to buy compliance through surplus and non-surplus allocations of fish. Once the potential to trade off or make these allocations in exchange for compliance dried up, the problem with NAFO became increasingly more difficult, especially in the post-1985 period.

NAFO is a creature that has been around for about 30 years. My fear about these amendments is that they will meet the test, yet we'll have to suffer through another prolonged period with the same frustrations we've had to experience in recent years with NAFO.

The Chair: Thank you very much, gentlemen.

Mr. Harris.

Mr. Jack Harris (St. John's East, NDP): Thank you, Mr. Chairman.

I want to thank you both for coming.

I know you both personally and through your expert experience as senior public servants in Newfoundland. Between the two of you there are probably 50-plus years of senior advising capacity. I'm glad you came to share your expertise and the wisdom of your experience with us.

I have two questions. I'll ask them both first and then let you comment on them.

There's a ratification process under way. A question was raised about the Newfoundland government's position during the discussions. It seems the province may have supported the changes that were being made, or at least thought they were okay. We're now in the ratification process, but what is it for? Some suggest it'll be three years before this can be ratified. Can countries change their minds and refuse to ratify? Is the purpose of ratification to have a sober look at what has been negotiated by the negotiators and have countries change their minds and say it's a mistake and we're going in the wrong direction? That's one question.

If this is ratified—and Mr. Dean alluded to that—can it be fixed? Can the dangerous changes that are there—as you referred to them, Mr. Vardy—be undone by next year? Will we have another round of negotiations to get rid of them, or will we be stuck with them for a very long time and be exposed to the dangers from a conservation point of view, and potentially from the point of view of sovereignty issues?

• (1625)

Mr. David Vardy: Unless Canada lodges an objection to this convention, if 75% of the members support it, over a period of time it will become a binding convention. So it's important for Canada to speak out now and make its views known. I'm not exactly clear on the timeframe within which this has to be done, but Canada should consider this issue very carefully and take its time to ensure that we make the right decision.

Can this be fixed? The provisions in this agreement are so egregious that I think they would do a lot of damage for many years to come. If we were to pass this without attempting to fix it, we would be reducing NAFO to being absolutely useless as an organization. It's not much use now, but it would become a total exercise in futility. I think it would be a big mistake for us to go ahead and ratify this or allow it to be approved by the other member states.

Mr. Jack Harris: It's okay for countries to negotiate a treaty and then object to it and not ratify it. I presume the ratification process is an opportunity for the country to consider whether it should go forward with the treaty, and it has a perfectly legitimate right to say no. Am I correct in that?

Mr. David Vardy: Even though Canada was a party to this—and in many respects was a *demandeur* for some of the clauses in there—it can change its mind. It would be wise for Canada to carefully consider the option of changing its mind and vote against it.

Mr. Leslie Dean: Mr. Chairman, with respect to the question of how long this convention would last, I'm not aware of any sunset clause or any sunset language contained in these proposed new amendments. So presumably an amended NAFO would function until such time as the parties agreed, for whatever reason, that they would revisit the whole language of the organization.

Mr. Jack Harris: Given where some of these amendments have come from, how likely would that be? Do you have any idea of that, or is that just pure speculation? In other words, are we going to be stuck with this for a long period of time, or is there any likelihood

you could get agreement to get rid of these egregious clauses we've talked about?

Mr. Leslie Dean: My view is that if this NAFO convention is ratified, we are going to be stuck with it for a long time, absolutely.

The Chair: Thank you.

Mrs. O'Neill-Gordon.

Mrs. Tilly O'Neill-Gordon (Miramichi, CPC): Thank you, Mr. Chair.

Welcome, witnesses. We're glad to have you with us today.

I've listened with interest to your statements, and I believe, after hearing you answer the question from Mr. Blais, that you did play a role in the NAFO reform process and you were probably part of an advisory panel. Is that correct?

• (1630)

Mr. David Vardy: I wasn't a member of the advisory panel. I haven't been involved directly in fisheries for a few years.

Mrs. Tilly O'Neill-Gordon: But were you, Mr. Dean?

Mr. Leslie Dean: Regarding the question of clarification, Mr. Chairman, I spoke in the context of being involved with NAFO directly, attending meetings of NAFO, and having input into the Newfoundland government's position over a 20- or 25-year period. I had no involvement with the present reform.

