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# Standing Committee on Fisheries and Oceans

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Monday, October 26, 2020

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Chair: Mr. Ken McDonald





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• (1650)

[English]

**The Chair (Mr. Ken McDonald (Avalon, Lib.)):** I call this meeting to order. Welcome to meeting number four of the House of Commons Standing Committee on Fisheries and Oceans. Pursuant to Standing Order 108(2) and a motion adopted by the committee on Monday, October 19, 2020, the committee is resuming its study of the implementation of the Mi'kmaq treaty fishing rights to support a moderate livelihood.

I would like to start the meeting by providing you with some information following the motion that was adopted in the House on Wednesday, September 23, 2020.

The committee, of course, is now sitting in a hybrid format, meaning that members can participate either in person or by video conference. Witnesses must appear by video conference. All members, regardless of their method of participation, will be counted for the purpose of quorum.

The committee's power to sit, however, is limited by the priority use of House resources, which is determined by the whips. All questions must be decided by a recorded vote unless the committee disposes of them with unanimous consent or on division. Finally, the committee may deliberate in camera, provided that it takes into account the potential risks to confidentiality inherent in such deliberations with remote participants.

The proceedings will be made available via the House of Commons website. Just so you are aware, the webcast will always show the person speaking rather than the entirety of the committee.

To ensure an orderly meeting, I would like to outline a few rules to follow.

For those participating virtually, members and witnesses may speak in the official language of their choice. Interpretation services are available for this meeting. You have the choice at the bottom of your screen of floor, English or French. Before speaking, click on the microphone icon to activate your own mike. When you are done speaking, please put your mike on mute to minimize any interference that might occur. I remind everyone that all comments by members and witnesses should be addressed through the chair.

Should members need to request the floor outside of their designated time for questions, they should activate their mike and state that they have a point of order. If a member wishes to intervene on a point of order that has been raised by another member, they should use the "raise hand" function. This will signal to the chair their interest in speaking and create a speakers list. In order to do

so, members should click on "participants" at the bottom of their screen. When the list pops up, they will see, next to their name, that they can click "raise hand".

When speaking, please speak slowly and clearly. Unless there are exceptional circumstances, the use of headsets with a boom microphone is mandatory for everyone participating remotely. Should any technical challenges arise, please advise the chair. Please note that we may need to suspend for a few minutes as we need to ensure that all members are able to participate fully.

For those participating in person, proceed as you usually would when the whole committee is meeting in person in the committee room. Keep in mind the directives from the Board of Internal Economy regarding masking and health protocols. Should you wish to get my attention, signal me with a hand gesture or, at an appropriate time, call out my name. Should you wish to raise a point of order, wait for an appropriate time and indicate to me clearly that you wish to raise a point of order.

With regard to the speakers list, the committee clerk and I will do the best we can to maintain a consolidated order of speaking for all members, whether they are participating virtually or in person.

I would now like to welcome our witnesses in the first panel. We have Chief Paul J. Prosper of the Paqtnkek Mi'kmaw Nation, regional chief for Nova Scotia and Newfoundland in the Assembly of First Nations. We also have with us Chief Darcy Gray of the Listuguj Mi'gmaq Government.

We will now proceed with opening remarks from Chief Prosper first. I will remind the speakers that they have five minutes for opening remarks, and I have to be firm on the time frame because we're late starting and we want to make sure we get our questioning in, as well as hearing your important testimony.

Chief Prosper, when you're ready, you have five minutes or less. Go ahead, please.

**Chief Paul J. Prosper (Regional Chief, Nova Scotia and Newfoundland, Assembly of First Nations):** *Kwe.* Thank you, Mr. Chair. Honourable committee members, I am honoured to be here. I am here on behalf of the Assembly of First Nations, representing the region of Nova Scotia and Newfoundland.

I would like to begin by stating that it is beyond the scope and mandate of this committee to provide any definition of legal concepts such as what is a moderate livelihood or a livelihood fishery. To do so would be to undermine the nation-to-nation negotiations currently undertaken between the Mi'kmaq and the federal government. Rather, I believe the primary purpose of this hearing is to educate you, the leadership of this country, on some issues and perspectives that the Mi'kmaq are currently facing. To do so in five minutes or less will be a challenging task.

To begin, by way of background, we as Mi'kmaq have a long history within our traditional territory. We have our own creation story. We have legends that speak to a time when the ice started to walk on the land. Before the arrival of Europeans, we existed as independent nations governed by our own customs, values and traditions. As such, we have aboriginal and treaty rights that have been recognized and affirmed by the highest law, the Constitution, and the highest court, the Supreme Court of Canada, in this country.

A national chief once said that for a first nation to gain recognition of rights, three aspects need to be employed: direct action, dedication, and consultation and negotiation. For each of these, different people step forward and take on a specific role and responsibility.

Through many decades, the Mi'kmaq have gone through this cycle of direct action and litigation. It is within the last two decades that the Mi'kmaq of Nova Scotia have undertaken negotiations in a unified manner with the federal and provincial governments. As Mi'kmaq, we have our warriors, those on the front lines who take matters into their own hands in the face of injustice, people like Gabriel Sylliboy, James Matthew Simon, David Denny, John Paul and Tom Sylliboy, as well as Donald Marshall, Jr. and many others.

In order to create a law as aboriginal people, we have to break a law that is unjust in the first instance. Litigation often places the obligation of aboriginal and treaty law against provincial and federal law at the highest level, the Constitution of Canada.

I'll say a bit about the political landscape. We have salmon rights in Quebec in 1981, Denny, Paul and Sylliboy charges; in 1987, the royal commission report on the wrongful conviction of Donald Marshall, Jr.; in 1989, the Nova Scotia Court of Appeal in Denny, Paul, and Sylliboy, following with Sparrow; AFS agreements; Donald Marshall being charged in 1993; the Supreme Court of Canada's decision and the reaction in Burnt Church; we have, in 1999 and 2000, the Marshall agreements; also the made-in-Nova Scotia process in 2002, followed by rights reconciliation agreements in 2017.

Important to this is the rule of law, which provides, within the Constitution, in section 52, that:

(1) The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect.

All laws must trace their roots back to the Constitution.

To negotiate aboriginal and treaty rights, a government typically conducts its negotiations through a mandate from Canada. It was a rude awakening for me to realize that just because you have an aboriginal and treaty right it does not mean that the government will

honour or uphold that right. In other words, there is no mechanism to force governments to honour the laws of this land.

You may ask how I know this.

I know this because Paqntkek and Bear River first nations here in Nova Scotia have been waiting 30 years for a mandate from Sparrow, an aboriginal right to fish, and 21 years for a mandate from Marshall for a livelihood fishery. What is endemic within the federal government in Sparrow through Marshall and still today is negotiation without recognition.

You might be thinking, "How can this happen?" Well, it's quite simple. You have a government official who says, "We don't have a mandate to talk about your rights, but here is an agreement. There is simply no other option." How does government achieve this? They go band by band.

• (1655)

Still worse are the supposed rights by conciliation agreements of 2017. These agreements provide money to first nations to purchase access in the fishery under DFO rules. In return, first nations have to agree to suspend the practice of their rights for 10 years.

Negotiation without recognition, or access without self-government, is the status quo and default position of the federal government.

**The Chair:** Chief Prosper, I have to tell you that your time has gone over, unfortunately. If you have your speaking notes, you can send them in to the clerk and we will get them translated and distributed to members of the committee.

We will go now to Chief Gray for five minutes or less, please.

**Chief Darcy Gray (Listuguj Mi'gmaq Government):** Good evening, everyone. Thank you for this opportunity.

Listuguj is a Mi'kmaq community in *Gespe'gewa'gi*, the seventh district of *Mi'gma'gi*. We are in essence the gateway to *Mi'gma'gi*. Using more familiar terms, we are located in Quebec on the Baie des Chaleurs, immediately across the Restigouche River from Campbellton, New Brunswick.

Listuguj is party to the Peace and Friendship Treaties of 1760 and 1761. We have a right to fish and to sell fish to earn a moderate livelihood. The Supreme Court of Canada said in Marshall that Canada has the authority to regulate our fishery but can only impose restrictions on our fishery if they can be justified for a substantive public purpose, are minimally intrusive and follow meaningful consultation. If a restriction cannot be justified, then it is invalid. The general rule is that we have the right to fish and to sell fish any time of the year.