Mrs. Tilly O'Neill-Gordon: Oh, okay. I'm glad I cleared that up, because I thought maybe as a civil servant you were giving input into NAFO.

So do you have any information on how the reform process unfolded, other than what you heard and what you saw when you went to meetings?

Mr. Leslie Dean: Mr. Chairman, I first became aware of some of the new language in the summer, I believe, of 2007. That was in the context of comments that were made, I believe, initially by Mr. Applebaum. Subsequent to that, of course, the issue became more contentious as time progressed.

I have taken an interest in the activities of the World Wildlife Fund, which has observer status at NAFO. Over several informal meetings of the group, some of these concerns and issues came to the table.

I'm also involved with the Fisheries Community Alliance, although I'm not speaking on behalf of the alliance here today. Of course, it was in that context that we interfaced with the provincial government on the language of the new convention. My understanding is that it was also in that context, honourable members, that the Government of Newfoundland and Labrador reflected further on the concerns that had become public and had been debated, and it was in that context that its position on some of the issues changed in recent months.

Mrs. Tilly O'Neill-Gordon: Now that you're both retired, have you put more time into this file?

Mr. David Vardy: I can answer that. I would like to go back two years ago to when we had a public lecture at the Marine Institute, at which time Bob Applebaum spoke. That was the first I heard, as did Les, about this convention and these new provisions. My first reaction was to immediately write to the Minister of Fisheries and Oceans at the time and advise him of my views on this matter.

Subsequently, I've been involved with the same group Les spoke of, which is the Fisheries Community Alliance. Through that group we have been advising the Government of Newfoundland and Labrador and making representations to the Government of Newfoundland and Labrador to express our concerns about this, to the point where we requested that the government invite Mr. Applebaum and his people to a meeting. The result of that was that the premier wrote a letter to the Prime Minister of Canada, expressing strong views by the Government of Newfoundland and Labrador with regard to this convention, asking that changes be made and that an objection to the convention be lodged.

Certainly I've been involved in this for the last few years. I feel this is a very important issue for the province, and it's one that I have dedicated a fair bit of my own personal time to.

Mr. Leslie Dean: Madam Member, over the years, I have taken a keen interest in virtually every public policy issue that affects the province of Newfoundland and Labrador, and Atlantic Canada and Canada generally. I am the recipient of the Lieutenant Governor's Award for Excellence in Public Administration, which is awarded through the Institute of Public Administration of Canada. That award reflected the contribution I've made to public life in my province.

So it's one of these issues that I have a keen interest in, not because it's the issue of the day, but because it reflects my keen interest in issues that affect my province, and Canada generally.

•(1635)

Mrs. Tilly O'Neill-Gordon: We need people like you to take an interest in our communities, so I'm sure our government appreciates your contribution.

On Tuesday we heard from Gus Etchegary of the Community Fisheries Alliance. Are you members of his group? Do you support the goals of this group to abolish NAFO?

Mr. David Vardy: Certainly, I am a member of the group and I support the negotiation of a new approach to NAFO. NAFO, in its present form, should be totally changed. Whether we say that NAFO has to go or that NAFO has to be totally transformed becomes a semantic question, but some of the things in this provision are very difficult to accept.

In particular, I want to make reference to the fact that we have an objection procedure. There's an attempt to deal with the objection procedure in article XIV of the convention. It provides for a panel to be established, and there's a very complex, lengthy procedure for the establishment of the panel. There are two things in particular about this. One is that it goes on so long that the final outcome doesn't actually impact on the fishery until the fishery is over. The other thing is it's not binding. This is not a binding approach, and that's critically important.

Now, the other thing I wanted to say, just to finish up on that, is that you don't have to file an objection procedure. Most of the

overfishing that has taken place over the last 30 years has been done without filing any objection procedure. Quite often, states that want to overfish simply go out and do it without telling anybody, and we don't know until after the fish is taken, until the end of the season.

So even if we had a binding dispute resolution system, which we don't have, we would still need a mechanism to deal with the issue of overfishing without the dispute, the objection procedure, being filed.

Those are major issues.

Mr. Leslie Dean: Mr. Chairman, I am a member of the Community Fisheries Alliance. I'm here today basically speaking as a private citizen, not in my capacity as a member of the alliance. I support the representation that Mr. Etchegary made before the committee. It simply reflects, as I indicated earlier, a genuine concern that given Canada's role with respect to the principal coastal state in the NAFO convention area, Canada can do better in the language of this new convention. I really think that.

Mrs. Tilly O'Neill-Gordon: We also heard from Phillip Saunders, the dean of Dalhousie Law School, that without NAFO the north Atlantic would be unregulated. Is an unregulated zone, in your opinion, better than NAFO?

Mr. David Vardy: In my opinion, there has to be some form of regulation. Custodial management basically makes the coastal state the lead agency with regard to management of the zone, with involvement by some form of regional fisheries management organizations, which is radically different from the way NAFO operates now, recognizing the non-reciprocal rights or fishing activities of other countries.

But to answer your question, no, I don't think it is an answer to leave the zone unregulated. You cannot have an unregulated zone. There has to be something in place. I think it would be unrealistic for us to think that we could put any new solution in place overnight. This has to be done over a period of time. And if we were to withdraw from NAFO, I think we would need to serve notice that we were going to withdraw from NAFO and would be taking a different approach to the management of the stocks on the continental shelf. We would have to be very clear to everybody, to the international community, on exactly what measures we were proposing to take.

I think it would be imperative that Canada have designed an alternative to NAFO, and the alternative to NAFO has to be able to remedy some of the shortfalls in NAFO. It's something that's needs to be done, and it needs to be done quickly.

Mr. Leslie Dean: Mr. Chairman, I read the transcripts of Professor McDorman and Mr. Saunders before this committee. Mr. Saunders spoke at length on custodial management, and I may have misread the transcripts, but I think his understanding of custodial management in the way that we have defined it was flawed.

He basically indicated that Canada would assert management rights over the resources beyond 200 miles, the straddling stocks, and that essentially what this would amount to—and I'm paraphrasing—would be a resource grab for Canada. In fact, I think his words were that it would be a huge one for Newfoundland and Labrador.

That is totally wrong. The only benefits that would accrue to Newfoundland and other provinces that have fished on the nose and tail of the Grand Banks through the concept of custodial management as we have defined it would be resources that would become available as a result of stock rebuilding. The historic shares of all countries that have fished there would be respected. So it's not that we would assert custodial management under the definition that we enunciated; it's simply that there would be a far more effective management regime and a management regime that would fully recognize the historical shares of those countries that have historically fished in that area.

• (1640)

The Chair: Thank you, gentlemen.

Mr. Andrews.

Mr. Scott Andrews (Avalon, Lib.): Thank you, Mr. Chair, and thank you to our guests for coming in today. I know some of this gets a little bit repetitive because we're sort of covering some of the same ground, but I just want to touch on two areas.

When you talk about the new approach to NAFO, going it on our own and getting totally out of NAFO altogether, I'd like to take from your lenses as deputy ministers, as ADMs, your bureaucratic perspective. You've both said that you've been around throughout NAFO all these years and you've had many frustrations and you've seen the pitfalls.

Could you explain to me why you would see these types of pitfalls, but when it comes to the Department of Fisheries and Oceans bureaucrats, and being around them as well, they don't share the same vision and ideas, as professional bureaucratic individuals?

Mr. Leslie Dean: Mr. Chairman, it would be inconceivable to think that they don't see pitfalls. It's not that we're designing a new creature. What we're doing is basically tinkering with the language of an organization that has been around for 30 years. Successive governments of Canada in the past have expressed their frustrations with NAFO, and the very frustrations that successive governments and ministers have expressed over NAFO in the past are basically the frustrations that remain, certainly for me, in large measure.

So it's not that I'm thinking any differently, I don't believe, than other people who have worked on the NAFO file.

Mr. David Vardy: Quite often when you get into the middle of something, you become part of it. You become conscripted by thinking that you're making some progress. You may get too close to an issue and think you're making progress when you're not really making progress.

That's part of the problem. Quite often bureaucrats get caught up in process. Process becomes something that is inherently valuable, when of course process quite often doesn't achieve an awful lot.

My sense is that there's a real need to step back and see what is really happening. We can create this very elaborate Byzantine organization in NAFO and we can pretend that it doesn't work, and you'd get some satisfaction by creating, elaborating, making this great artificial structure, making it look elegant, and using it as an opportunity to network with people in the international arena, but people who are operating out of Ottawa in the international arena are not close to what's happening on the ground or in the water in places

like Newfoundland, and they don't necessarily see the enormous damage taking place. We need to look at what's happened to our province over the last 20 years: we've lost 80,000 people; we've gone from 590,000 down to close to 500,000. We've got a devastating depopulation of rural Newfoundland.