Every fall for the past 20 years, Listuguj has conducted a fall fishery for lobster. The DFO issues Listuguj a licence that restricts this fishery to food, social and ceremonial purposes. The licence prohibits us from selling the lobster we catch in the fall. The prohibition on the sale of lobster we catch in the fall serves no conservation purpose. The DFO permits us to fish, and we fish within the prescribed effort limits. Whether we eat the lobster or sell the lobster, the effect on the lobster stock is the same. The prohibition on the sale of lobster we catch in the fall has nothing to do with regional or economic fairness. These are lobsters that we will be taking from the water one way or another, whether to eat or to sell. If we sell them, that in no way diminishes any other stakeholders' access to the resource.

We asked for years for the minister to issue us a licence that would reflect our treaty right and allow us to sell lobster in the fall. The Fisheries Act and the aboriginal communal fishing licences regulations as they are currently written give the minister the power to do that. We have been negotiating and consulting with the DFO about this issue for years. Every fall we are refused. Every fall the minister insists on prohibiting us from exercising our treaty right.

We understand the need for a well-regulated fishery. We understand that with rights comes responsibility. After several years of community consultation, we adopted our own law and fishing management plan to govern our lobster fishery. Our law and plan allow our people to sell their lobster but ensure that fishing efforts remain sustainable. For the last two falls, we have conducted our own self-regulated fishery. Lobster stocks in our fishing area remain healthy. We have not seen violence like that being witnessed in Nova Scotia. We see our lobster fishery as a self-determination success story. We tried to get here working with DFO. In the end, though, we got here in spite of the DFO.

The DFO still stands in our way. Because the licence we receive for our fall fishery prohibits the sale of lobster, it is an offence under the Fisheries Act for anyone to buy our fall lobster. We have a treaty right to sell, but the DFO makes it illegal for anyone to buy. This is a significant challenge for us, and it is entirely of the DFO's making.

This is not an issue of needing to define a “moderate livelihood”. It hurts me to say it, but Listuguj is a long way from achieving a moderate livelihood through our fishery. We have 33% unemployment. This fall our lobster fishery lasted two weeks and employed 38 people—fishers, monitors, cooks and more. We cooked 10,000 pounds of lobster and distributed them directly to community members, feeding approximately 1,500 community members, including 300 elders. I'm very proud of that, but it's hardly a moderate livelihood.

This is really an issue about how we fish, not about how much we fish. The DFO insists on forcing Mi'kmaq treaty fisheries into the mould that was developed for non-indigenous commercial fisheries. We do not fit that mould. That mould was not made for us. The restrictions that mould imposes are not justifiable. We are more than capable of designing an approach to fisheries governance that does reflect our rights, values and ambitions, but the DFO has not been willing to work with us. By failing to offer any reasonable accommodation of our treaty, the DFO provides no other alternative for us than to self-regulate. In a way, I'm thankful for it. It has made

it obvious to our fishers and community members that we are capable of assuming this responsibility. Self-determination and self-government are the future of our fishery.

The only reason the DFO gives us for not issuing us licences that reflect our treaty right is that it would make the fishery difficult for them to manage. I think the exact opposite is true. If we had licences that respected our treaty rights, laws and fishing plans, then we could work collaboratively with the DFO on the water to make sure our fisheries are safe and sustainable.

● (1700)

As it is, the DFO forces the Mi'kmaq to fish in a legal grey area. It makes us angry. It makes non-indigenous fishers angry. That is when management problems really start.

For years—

**The Chair:** Thank you, Chief Gray. You've gone a little bit over time. I know you have submitted your speaking notes. They are being translated and will be distributed to all members of the committee.

Now we'll go to questioning, and we'll start with the Conservative side.

Mr. Bragdon is first. I understand you're sharing your time with Mr. Arnold. Will I leave that to you to decide when to switch?

**Mr. Richard Bragdon (Tobique—Mactaquac, CPC):** That would be great, Mr. Chair. If you happen to notice I'm getting close to the three-minute mark, if you want to wave at me, I'll make sure I get to Mr. Arnold in proper time.

**The Chair:** Okay, go ahead.

**Mr. Richard Bragdon:** Thank you, Mr. Chair.

Thank you to both Chief Prosper and Chief Gray for being here and for taking the time to share their testimony with us. We appreciate your time before the committee today. Thank you.

Obviously, all Canadians are concerned about what has been happening in Nova Scotia of late. I want to state very clearly that any acts of violence are always condemned in situations like this. There's no place for that. The indigenous people certainly have a right to fish, and that is very well established as well.

I appreciate your coming before the committee. We do have some questions.

Obviously, in regard to the situation, we feel we've arrived at this place, in Nova Scotia in particular, in large part because there has not been a proactive approach on the part of the government to address the underlying issues that need to be addressed at this time. We see now that they have put in place a special representative. It's my understanding that they have been appointed to try to mediate or help facilitate the discussion in regard to the situation in Nova Scotia.

On Friday, Chief Mike Sack of the Sipekne'katik First Nation raised concerns over the appointment of the special representative to mediate the conversation between indigenous and commercial fish harvesters in southwestern Nova Scotia. He called the appointment "alarming" and is quoted as saying he is worried about the appointee not having "the capacity to be a neutral third party" to conduct these discussions.

Do you echo these concerns? That question can be for both of you. We'll start with Chief Prosper and then go to Chief Gray.

• (1705)

**Chief Paul J. Prosper:** I guess I'm not completely privy to the specific mandate provided to the special representative. There are ongoing discussions that are taking place between the Mi'kmaq and the federal government, and we're looking forward to a breakthrough in those discussions. With respect to the special representative, I'm sure the federal government has confidence in that individual to conduct the necessary information gathering and discussions to help support these delicate negotiations that are currently taking place with respect to Nova Scotia.

As it relates to previous practices of previous governments—one cannot just point to the Liberal government—for any government since Marshall or Sparrow, Conservative, Liberal or otherwise, negotiation without recognition has been the default position.

**Mr. Richard Bragdon:** Thank you, Chief Prosper.

Do you have anything to add to that, Chief Gray?

**Chief Darcy Gray:** I think it's an important question, because whenever you're looking at the situation, I think education and understanding are the key aspects. If there are people who can come in, special representatives, or different tables or discussions that can be set up to help educate and develop understanding, I think that's the key.

It reminds me of a conversation I had a little over a year ago with representatives of DFO, saying that for us to keep moving forward in our moderate livelihood fishery, it's important for education to be done, not just with our fishers but with all fishers. I think that's the key.

**Mr. Richard Bragdon:** Thank you, Chief Gray.

To follow up on that, it seems that one of the continuous frustrations being expressed through this process is the lack of having all parties engaged in the process to this point, making sure that both indigenous and non-indigenous fish harvesters are incorporated in discussions and are part of the process.

Do you believe that perhaps before this appointment was made, consultations should have been held with both indigenous and non-indigenous fish harvesters?

I'll ask Chief Prosper and then Chief Gray.

**Chief Paul J. Prosper:** I believe that certainly discussions should have taken place with both respective parties, but I would also like to note that the Mi'kmaq are in a different position than other interested parties, for example the industry. We have existing constitutional rights, which set us apart from the commercial fishery or even the non-native fishers. I don't agree with the concept of equating the status of these discussions to Mi'kmaq people who have constitutional rights.

**Mr. Richard Bragdon:** Thank you, Chief Prosper.

Chief Gray, go ahead.

**Chief Darcy Gray:** Certainly, I would agree exactly with what Regional Chief Prosper is saying. Of course, I look at our local situation here, and we're not looking for any violence. We're not looking to make things worse in our area. We would welcome discussion, but it needs to be clear that it can't be a veto type of discussion. It needs to be developing understanding and education around the exercise of our rights.

**Mr. Richard Bragdon:** Thank you, Chief.

Mr. Arnold.

**The Chair:** You have 10 seconds.

**Mr. Richard Bragdon:** Oh. My apologies.

**The Chair:** That's your colleague's idea of sharing.

**Mr. Richard Bragdon:** My apologies, Mr. Arnold.

**Mr. Mel Arnold (North Okanagan—Shuswap, CPC):** Really quickly, with yes-or-no answers, has "a moderate livelihood" been defined since the Marshall decision, even in a partial way?

**Chief Paul J. Prosper:** No, it hasn't.

**Chief Darcy Gray:** No, and I think we've tried to propose a solution, but we keep being repeatedly told no, that doesn't suit our regulations, our needs, it's too problematic.