Quite often there's a tendency for people who are operating out of the centre to be blind to the real impact on the people who are suffering and to be concerned too much with process. Governments today are very much focused on process. I suspect that our colleagues in Ottawa, not only in DFO but also in many other agencies, are preoccupied with process, and I think one really needs to look at what's happening on the ground. One needs to make a distinction between what's happening on paper and what's happening on the ground.

• (1645)

Mr. Scott Andrews: Yes, and I think, too, that it would take some political will at the upper levels to push that forward to a new approach and say that we were going to do something bold and move on.

Regarding custodial management, all the witnesses we've had before us have told us their definitions of custodial management and what it means to them, and most of them are pretty consistent on what they think custodial management is. From Conservative senators to fisheries people to industry people, they've all said that we don't have custodial management, so how would you have any confidence in the Department of Fisheries and Oceans when the minister comes in and says, "Yes, we have custodial management, and yes, we have custodial management through NAFO"?

Mr. Leslie Dean: Mr. Chairman, several years ago there was a private member's motion passed in the House of Commons on custodial management. There were approximately 200 members of the House of Commons who voted on that motion, a private member's motion. I'm assuming that every member who voted on that motion knew what they were voting on. At least I can assume that 200 members of the House of Commons had a definition explained to them by the individual who moved the motion to the extent that they felt comfortable either voting for or against the motion.

I was extremely surprised when the former minister, Minister Hearn, stated that the Government of Canada had achieved custodial management. We were all bewildered. Of course, that position has been repeated by his successor. Clearly, the definition of custodial management that David Vardy and I framed, along with Premier Wells at the time—I think it was in 1992 or thereabouts—was understood in the context of Canada asserting management on behalf of the international community.

Now people say that's a novel idea and it doesn't have any international precedence, but I think it was Professor Saunders who basically referenced Antarctica almost as being an area under custodial management, because at least four or five countries, probably more now, have taken it upon themselves to research and what have you to safeguard and understand the dynamics of the continent.

Custodial management and management by NAFO are two different animals. They're poles apart. That's why I was extremely surprised when Minister Hearn said we had basically achieved custodial management. Then, of course, he finished the phrase by saying, "through NAFO". Well, it didn't meet the test.

● (1650)

The Chair: Thank you, Mr. Dean.

Monsieur Asselin.

[Translation]

Mr. Gérard Asselin (Manicouagan, BQ): Thank you, Mr. Chair.

First, I want to thank you for making the trip to appear before the committee.

It is not always easy for retired public servants to tell a House of Commons committee what they saw during their time in the public service, whether at the federal or provincial level. But, you and I both know that the role of elected representatives is to pass legislation, and the role of public servants is often to implement that legislation. When something is not working, you have no choice but to complain or to voice your frustrations or dissatisfaction to the minister responsible, and I see that that is what you did with Minister Hearn.

But, as a result of the implementation problems, your dissatisfaction and your frustrations go back 20 years, as there was mention of the 1990s earlier. I have been here since 1993. Between Mr. Hearn and Brian Tobin, two members from Newfoundland, two former Fisheries and Oceans ministers, how much attention was paid to your concerns? There were a number of people from Newfoundland, members and ministers, within that department. How much attention was paid between the time Mr. Tobin—who was not only the Minister of Fisheries and Oceans, but also the Premier of Newfoundland—was in office and the time Mr. Hearn was appointed? What steps were taken, what efforts were made? That is my first question.

Mr. Chair, I am worried that I might run out of time before I get to my second question, so I will ask it now. If the committee were to ask you to put your frustrations down on paper, as someone who has worked on the ground and seen the problems involved in implementing the NAFO convention, what would you write? What would you suggest to rectify the situation? To ensure that your efforts benefit the committee and help to solve the problems you experienced once and for all, tell us what does not work and what we need to do to make it work?

[English]

Mr. David Vardy: As far as telling ministers about our concerns, as deputy minister of fisheries in 1989 I worked very closely with Clyde Wells—as did Mr. Dean—on an approach to take with foreign overfishing. It involved the foreign overfishing campaign and a very vigorous international campaign to change the Law of the Sea.

Premier Wells made it one of his priorities to go to the various Law of the Sea conferences in Rio, New York, and other places to try to change the Law of the Sea, recognizing that the provisions that applied to Canada weren't really working.

So throughout my tenure I had extensive involvement with Mr. Wells.

I didn't work with Mr. Tobin on this file to advise him how I felt this matter should be dealt with, so I can't really say.

On the question of advising this committee how to go forward in terms of solutions, what works, and problems with the NAFO convention, I am certainly prepared to offer any suggestions or thoughts you might find useful. I'd be quite pleased and honoured to be given the opportunity to do that.

Mr. Leslie Dean: Mr. Chairman, I was appointed Deputy Minister of Fisheries and Aquaculture in 1994, and I served in that capacity for seven years. I worked very closely with Premier Wells on this file.

The most interesting experience I had with Premier Wells on this file was in March of 1992, when the premier was determined to confront the European Union on foreign overfishing. I accompanied the premier to Europe. We met with most of the EU ministers responsible for fisheries. We also met with a number of national government leaders and ministers. To be quite frank, the only glimmer of hope that we received was from the State Secretary for Food, Agriculture and Forestry, Dr. Kittel.

When we returned to Newfoundland, the premier extended an invitation for Dr. Kittel to come to Newfoundland and Labrador because he wanted to see first-hand the impact of what was happening. Dr. Kittel came and spent approximately a week in our province. I can assure you that when he left, he had full sympathy for the concerns the premier had raised during his trip to Europe.

By this time, the West German fishing fleet, for all intents and purposes, had disappeared from the north Atlantic. The Spaniards and the Portuguese, of course, upon acceding to the European Union in 1986, I believe it was, basically took over the fisheries file within the European community, and it's been the Spaniards and the Portuguese who have dominated fisheries policy within the European community since that time.

The other interesting experience I had, again to show the lengths we went to in trying to find some resolution, was in the early 1980s. We received word at that time, through the Government of Canada, that an industry delegation from Spain would like to come to Canada and meet specifically with representatives of the Government of Newfoundland and Labrador to assess what opportunities there might be to capitalize on what they referred to as "mutual fishing opportunities in the northwest Atlantic".

We met with that delegation. It was a fairly large delegation, including representatives from the Basque Country. We said to them that if NAFO could function more effectively and if we could be assured that through greater discipline these stocks would be managed in a more sustainable manner, then we would go the extra length to encourage joint ventures between the Newfoundland and Canadian fishing industries and Spaniards and what have you. Unfortunately, that didn't materialize, and in fact matters got progressively worse in subsequent years.

Mr. Tobin, in his capacity as then Minister of Fisheries and Oceans, took very aggressive action, which led, of course, to the *Estai* incident and the turbot war. I think it's fair to say that during most of his tenure in Newfoundland, a lot of the foreign fishing activity on the nose and tail of the Grand Banks was curtailed, simply because of moratoria on various species. There was a continuation.

• (1655)

After Premier Tobin left politics in Newfoundland and Labrador, the two successors certainly carried this issue forward in much the same manner that it had been carried forward by Premier Wells and Premier Peckford before them.

• (1700)

The Chair: Thank you, Mr. Dean.

Go ahead, Mr. Harris.

Mr. Jack Harris: Thank you, Mr. Chairman.

If it's not already obvious, I should say for the benefit of the committee that we are hearing from two of the most distinguished public servants that Newfoundland has ever had. I think your opinions deserve a lot of weight, and I hope our committee will give that weight to these comments when we make our report.

My question may be rhetorical, but perhaps you might want to comment on it.

We've had a lot of talk about Arctic sovereignty of late. I don't think there's much doubt about our sovereignty in the Arctic, but it's still fun for the government to talk about it. Suppose we had a Canadian delegation go off to discuss Arctic sovereignty in general with other countries and they came back with a convention or a rule that they'd agreed to that would give an opportunity for the Northwest Passage to be administered by an international group—with the consent of Canada, of course—in terms of pollution, passage, and other rights of control over access to that passage. What do you think the reaction would be in Canada over something like that? Is that in any way comparable to what we're dealing with here?

Mr. David Vardy: In my opinion, there are some similarities, but there are also some differences.

I think there would probably be a fairly strong reaction, because Canada clearly sees itself as being in a sovereign position. I would expect you'd see very strong negative positions and opposition from the Government of the United States, which is very concerned about passage through international waters. I think there are fairly major differences in the sense that one of the things one has to consider is that this passage opens up a new gateway. You're not dealing with historical rights, as you are with NAFO.