• (1710)

**The Chair:** Thank you, Mr. Arnold, for that quick question. We got it in.

I did wave, Mr. Bragdon.

**Mr. Richard Bragdon:** My apologies, Chair. I got lost in the answers and questions. My apologies to Mel as well.

**The Chair:** It's no trouble to get consumed in the testimony. It's very intriguing, actually.

We now go to you, Mr. Battiste, for six minutes or less. I understand you're sharing your time with Mr. Cormier. If you want, I'll wave at the halfway mark, and if you decide to share, you can share. If not, you can keep going, I guess. I don't have control of that.

Go ahead when you're ready.

**Mr. Jaime Battiste (Sydney—Victoria, Lib.):** Thank you, Mr. Chair. If I can ask you, so that I can be way more generous with my colleague than Mr. Bragdon was with his, can you just interrupt and say that it's Mr. Cormier's turn to ask a question? I know he has some questions for Chief Gray.

That said, I would like to ask Regional Chief Prosper my question. I want to give you a chance to finish your speech, but I would also like to ask you this. We've been told about the approaches that haven't worked over the past 20 years. I'd very much like to hear your solutions on any approaches to implementing the Mi'kmaq right that you believe could work.

Thank you.

**Chief Paul J. Prosper:** Thank you.

Further to what you mentioned on the approaches that don't work, at a basic level, it's negotiation without recognition. That has been the legacy. It's endemic within any government to this point, over the 21 years.

In terms of moving forward and what could be an appropriate solution, it's important to consider that many in our communities can't relate to any position on our rights without any consultation as to what we know or believe. Government speaks much about consultation; however, their positions and actions reflect a reality where we have to fit within their rules. By not getting a proper mandate and not consulting in good faith within the consultation process, government is making Mi'kmaq leadership look incompetent and not responsive to the needs of our communities.

What that begs is this notion of true reconciliation. True reconciliation means a reconciliation of laws: Mi'kmaq treaty law with Canadian law under the Fisheries Act. There is a need for both of these laws to work together to address the conflict that is taking place in our territory. There's no immediate action in this area. The progress we have made over the years has been in jeopardy of being lost and a cycle of direct action and litigation can return. There is a takeaway here, and that is the legacy of Donald Marshall, Jr.

Donald Marshall, Jr. died nine years after his landmark decision. This decision provided a ray of hope for many of our people, yet Donald Marshall did not even get a chance to see his decision fully realized within our Mi'kmaq communities. Even though I believe there is just cause to suggest an appropriate path forward, I can't help but plead with you and others not to act on your own and come up with something that you think is good for us. It will never work. What exists in our communities is the product of the federal government's failed good intentions. If the legacy of Donald Marshall means anything, it means that we have a right to live on this land. We have a right to live in accordance with the original instructions given to us by Kisu'lkw, the creator, which has been recognized and affirmed by the highest law and court in this country.

Thank you.

**The Chair:** We go to you now, Mr. Cormier.

**Mr. Serge Cormier (Acadie—Bathurst, Lib.):** Chief Gray, thanks for being with us at this committee today.

As you are our neighbour just across the bay, we're thinking about you during this difficult time. I know your community is fac-

ing some restrictions that are coming to New Brunswick with regard to COVID-19, but we're thinking about you and we hope this will be over soon.

Chief Gray, just for this committee's understanding and for Canadians also, everyone in this industry seems to think we are in this situation because there has been a lack of clarity by DFO or government over this year. Let's just imagine there were some successful negotiations, if I can say that, and everyone agreed on the definition of "moderate livelihood".

Would you accept that, if the earnings of that "moderate livelihood" were restricted to the commercial fishing season in different lobster zones in Atlantic Canada? I think you know what I'm saying. I just want you to comment on that.

• (1715)

**Chief Darcy Gray:** I'm sure you know the Restigouche River, if you're from just across the way. We've been managing the Restigouche River for the last 30 years, going back to 1995. We passed our own salmon law back then, and since then we've been regulating our own salmon fishery. The fishery there is very well managed.

Conservation is of the utmost importance. The season is determined according to our law. We don't necessarily look at the commercial season or the food fishery season, and we don't look at the lobster the same way either. Instead, we look at the stocks and how healthy they are. That's kind of the way we've been approaching things with our management plan here.

The fish we catch in the fall are part of a fishery that is normally licensed and recognized under the allowable effort, under DFO regulation. This is not outside of a fishing season, so to speak. The difference here is that we are looking to, at the very least, recoup some cost and generate a bit of a moderate livelihood. Now, we're nowhere close, but we did create some opportunity for our people through that.

As I said, rather than looking at seasons, we're looking at the needs of our people. Sometimes you need to eat the food and sometimes you need to sell it to make a livelihood.

**Mr. Serge Cormier:** Very quickly, can you talk about the co-operation between commercial fishers and fishers in your community? We're close to each other, so can we talk about the co-operation you guys have had during the last couple of years?

**Chief Darcy Gray:** Sure. Everything has been peaceful on the water here. Everything has been good. We do participate in a number of fisheries. In the lobster fishery, guys will help each other out during the commercial season. There aren't a lot of issues there and we've had no violence during our livelihood fishery in the fall during the last two years. If you look at our snow crab fishery and other commercial operations, there's a lot of good collaboration there.

We really work well with the people around us, and there's a lot of openness to do so.

**Mr. Serge Cormier:** Thank you, Mr. Chair.

**The Chair:** Thank you for that.

We now go to Madame Gill for six minutes or less.

Go ahead, please.

[*Translation*]

**Mrs. Marilène Gill (Manicouagan, BQ):** Thank you, Mr. Chair.

I want to thank Chief Prosper and Chief Gray for accepting the committee's invitation.

I want to ask a question that's both simple and complex— you'll understand why.

From the start, you both agreed that this should be a nation-to-nation negotiation. What key factors would create winning conditions for an effective and beneficial nation-to-nation negotiation?

[*English*]

**Chief Paul J. Prosper:** Getting to the point of nation-to-nation and the winning conditions to allow an environment like that to take place means recognizing the law of this land and the need for reconciliation that exists between laws that relate to treaties and aboriginal people and to laws that exist within Canada. They can work together, but it takes a certain level of respect and maturity in order to get to that place.

**Chief Darcy Gray:** I would just add that I think the key is the flexibility on their side. So far when we talk about negotiations and reconciliation, it seems to be reconciling our expectations with Canadian law or Canadian policy and trying to fit them into that mould, rather than looking at what's confirmed in the Constitution, what's confirmed in the treaties as our right and how we go out and exercise that. There is also recognizing that we as Mi'kmaq people can define that for ourselves. It doesn't have to compete with Canadian law; it can be in concert with it. It can work well with those regulations, those policies, but we have to have that open, and if it's not there, then we're going nowhere and we've spent four and a half years going sideways.

[*Translation*]

**Mrs. Marilène Gill:** Thank you.

Basically, there are two factors. These factors are compliance with legislation and reconciliation, and flexibility.

Chief Prosper, at the start, you spoke about a moderate livelihood. Chief Gray, you also seemed to be saying that this concept could be defined, even though the concept is very complex and many values must be taken into account. Is that right?

If you don't have an answer or a definition, could you provide some guidelines or ideas regarding this concept that we should definitely consider? For example, I'm thinking of the spirituality aspect.

• (1720)

[*English*]

**Chief Paul J. Prosper:** Perhaps I could begin, Chief Gray.

As I mentioned earlier with respect to legal definitions related to “moderate livelihood”, I certainly believe those are beyond the scope of this committee. In order to approach “moderate livelihood”, one has to examine and create a process whereby one actually has a mechanism that actually recognizes the Mi'kmaq treaty right itself. Once that is available, then that process can inform what a moderate livelihood is. It might be something that exists on a community-by-community basis or on a person-by-person basis. That's what I would say.

**Chief Darcy Gray:** It's been our experience as well that it is very much community to community. If you look at how we work together with our neighbours and how we go about fishing, what we view as key principles and values tend to align, but in the day-to-day ways we do that, there are different practices, and it wouldn't be for us in Listuguj to tell Gespe'gewa'gi how to fish or what's important or how they define “moderate livelihood”. That's something they need to determine for themselves. We as Listuguj will determine it for ourselves, and we can learn from each other, but that's really what it comes down to.