In the case of NAFO, there are historical fishing opportunities. That's something we have to somehow deal with. In the concept of custodial management, we respect the historical shares and historical access that countries have had in fishing historically and traditionally on the Grand Banks. There are questions with that, questions with regard to how far back you go. Are we talking about going back 200 years, or are we talking about historical rights that were accrued over the last 30 to 40 years? These are very big questions, but I think that

would be one of the differences in terms of looking at the Northwest Passage versus a NAFO convention.

In terms of an international authority to manage the Northwest Passage, I think such an authority would probably be seen as problematic by many people. I think there are differences, and I would hesitate to offer advice on the Northwest Passage, quite frankly.

Mr. Jack Harris: I was thinking in terms of the management inside the 200-mile limit being equivalent to the international management of the Northwest Passage, which Canada claims for itself, but you did touch on something that I want to ask about.

You mentioned respecting historical shares. Is it a difficult concept under custodial management for Canada to say that because this stock has been mismanaged, we are proposing to manage it? I think the concept is that because the international community has failed to do so, Canada would exert a certain custodial management under international law to protect the environment and the sustainability of the species. I think that's where you get in to do something on behalf of the nations.

I take it that it is possible to develop a regime, but do you both have confidence that Canada could in fact supervise a regime that would indeed see the rebuilding of those stocks and ensure that there's a greater biomass of food and protein available for the world community, including Canada? Do you have confidence that we could do that with the right amount of political will and with the scientific knowledge we have at our disposal? Is it doable?

• (1705)

Mr. Leslie Dean: Mr. Chairman, I think the operative words are "political will". If the political will is there, there's nothing magical about managing outside 200 miles. Yes, there will be objections to that concept, but I think if it's a concept that's clearly developed, clearly defined, and sold over an extended period of time, probably five years or so....

The issue that matters most to those who have historical fishing rights in the northwest Atlantic is the ability to fish, and if a new management regime—that is, custodial management—basically provides the opportunity for these stocks to be rebuilt faster and in greater volume and quantity than they would under the traditional NAFO approach, then who are the losers?

But it will take salesmanship and it will take political will to develop the concept and to sell it. I think that's probably what Dr. May would say.

Mr. David Vardy: I just want to add one point to that, Mr. Harris, and this opens up a whole other issue—that is, the whole question of science and scientific fisheries management. If Canada were to take on this task, it would have to substantially increase its expenditure on science, because it would be dealing with a much larger area and a much more complex situation. The reality is that Canada is already incurring the lion's share of the expenditures in the management of the continental shelf. I think we are incurring as a country about 70% of the costs. But I would emphasize that, on the question of political will, the political will would include the will to spend the money needed to do this.

If this is going to be an important thing, if this is an important issue for Canada, then we have to be prepared to spend the money, and this will cost money, for us to enforce the 200-mile limit and beyond. For us to patrol the continental shelf, we will need to make expenditures of resources. If we as a country are not prepared to make that commitment, then we are not going to solve this problem. So I think we have to be prepared to recognize that this is not just a matter of political will and extending jurisdiction and recognizing historical shares; it's a matter of putting our money where our mouth is as well.

The Chair: Thank you, Mr. Vardy.

Mr. Leslie Dean: Mr. Chairman, on that point, a witness before this committee, Mr. Anderson, on behalf of DFO, outlined the commitment that the Government of Canada is making to enforcement in the northwest Atlantic. So it's not that Canada would have to start anew. It basically would be incremental funding in addition to the significant commitment the Government of Canada now makes to enforcement, either by ship or by air, in the northwest Atlantic. I believe the number that was indicated was somewhere in the order of \$30 million at present being the expenditure. So we're already making a significant commitment to ensure the sustainability of these resources.

The Chair: Thank you, Mr. Dean.

Mr. Allen.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you, Mr. Chair, and thank you, gentlemen, for being here today.

I have a few questions that I want to ask. This has been a very interesting item to hear testimony on. It's like the *He Said, She Said* movie, everything going back and forth.

Mr. Dean, you said NAFO is so broken that it cannot be fixed, and Mr. Vardy, you said we need to go back to the drawing board for this. You both commented about how difficult it is in the international community to try to get consensus and try to get things done.

How long would that take, and what are the consequences of living with an agreement that is so broken and cannot be fixed? I'm suspecting the fix is not short term.