[*Translation*]

**Mrs. Marilène Gill:** I have only one minute left. I'll address another issue, and we can come back to this later.

You spoke a great deal about self-regulation and your own legislation adapted to the needs of the community. You said that this was working well. You also spoke about learning from others, and you just finished on that note.

If this was working, what could cause conflict? Would it be the views of the other stakeholders?

How do you view the situation with regard to these regulations and this legislation, which you say are good for fishing?

[*English*]

**Chief Paul J. Prosper:** Perhaps I could offer something in that regard.

I think one cannot completely get rid of the potential for conflict. Essentially what one hopes to achieve is for government to do the right thing and to recognize that these rights exist—they're a matter of the law of the land—and to figure out a process and mechanism to implement those rights.

With that, I think first nation communities can work together with our non-native counterparts in a manner that is respectful of each of these respective rights through the process of reconciliation.

**The Chair:** Thank you, Madam Gill. That ends your time.

We will now go to Mr. Johns. You have six minutes or less, please.

**Mr. Gord Johns (Courtenay—Alberni, NDP):** Thank you, Mr. Chair.

It's an honour to be joining you from the unceded lands of the Hupacasath and shishálh people. I want to thank both Chief Prosper and Chief Gray for their testimony. It's very important.

We know right now that the Minister of Fisheries and Oceans is in talks with the Sipekne'katik people and that she won't negotiate in public. She has stated that on a number of occasions. We agree with that.

We're sitting at this committee studying an ongoing issue that's important to those parties who are in nation-to-nation discussions.

This is a question for Chief Prosper.

You've stated some concerns about the committee studying this issue, about these discussions that are taking place right now. Here we are at committee having this conversation. You have concerns about undermining those discussions. What are the consequences of having this discussion at committee while DFO and the nation are talking in private?

• (1725)

**Chief Paul J. Prosper:** Thank you for that.

We're talking about a subject matter that involves constitutionally recognized rights that have been affirmed and recognized from the basis of treaty. These are nation-to-nation documents, and they appropriately need to be discussed at that level, on a nation-to-nation basis.

My worries about committee discussions are that findings from a committee of this sort, especially if it gets into legal definitions, can certainly undermine the nature of those discussions that are more appropriately within the two representatives of government: the ministers and the leaders of first nations people.

As I mentioned before, I think an appropriate subject matter for purposes of this committee is to provide an educational component, and I think that's further to what Chief Gray mentioned as well.

**Mr. Gord Johns:** From my experience in my riding, where we have 10 Nuu-chah-nulth nations and the Qualicum nation, I know that indigenous fishers are regularly shut down in the name of conservation. We see the government spending millions of dollars fighting them in court. We even have judges at the Supreme Court level say that DFO has knowingly gone to the table with an empty mandate, without truthfully showing up to the table. We see that systemic racism.

Do you believe that this committee should be studying systemic racism? In what ways are what's happening in Nova Scotia reflective of the bigger issue happening with the Department of Fisheries and Oceans?

This is for you again, Chief Prosper.

**Chief Paul J. Prosper:** I hearken back to my earlier example of my community of Paqtnkek. Donald Marshall was fishing off of our reserve lands here. Paqtnkek didn't sign a Marshall agreement; we didn't sign an AFS agreement. The reason we didn't sign those agreements is that there was no mandate to discuss the right. What government essentially did was to say, "Here's an agreement. We have no mandate, and there's no other option for you."

This runs long and deep within many of our first nation communities. There's a distinct need to offer a different approach on this particular item, because shame on Canada for not recognizing Sparrow; double shame on Canada for not recognizing Marshall.

**Mr. Gord Johns:** What would you like to see this committee recommend that this government do to make changes within the Department of Fisheries and Oceans that go beyond symbolic measures of reconciliation?

**Chief Paul J. Prosper:** What I'm thinking is that the concept of reconciliation has to have some real substance. One cannot look at these rights reconciliation agreements that were reasonably put forward in 2007, which are essentially, "Here's some money; you're going to be under our rules, and by the way, your treaty rights are going to be on hold for 10 years."

True reconciliation is recognizing Mi'kmaq law. We have a constitutional base, and that has to be reconciled with federal law within the Fisheries Act. It has to do with more than just saying there's access. It has to provide an element of self-governance. What our people, our fishers, our community members are looking for is something that reflects the true nature of the treaty relationship that exists—something different.

**Mr. Gord Johns:** Thank you.

Chief Gray, we know that at this committee we're going to hear repeatedly that Mi'kmaq fishers practising their inherent right to fish is a threat to conservation and a threat to peace and civility. We even hear indigenous people being labelled as criminals and threats. In my mind, the real issue has been DFO's inability to protect the right to fish and adequately support negotiators trying to establish what a moderate livelihood is.

What recommendation would you make to DFO to change its behaviour and engage in good faith not only with the Mi'kmaq but with indigenous fishers right across this country?

• (1730)

**Chief Darcy Gray:** First off, I think it has to be meaningful work with the communities or the nations, however they're engaging with them, and providing the support for true governance that ensures the safety and sustainability of the fisheries. In the end, they have to be willing to make a decision.

In our experience, we negotiated for two years on a co-developed management plan for our treaty fishery. For two years we worked on that. The night before we were about to put it in place, we were told, "I'm sorry, we can't do that." That, to me, is unacceptable. That, to me, is part of the problem. If we're going to dance for two years and spend a lot of money, time and effort trying to come up with a solution and be told no in the end, that's frustrating.

**Mr. Gord Johns:** Thank you.

Thank you both so much.

**The Chair:** Thank you, Gord.

Now, of course, we could go to another round of questioning, but the time allotted for the committee function today has expired. I will ask for the consensus of the committee, by either a show of hands or thumbs up, to extend the meeting. I would like to go through another round of questioning, if possible, and then go into the second panel. We do have other witnesses waiting.

I see some thumbs up.

Nancy, do you want to do a poll of the vote to extend—

**The Clerk of the Committee (Ms. Nancy Vohl):** No, I can't—

**The Chair:** —if the resources are available for us to extend?

**The Clerk:** Yes, and I do see Mr. Mazier here. I'm not sure if you can see him, but he was informing us that he also wants to stay.

**The Chair:** Okay. I'm assuming we're staying, but I didn't see a lot of thumbs up. Okay, now we have six thumbs up, so I guess we're staying.

We'll get quickly to it. We'll go now to the second round of questioning, which would be five minutes, with Mr. Calkins, please.

**Mr. Blaine Calkins (Red Deer—Lacombe, CPC):** Thank you, Chair.

Chief Prosper, since the Marshall decision, the federal government has spent upwards of about \$600 million to buy up existing quota to transfer to first nation communities with the goal of increasing their participation in fisheries and providing increased economic opportunity for their communities.

It was my understanding that the programs that provided access for first nations into the commercial fishery through quota, training and equipment were done with the intention of helping first nations communities realize the rights reaffirmed in the Marshall decision, and that through these programs, economic activity in the industry on reserve grew from about \$3 million in 1999 to \$152 million in 2016, according to whoever you would believe on these statistics, including DFO.

How do you view the quota and the access created through programs like the Atlantic integrated commercial fisheries initiative in relation to moderate livelihood fisheries?

**Chief Paul J. Prosper:** I think that access and that capacity did help our communities gain at least a preliminary entrance into the fishery. They supported communities. They allowed communities to grow. I think it's also important to note that those agreements that were entered into were entered into on a "without prejudice" basis, a without prejudice basis related to the rights of the Mi'kmaq and Maliseet people. I think it's important to put that in context.

The other component I would add, related to that, is that I believe that it in no way reflects a moderate livelihood. I mean, it was without prejudice, and most importantly, it was without an appropriate mandate. There's a lot of unfinished business that has to take place with respect to the additional access that needs to be provided to the Mi'kmaq and Maliseet people.

**Mr. Blaine Calkins:** Chief Gray, do you have anything to add to that?

**Chief Darcy Gray:** I would just echo what Chief Prosper was saying. Yes, it did provide access, but that doesn't really address the moderate livelihood aspect.

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

Last week we heard from a witness, a Ms. Denny, about the term "moderate livelihood". I'll quote what she said, not to be pejorative in any way, but just because I'm trying to wrap my head around this.

She said that it was more a concept to be able to "support oneself spiritually, culturally, economically, socially". I foresee that as being a very difficult standard to use as a baseline in fisheries management.

Chief Gray, your nation has recently launched a moderate livelihood fishery based on your own management plan. I guess I'm asking, does your management plan reflect what Ms. Denny said? If so, how are you able to incorporate that into a quantifiable management plan that balances the realization of your rights and the sustainability of the resource, specifically lobsters?

• (1735)

**Chief Darcy Gray:** I'll start with the last part of that question. On our website, listuguj.ca, we do have a copy of our Listuguj lobster law. It does provide a bit of detail around that question and how we've gone about trying to develop a regulatory plan for our fishery.

The other side of it is that even though this is a two-week fishery that we do under our management plan and under the law under this moderate livelihood, going out on those boats with those fishermen and knowing that they are fishing under Mi'kmaq law is truly empowering. It's an amazing feeling to see them out there, with the families who support that, the people monitoring and making sure things are done in a good way, the cooks who are taking the lobster and preparing it for the families, and the fishers who are able to provide a little more for their families.

It really does address a lot of what Ms. Denny raised last week in her testimony. If you haven't been out on one of those boats and you haven't seen how the fishermen go about it and the joy they get when they bring it to elders, it's hard to understand. Once you've been out there, it's obvious and evident.

**Mr. Blaine Calkins:** I'm a hunter and a fisherman myself. Of course, I do so in a different manner, but I understand all of those aspects of hunting and fishing and providing for oneself and all the beauty of that heritage. I'm just wondering more from a management perspective how one can reconcile that.

I know you talked about how you have your management plan, and other nations have similar management plans, and then the Department of Fisheries and Oceans has their management plan. How do you see that blend of management plans working together to ensure that everybody's rights are respected and also that the resource is viable well into the future?

**Chief Darcy Gray:** Thank you for—

**The Chair:** I'm sorry, but we've gone overboard. We've gone way past time. It's up to five minutes. Perhaps you could provide an answer to that question in writing. The committee would accept that as part of the testimony today.

We will now go to Mr. Battiste for five minutes or less, please.

**Mr. Terry Beech (Burnaby North—Seymour, Lib.):** I have a point of order, Mr. Chair.

**The Chair:** Yes, Mr. Beech.

**Mr. Terry Beech:** Just for the favour of all our staff, who are working feverishly in the background to re-book meetings that were scheduled over the extension, do you have a timeline on the second round and when you would expect us to complete it?

**The Chair:** We have 10 minutes left of questioning to get through this full round so that every party gets a chance to ask questions. Then, of course, we have to suspend for a moment while we do some sound checks, if they're not already done, for the next set of guests. I'd like to get through the same amount of questioning for the next group as well, if we can, to make it worthwhile for the witnesses to appear, either in person or by video conference, so I guess you're probably looking at an hour more, or in that area.

**Mr. Terry Beech:** Thank you, Mr. Chair.

**The Chair:** Thank you.

Mr. Battiste, you have five minutes or less for questioning, please.

**Mr. Jaime Battiste:** Thank you, Mr. Chair.

We've heard testimony that within the Mi'kmaq communities there are shared values, language and principles such as *netukulimk*,

as was previously raised. While I understand that each Mi'kmaq community is distinct in its needs, I'm wondering if you feel that there are common values and principles that the Mi'kmaq share among communities that would be agreeable in an overall sense of vision of establishing moderate livelihood fisheries.

This question is for both chiefs.

**Chief Paul J. Prosper:** Maybe I can proceed with that.

Certainly Mi'kmaq people do not exist in isolated communities. We share common tradition, common culture, common language, and embedded within the language there are traditions like *netukulimk* that provide a mechanism by which to guide management decisions, operations, and things like that. It runs throughout the Mi'kmaq nation, so it provides a certain level of reference and consistency for us to come together and make management decisions that are in the best interests of all our respective communities.

It also itemizes a certain protocol that exists between our respective communities. For example, when Donald Marshall came down here to Walneg to fish for eels, it was Chief Terry Paul of Member-tou, the community Donald Marshall is from, who phoned up my brother, Kerry Prosper, who was the chief within Paqtnekek. It allows for a certain level of diplomacy to exist as well between our respective nations, so I would add that.

• (1740)

**Mr. Jaime Battiste:** Chief Darcy, would you like to add anything?

**Chief Darcy Gray:** Certainly. I think it goes back to the gathering we had here a little over a year ago with the grand council. We talked about moose management and the importance of taking care of that resource and *netukulimk*.

Something else that came out of there was that there has to be a consensus-based approach through which we can all agree on how things are being done. There's a giving back. There's mutual respect, as Regional Chief Prosper has spoken about, and sharing. It's not all about me and it's not all mine. It needs to be shared, and there needs to be a giving back to the community.

I think that's an important aspect of the fishery and the way we're managing it.

**Mr. Jaime Battiste:** I'm hearing that there's a common vision, common value, common language, and that it's all about sharing at the end of the day.

Thank you, Chiefs, for that.

Chief Prosper, I understand that before you were a chief, you were a lawyer. Can you give me your summarization of what both Marshall decisions said about the Mi'kmaq right to fish commercially for a moderate livelihood?

**Chief Paul J. Prosper:** I'm struggling to be succinct on this one, because obviously it provides a recognition for the Mi'kmaq community, subject to the 1760 and 1761 treaties, to operate the fishery in accordance with providing for a moderate livelihood, which is the final upshot, but more importantly, it provides a mechanism by which we can govern how that right is undertaken.

As we know, there are Mi'kmaq rights, but underpinning those rights are the treaty responsibilities that we are all obligated to undertake. That is something that is embedded within the fabric of our nation. It's also something that I find is recognized within that court decision.

**Mr. Jaime Battiste:** Thank you, Mr. Chair. I have no more questions.

**The Chair:** Thank you, Mr. Battiste.

We'll now go to Madam Gill for two and a half minutes or less.

Go ahead, please.

[Translation]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

My question is for both Mr. Gray and Mr. Prosper.

From the start, I've heard you say that there must be a nation-to-nation negotiation. Of course, it isn't the committee's role to conduct this type of negotiation. Aside from putting pressure on the government to ensure a real negotiation and recognition of rights, what role should the committee play?

[English]

**Chief Paul J. Prosper:** I would offer something in relation to that.

I think a major role of this committee is to set the agenda for educating your counterparts within government and the constituents that you represent on the nature of what exists with respect to this treaty relationship and the history with respect to our rights.

That is a component, and I think Chief Gray also been mentioned that one cannot underestimate the true value of giving education and proper information to people.

**Chief Darcy Gray:** I agree. I think one of the important aspects here is that it is providing a voice to people. It is providing an opportunity for people to be heard and for understanding to be developed and fostered, rather than continuing the finger pointing or name-calling or violence that's happening. This is an alternative way to address the concerns that are going on.

I think it's important for us to be able to voice concerns on some of the processes, some of the policies and some of the approaches that DFO has been trying for a number of years and that, to us, keep falling short of expectations.

• (1745)

[Translation]

**Mrs. Marilène Gill:** Thank you.

[English]

**The Chair:** Thank you, Madam Gill.

We'll now go to Mr. Johns for two and a half minutes or less, please.

**Mr. Gord Johns:** Thank you again, both of you, for your important testimony.

We often hear about how indigenous knowledge around conservation is neglected by the Department of Fisheries and Oceans, especially in relation to conservation. Maybe you can speak about the importance of that changing, the importance of investing and capacity building within the nations and how you enforce your own management plans.

Chief Gray, I know you have a ranger program, the Listuguj. Maybe you can speak about it.

**Chief Darcy Gray:** Certainly, and this goes back to Mr. Calkins' question a little while ago.

In our management plan, we have an effort that is authorized and recognized normally by DFO in our fall fishery. It's important for us that we stay within that effort, because that's what the science says. That's what we view as important to the conservation of the resource. To help us in that, first off, our council is there to review the management plan every year. We have our conservation officers, if you will, the fish and wildlife monitors that are out there on the water making sure that, first off, our fishers are safe, and second, that they are doing good things out there. We have dockside monitors counting the lobster as they come off the boat and ensuring that there is a sharing and a giving back in the community immediately. Then we have our cooks making sure that it's a good quality of lobster that's being distributed.