Mr. David Vardy: I think this is going to take three years to accomplish, but in the meantime, Canada will have to be very careful not to enter into an agreement to endorse this convention that would weaken our position. We have to put that whole convention on hold, and we have to work with other member countries to deal with this issue and to put it on the table as something that Canada is extremely concerned about.

We have to recognize as well that there are countries other than NAFO members that are fishing outside of 200 miles, and sometimes in the discussion we've been having around this table we may have lost sight of the fact that there are these so-called non-contracting parties. They're not so much out there today, but they have been in the past, and when the fish come back, we're going to have to be very concerned about these parties.

This is something that is probably going to take some time to do and is going to require a political commitment, and it's something that should be done now. The thing is that when these stocks come back, other countries will be poised to take advantage of that

restoration. Northern cod is a good example. One of the big concerns I have with the recent decision of NAFO to open zone 3M for cod is that, for one thing, they have ignored the scientific advice and have set a higher quota. The whole opening of a quota in zone 3M, the Flemish Cap, provides an opportunity for countries to grow a Trojan horse. It provides a Trojan horse for countries to fish the northern cod stock in zones 2J and 3L. It is difficult for inspectors to know whether the fish was taken in zone 3L, in the nose and the tail, or whether it was taken on the Flemish Cap. When the fishery was closed on both the Flemish Cap and on 3L, the nose, it was very easy to determine that there was no cod fishery taking place, but now we have made that distinction a little more fuzzy.

The point that needs to be made is that as the fishery starts to rebuild, the pressure on Canada will be extremely great, so before we build the stocks, we have to solve this problem. If we don't solve this problem, the stocks won't recover.

• (1710)

Mr. Mike Allen: This leads me to my next question. You brought up Mr. Chapman, Mr. McGuinness, and Mr. McCurdy. Certainly, there is no question that they share frustrations with the current NAFO agreement. There is absolutely no question. They are on the record on that. Mr. Chapman has been involved since 1977, according to the testimony he gave us, and in the early 1980s for NAFO as well. What I find kind of intriguing is that these people are representing the fishery, and they wouldn't have a vested interest other than wanting to continue to fish, as you guys have said. I would think they would want to continue to fish and they would want to ensure the long-term stocks so that they could continue to fish.

Mr. Vardy, when you talk about the whole sovereignty issue, why would they be so concerned about that intrusion into their territory? They seemed to support this agreement.

Mr. David Vardy: I would not attempt to try to speak on their behalf as to why they would be supporting this convention. The only observation I would make is that quite often there is a tendency for the industry to support measures that are being taken by government because there is a somewhat symbiotic relationship that sometimes takes place. The reality is that quite often we see Canada supporting measures that are not in keeping with the precautionary principle. That's one of the reasons there's a need for the people who are involved in management decisions to be at greater arm's length from this whole picture.

I made a comment earlier that I thought we were dealing with an anachronism in terms of public administration when it comes to the fishery. In other sectors—the energy sector, for example, in oil and gas, and in the communications sector—we have quasi-judicial boards that make decisions, and the decisions are taken with all the information being in the public domain. In the fishery, there is not the same opportunity for other people to speak up and make their voices heard.

There are times when I think people in industry would like to see the fishery continued, even when the quotas should be reduced, the mesh sizes increased, and things made more conservation-oriented. That's the nature of the beast. The nature of the beast is that business people are concerned about the bottom line, today, and I think there's a certain amount of myopia in that people tend to say they'll worry about tomorrow when tomorrow comes. It's in that area that there need to be people who are concerned about the fish.

We once had a minister who said that he was not the minister of fish, he was the minister of the people. What he said was that he was going to make decisions that were in the best interests of the people, which meant he was going to keep the fishery open when it should have been closed.

Sometimes somebody has to look after the fish. Somebody has to look after the interests of the fish; otherwise, we won't have them in

the future. What we have to do from a public policy perspective in Canada and elsewhere in the world is make sure there is a good, strong conservation voice being articulated and present at some of these international meetings, so that people who are more concerned with the bottom line don't get preoccupied with the problems of meeting their bottom line today and lose sight of the bigger picture. That's all I can say.

● (1715)

The Chair: Thank you very much, gentlemen.

Thank you once again on behalf of the committee for taking the time out of your schedules to come and appear before our committee. We really do appreciate your input.

The meeting is adjourned.

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