We have a number of people that get involved in this process. It's truly a tremendous effort for us. We did have one incident initially when we first launched this effort. It was an internal situation. One of the fishers went out a day early, so a meeting was had with all of the fishers, who asked, "How do we solve this?" We said, "You need to give all of your catch to the community." The fisher said, "Okay, to keep the peace, to make things right that I wronged all of you, I will give my entire catch to the community."

**Mr. Gord Johns:** I greatly appreciate that.

Chief Prosper, did you want to add as well to that?

**Chief Paul J. Prosper:** I think that's a beautiful summary.

Just hearkening back to what Chief Gray has mentioned, when you have Mi'kmaq people out on the water exercising their rights, there's a certain level of responsibility and accountability that exists not only to other fishers but also to the community and also to the creators, to Kisu'lkw and to Sitqamúk, our earth mother. A lot of that is hard to explain, but it's there when you see it within the eyes and faces of those fishers.

**Mr. Gord Johns:** Thanks very much, both of you.

**The Chair:** Thank you, Mr. Johns.

That ends our rounds of questioning for the first panel. I want to thank Chief Prosper and Chief Gray for taking part here this evening by video conference. Your testimony has been very informative and enlightening to some degree.

We'll suspend for a moment to allow our witnesses to leave and the new witnesses to be added to the meeting. Before I do that, I want to recognize Ms. May from Saanich-Gulf Islands. She has joined the committee as we take part in this study. Welcome.

- (1750)

We're going to get started. Can everyone click on their screen in the top right-hand corner and ensure that they are on gallery view? With this view, you should be able to see all the participants in the grid.

I would like to make a few comments for the benefit of our new witnesses.

Before speaking, please wait until I recognize you by name. When you are ready to speak, you can click on the microphone icon to activate your mike. I remind you that all comments should be addressed through the chair. Interpretation in this video conference will work very much as it does in your regular committee meetings. You have the choice at the bottom of your screen of either "Floor", "English" or "French". When speaking, please speak slowly and clearly. When you are not speaking, your mike should be on mute.

I would now like to welcome our witnesses in this second panel. We have Michael Barron from the Cape Breton Fish Harvesters Association, and Mr. Ian MacPherson and Mr. Bobby Jenkins from the Prince Edward Island Fishermen's Association.

We will now proceed to opening remarks.

Mr. Barron, you can start off with five minutes or less when you're ready, sir.

**Mr. Michael Barron (Cape Breton Fish Harvesters Association):** Good evening.

I would like to thank the standing committee for the invitation to speak this evening.

As mentioned, my name is Michael Barron. I am the president of the Cape Breton Fish Harvesters Association and I am an independent owner-operator and commercial fisherman. I represent approximately 200 harvesters here in Cape Breton.

I would like to start by saying everyone has the right to fish safely and that my association does not condone violence. Harvester organizations throughout Atlantic Canada have supported, and continue to support, the Marshall decision. Associations like mine have spent considerable time and effort to try to provide education and explanation to individual members, whose awareness and support varies greatly around the decision made in 1999. I will be honest and say on my own behalf that I am still trying to understand the Marshall decision. That is an issue with a living document. And what I mean by "a living document" is that without a clear definition of "moderate livelihood" for the last 21 years, it has been open to much interpretation. This has caused hardship and uncertainty for all parties on both sides. Sadly, this process of educating and advising members is made ever more complicated by the lack of information and involvement in discussions about "moderate livelihood".

The industry as a whole generates approximately \$2 billion for the province of Nova Scotia. It employs approximately 50,000 peo-

ple throughout the province. As an example of its economic contributions, 249 harvesters are located in the riding where MP Battiste resides. These harvesters generate approximately \$31 million in gross revenue. This is a significant contribution that must be recognized. Currently, the harvesters have had no discussions with their MP and feel discriminated against. On October 5, the stakeholders of LFA 27 wrote a letter and sent it by registered mail to MPs and MLAs, and have received a response, but have not received a response from MP Battiste as yet. All parties must be afforded an opportunity to discuss the respective concerns.

The basis of the lobster fishery management is effort control: a limited number of participants, a limited amount of gear, a defined season, maximum trap size and, most importantly, protection of egg-bearing females and the moulting lobster. The lobster fishery was the first to introduce a limited entry in an effort to stabilize employment within the industry and address the historical trend of increased participation during the high production cycle, followed by disinvestment and withdrawal from the industry by those not solely dependent on it. Even with such limits, licence buyback programs in the 1970s, and as recently as the early 2000s, were necessary to try to match participant numbers with the available resources.

Apart from official rules and initiatives to manage participation, local pressures contribute to the relatively orderly distribution of effort across all LFAs. Commercial harvesters quite logically fear that unknown amounts of additional or changed effort, especially if these are concentrated in a few areas, could seriously reduce catches in targeted areas, while leaving others untouched.

The big question is that if the government addresses rights and provides more access, where will that leave our small coastal communities? If more access is created, it will affect the economics of our coastal communities, as the money that is generated from the fishery stays within the community. In some instances, where indigenous access is not adjacent to the coast, it will move money completely away from the coast, impacting our economies.

Handling lobster at this time of year, post-moult and egg drop, makes them more vulnerable and easy to catch because they are trying to regain strength as their shells are still soft. After the eggs are dropped, and if caught this time of year, they are being caught as next year's lobster. That would leave commercial fleets' catch rate lower, which brings less economic value back to our communities.

According to the Canadian Charter of Rights and Freedoms, all Canadians are considered essential to preserving Canada as a free, democratic country. That said, how does this apply to me, as a Canadian commercial fisherman? The reason I ask is that we need a common table to discuss the operational issues that are long overdue.

• (1755)

For whatever reason, DFO has been remiss in not bringing both parties together to address this. Since October 2019, a coalition of fishing groups has been formally calling on DFO to put in place dialogue between aboriginal and non-aboriginal fishers. To this date, nothing has been put in place. This dialogue needs to happen to help the sustainable development of the fishery by maintaining the economic needs of the fisherman and sustainability of the species in concert with indigenous rights.

This leads to a question of equality across LFAs, the fishery in general and society at large. All attention of late has been focused on the lobster fishery, which is peculiar to some extent.

**The Chair:** Thank you, Mr. Barron. We've gone over the allowable number of minutes for your opening statement. We have a copy of your presentation. We're going to have it translated, and committee members will have a copy when that happens. Hopefully in the line of questioning, we'll get back to more of your testimony.

I don't know who is speaking on behalf of the Prince Edward Island Fishermen's Association.

You can certainly go ahead now, for five minutes or less, please.

**Mr. Bobby Jenkins (President, Prince Edward Island Fishermen's Association):** Thank you, Mr. Chairman. Mr. MacPherson and I will be splitting the presentation.

Good evening, everyone. The Prince Edward Island Fishermen's Association would like to thank the Standing Committee on Fisheries and Oceans for the opportunity to present during this challenging time for the harvesting sector in eastern Canada.

My name is Bobby Jenkins, and I am the president of the Prince Edward Island Fishermen's Association.

PEIFA represents 1,254 core harvesters on Prince Edward Island. The primary revenue species for our members is lobster. Lobster will be the focus of today's presentation.

In the events of the past few weeks, there have been many discussion on what the primary issues are. We are here today to focus on the sustainability of lobster stocks and why consistent enforcement of conservation measures is important.

We currently find ourselves in a situation where, as commercial harvesters, we are not represented in important discussions that impact the resource we all depend on for our livelihood. Perhaps today will be the start of an expanded dialogue regarding management issues concerning the resource.

We understand the significant contributing factors to the current situation in Atlantic Canada and Quebec and the lack of a clear definition regarding the term "moderate livelihood". It also appears that all sides of the fishery are concerned about the escalation of conflict.

I would like to acknowledge that the non-traditional fishers have coexisted on Prince Edward Island for many years and that co-operative efforts, such as opposing the Northern Pulp pipe in the strait, benefit all harvesters on P.E.I.

Our intent today is to speak to our connection to the fishery and also to discuss our concerns. We will also share the mandate that we must follow as directed by our membership. We envision the moderate livelihood fishery that takes place to be within a regulated commercial fishing season.

It is my hope that our discussion today can be respectful and constructive. We are in a very challenging time, where leaders must lead with workable and beneficial solutions for our fishers.

Thank you, Mr. Chairman.

• (1800)

**Mr. Ian MacPherson (Executive Director, Prince Edward Island Fishermen's Association):** Mr. Chair, did you get our document today? We were kind of a late addition....

**The Chair:** No, we haven't received it.

**Mr. Ian MacPherson:** Okay. That's too bad. Anyhow, to be respectful of the time, I'll summarize that document. There were three or four key points that we wanted to make.

In the 1970s some detailed data collection started. We have now over 50 years of data on the stocks and how the resource is performing. In 2005 we had two areas that were in significant decline. Those areas came up with their management plans under the Atlantic lobster sustainability measures. It involved giving up traps permanently and borrowing large sums of money to drop traps. LFA 25 and LFA 26A dropped an astounding 29,050 traps during that period. This is significant.

The question for the committee is this: Why is history relevant to the situations of today?

We have 10 points we'd like to cover. First, the lobster fishery stocks are healthy in most areas because of significant trap reduction and licence reduction in many areas that have been carried out in the last decade.

Two, regulated seasons have been established to preserve these stocks. These season dates are supported by many years of scientific data.

Three, fishing a carapace size above the minimum legal size has been a positive contributing factor to conservation measures across the lobster fishing areas.

Four, international certifications and markets depend on a united and cohesive approach to the fishery in all areas, one that can be documented by third party organizations.

Five, traditional and non-traditional fishers have worked in the past and will continue to work together on P.E.I. on these types of resource issues. In a co-operative effort, one island band sold two licences in one area to purchase a licence in another to be closer to their territory and plant. These changes were unanimously supported by the PEIFA. Recently a new set of talks commenced between the PEIFA and our first nations fishery.

Six, the overall management of the resource must be overseen by an overarching organization such as DFO.

Seven, the positive balance that currently exists in the Atlantic Canada and Quebec lobster fishery is because of specific effort-based management measures. This balance will quickly decline if too much fishing effort is put on the resource.

Eight, consistent enforcement of current conservation laws for all harvesters and purchasers is critical so that any illegal fishing can be stopped.

Nine, the concept of no new access being created in the fishery has proved to be a good one. The “one in, one out” principle of licence purchases keeps access to the fishery consistent, documentable and manageable.

Ten, national polling suggests that it is of very high importance among Canadians for respecting and enforcing fishing regulations and having direct negotiations between government, indigenous leaders and fishing organizations.

This concludes our presentation. Captain Jenkins and I would be happy to address any questions the committee may have.

**The Chair:** Thank you, both.

We'll go to our first round of questioning of six minutes or less.

Mr. Bragdon, I understand you're leading off. Are you sharing your time again?

**Mr. Richard Bragdon:** I'm actually going to relinquish my time to Mr. Arnold to return the favour from the last round.

Thank you, Mr. Chair.

**The Chair:** That's not a problem.

Mr. Arnold, go ahead. When you're ready to share your time with Mr. Calkins, you can do so.

• (1805)

**Mr. Mel Arnold:** Thank you, Mr. Chair.

I want to start by asking both of the presenters if their organizations have been consulted by the minister or her department for their input on how this is affecting the fishery and the businesses they've created.

**Mr. Ian MacPherson:** Certainly, any consultation with the PEIFA has been at a high level. We've been working with a number of other groups to get these ideas out on the table in discussions. Certainly, a number of groups, including the PEIFA, have been frustrated that we haven't had direct input into some of these ongoing situations.

**Mr. Mel Arnold:** So you haven't had direct discussions with the minister or her department?

**Mr. Ian MacPherson:** We've been on some calls. We've also submitted documents, but we haven't had any formal responses to any of those—much the same as the list I gave, Mr. Arnold.

**Mr. Mel Arnold:** Okay.

Mr. Barron, do you have a comment?

**Mr. Michael Barron:** Our association, the Cape Breton Fish Harvesters, have not received any direct correspondence from the fisheries minister. She has not responded to the letter we sent on behalf of the stakeholders. There has been just a little consultation with other members of the coalition of fishing associations, and I've received that information from the other groups. Those are all the dealings we've had with the fisheries minister.

**Mr. Mel Arnold:** Okay. Thank you.

In some of the earlier testimony last week, we heard that part of what's taking place here is government-to-government negotiations, with government to first nations or the indigenous community. What communication methods would you suggest using between the non-first nation fishers and DFO and the non-first nation fishers and first nations to negotiate the implementation of these treaty rights?

**Mr. Ian MacPherson:** In our local situation, the chiefs have agreed to go back to their members to discuss what they feel a “moderate livelihood” definition would look like or a “fishery” would look like. We'll be reconvening, so we see that as a positive step.

Certainly the resource is so important to everyone that we need to have a three-party dialogue. Obviously, we've heard from other witnesses that there's a lot of frustration with DFO. Perhaps an independent facilitator would make those talks productive, but definitely there have to be discussions with the non-traditional, the traditional and DFO in a three-way conversation.

**Mr. Mel Arnold:** Okay. Thank you.

I want to move on to another question here.

In the 2000 report by the fisheries committee on the Marshall decision and Marshall II, the committee recommended that “any transfer of access to fisheries resources to First Nations communities must be accomplished through a federal government-funded voluntary buyback of a portion of existing commercial licences as they become available.” We've seen that some of that has taken place, but the government's response to this was, “the Government recognizes that most fisheries are fully subscribed and that increased Aboriginal participation in the fishery can only occur without serious disruption to existing fishers through the retirement of existing capacity.” That was 20 years ago. Has fishing intensified? Has it become more efficient? Has the demand on the resource increased in that 20 years?

**Mr. Bobby Jenkins:** I would say the demand on the fishery is stronger now than it was 20 years ago. I would also like to mention, as Mr. MacPherson did in the presentation, that when we went under ASLM to buy up existing licences and do trap reduction, part of the reason we did that was for the sustainability of the resource. At the time, the resource was not in very good shape. That was not that long ago, and we started ASLM in 2009. We see it rebounding now, but the demand on the stock today is probably more than it was in 2000, and the technology to catch them is definitely better.

• (1810)

**Mr. Mel Arnold:** Thank you.

Mr. Barron, do you have a comment on that?

**Mr. Michael Barron:** I'm in agreement with what my counterparts in P.E.I. are saying. The effort has increased, but that effort has increased through the stock being built up over the years by the conservation the commercial fleet has done over the years through escape mechanisms and stuff like that.

**Mr. Mel Arnold:** Okay. Thank you.

I'll ask this to any of you. How should DFO implement the Mi'kmaq treaty fishing rights in support of a moderate livelihood, while also providing for certainty and predictability regarding access to the aquatic resources for all fishers?

**Mr. Bobby Jenkins:** We listened to witnesses. We did the same thing. We met with Chief Bernard and Chief Gould from Lennox Island and Abegweit, on P.E.I., on October 2. To my knowledge, sir, nobody's given us a definition of moderate livelihood yet, and I certainly haven't heard a definition of moderate livelihood here this evening. It's kind of a loaded question. We don't know what moderate livelihood consists of at this point. I could probably go into a room with 20 people and maybe we could hammer something out regarding what we think moderate livelihood would be, but would that be appropriate to the rights holders? Probably not.

**Mr. Ian MacPherson:** I just wanted to add—

**The Chair:** If you could do that quickly, please.

**Mr. Ian MacPherson:** We were a late addition today, so you didn't get our document.

The 10 points that we've outlined were meant to get a dialogue going, but we're not a part of the dialogue now.

**The Chair:** Thank you for that.

Anything that was submitted, once we receive it and get it translated, will be distributed to committee members.

Thank you, Mr. Arnold. That is the full six minutes. I didn't know you weren't going to share, but anyway you used it regardless.

We'll now go to Mr. Morrissey for six minutes or less, please.

**Mr. Robert Morrissey (Egmont, Lib.):** Thank you, Chair.

Mine are going to be short and to the point to whomever wants to answer it.

Can fishing out of existing seasons be more lucrative?

**Mr. Bobby Jenkins:** I don't mind answering that one.

Depending on the definition of fishing out of a regulated season and on the number of traps, it could be more lucrative depending on where you go and what your competition is like. If your competition is down and you have 50 to 100 traps, you could probably build that trap to its maximum size—say it was 50—and haul the traps probably four, five or six times a day. If the competition is not there, you're fishing basically with no competition and yes, it could be more lucrative. Yes, depending on how you look at the situation, it could be just as good as the way it is with regulated seasons with, say, 55 days and a 300- or 272-trap model or whatever.

**Mr. Robert Morrissey:** Fishing with very little competition means more trapping per trap and you can capture more. Am I correct on that, Mr. Barron?

**Mr. Michael Barron:** Yes, you are correct.

**Mr. Robert Morrissey:** For clarification to the committee, in 2004 LFA 25, which is shared between New Brunswick and P.E.I., the total fishery on both sides of the strait was in collapse and nearly ruined. Anybody participating in it could not even pay their fuel costs, let alone anything else.

Significant steps were made to restore that fishery to the very strong one it is today, which included removing a significant number of licences and therefore the traps and including the carapace size. Were those two measures what brought that fishery back to where it is quite successful today?

**Mr. Bobby Jenkins:** It absolutely did. It was a bitter pill to swallow for some of the harvesters in area 25 at the time. You're absolutely correct. Nobody made any money there, or very little money, for a couple of years. After taxes and stuff, they probably didn't make any.

But the measures that were put in place on behalf of the fishermen in that area—we're talking escape vents, carapace size, releasing of bigger females—a lot of that stuff played a part in where the stock is today. It was on a downhill slide there for a few years and the fishermen bit the bullet and did a lot of management stuff to bring it back to the kind of fishery it is today.

• (1815)

**Mr. Robert Morrissey:** Thank you.

This question can go to either one. I want to keep it in context because we had two wonderful presentations, briefs from Chief Prosper and Chief Gray, that referenced numerous times that first nations people, particularly Mi'kmaq, enjoy being out on the water exercising their right and participating in the fishery.

What's been expressed to me from time to time, including the need for first nations people to have access to the modern fishery because of the high unemployment rate in some of the first nations communities, is the practice of non-first nations people fishing these rights, and not the first nations people in every situation. Please comment because I want to hear from both of you.

**Mr. Ian MacPherson:** Here I will allude to the recent Macdonald-Laurier Institute report that profiled some of the first nations communities that were fishing their licences. The proceeds from those licences were going back into the community and there were some real success stories.

To me, there are some statistical and documentable cases of communities benefiting if they are fishing their own licences.

**Mr. Robert Morrissey:** You didn't comment on the practice. Is it happening where non-first nations people are fishing under the rights of first nations?

**Mr. Bobby Jenkins:** Thank you for the question.

Yes, it's happening in certain harbours where non-indigenous fishermen are helping indigenous fishermen do the capture. I'm not involved in it myself. I don't know people who are, but I know it is going on.

Maybe our counterpart in Cape Breton knows more about it over there.

**Mr. Robert Morrissey:** Mr. Barron, could you respond?

**Mr. Michael Barron:** Are you talking about leasing out the licences and non-aboriginals fishing them? Is that what you're alluding to?

**Mr. Robert Morrissey:** Yes.

**Mr. Michael Barron:** There are instances of that. There are none here in my LFA that I'm aware of, but there are some.... I'm sorry, there actually are some in my LFA, but it's not happening in the direct area where I fish. However, it is what's going on throughout Nova Scotia.

**Mr. Robert Morrissey:** Thank you.

**The Chair:** Thank you, Mr. Morrissey.

We'll now go to Madame Gill for six minutes or less, please.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

I want to thank the witnesses who agreed to be here today.

My question concerns the negotiations. You heard Chief Prosper and Chief Gray say earlier that there must be a real nation-to-nation negotiation between indigenous nations and the Government of Canada.

Fishers are asking to have their voices heard. How could the government take into account the interests of non-indigenous fishers? I gather that the Department of Fisheries and Oceans isn't representing them at this time.

How could fishers be more involved in the conversation? The question is for Mr. MacPherson, Mr. Barron and Mr. Jenkins.

[*English*]

**Mr. Ian MacPherson:** One of the ideas that's been put out there for some time now is that there would be a liaison between non-aboriginal fishing organizations and the negotiation table dealing with these kinds of issues and making our concerns known. It would obviously have to be a person of trust.

At the end of the day, there are ways to work around this. We understand the nation-to-nation aspect, but I think people can understand that when there are 10,000 harvesters and one individual negotiating on our behalf, and the response is that they can't tell us what's going on because it's nation to nation, this has led to a lot of frustration and, unfortunately, to some of the situation that's out there now.

• (1820)

[*Translation*]

**Mrs. Marilène Gill:** Mr. Barron, would you like to respond?

[*English*]

**Mr. Michael Barron:** We're just asking DFO to help facilitate, and by getting this outside party to help direct the conversation, you can get more people from the industry and first nations at the table, so we can start the discussion.

[*Translation*]

**Mrs. Marilène Gill:** You're talking about nation-to-nation negotiations regarding rights and how they'll be divided. Out of curiosity, how do you view this negotiation work? How is it structured? Are you talking about negotiations between non-indigenous and indigenous fishers? I think that this is what Mr. MacPherson and Mr. Jenkins were talking about.

[*English*]

**Mr. Michael Barron:** No. We need first nations, harvesters and government in the same room having the conversation.

[*Translation*]

**Mrs. Marilène Gill:** Okay.

[*English*]

**Mr. Michael Barron:** It's not government and harvesters or government and first nations. All three parties have to be sitting around the table for the discussion.

**Mr. Ian MacPherson:** I think one of the key issues we're dealing with right now is that we've been told by DFO that no new access would be created, which would typically be by more new licences being generated or by some other method. That's an issue.

I'm not so sure "negotiation" is the right word. There needs to be open and honest dialogue about the resource and the sustainability of the resource. If certain decisions are made or ideas are on the table, the focus needs to be on how they would impact the resource from a sustainability standpoint.

[Translation]

**Mrs. Marilène Gill:** My other question concerns the different types of indigenous fishing.

For several years, first nations have expressed a desire to engage in commercial fishing activities. There's also communal fishing. How do you view these two types of fishing in relation to the concept of a moderate livelihood? Do you think that this factor comes into play or are they two completely different things?

[English]

**Mr. Ian MacPherson:** Again, to go back to the discussion around the potential impact on the resource, I think a good way to look at it is to look at the cumulative effects or potential impacts on the resource. We need to look at it through that lens and have all harvesters involved with that kind of dialogue. If the resource were to drop off significantly, everyone's fishery would be impacted in a negative way. That would be a lose-lose situation.

**Mr. Michael Barron:** You broke up on your question. Could you repeat it?

[Translation]

**Mrs. Marilène Gill:** We spoke of a moderate livelihood. Communal fishing is one thing. However, there's also commercial fishing, where first nations are laudably playing a more significant role. From the point of view of a moderate livelihood, do you think that these two types of fishing oppose or complement each other?

[English]

**Mr. Michael Barron:** Well, as they said, if too much access is granted through communal fishing and commercial fishing and the stocks start to be depleted somewhat, it will affect the overall fishery.

**The Chair:** Thank you, Madam Gill.

• (1825)

[Translation]

**Mrs. Marilène Gill:** Thank you.

[English]

**The Chair:** We'll now go to Mr. Johns for six minutes or less, please.

**Mr. Gord Johns:** Thank you.

Thank you, all of you, for your testimony, especially on such short notice.

First, Mr. Barron and Mr. Jenkins, I want to thank you for joining everyone in condemning the violence that's taken place against Mi'kmaq fishers. Can you speak about the measures that both of your organizations have adopted to hold fishers within your organizations accountable when they practice violence or attempt to take conservation into their own hands? Can you maybe cite what would happen within your organizations if a fisher or harvester were known to be violating DFO's conservation regulations and trying to take that into their own hands?

**Mr. Bobby Jenkins:** Thank you for the very important question.

I just recently signed impact statements for the courts on P.E.I. for violators who were charged with fishery offences on P.E.I. Our

board of directors some time ago passed a motion at a board of directors meeting that we would sign a victim impact statement, that whoever was the president of the association on Prince Edward Island at the time would sign a victim impact statement regardless of the event. We have been doing that for the past 10 years. We will continue to do that.

I personally have volunteered to read victim impact statements in court, if need be. I haven't been asked to do that as of yet, but I have agreed to do that if they want me to. What we practice for conservation on P.E.I., in terms of our board of directors and our advisory committees, is that it doesn't matter who gets caught and it doesn't matter what the offence is; everybody is treated the same. A victim impact statement will go out on behalf of the PEIFA.

In regard to our aboriginal chiefs on P.E.I., the PEIFA took the initiative on October 2 to meet with our chiefs, Chief Darlene Bernard from Lennox Island and Chief Junior Gould from Abegweit. We had a pretty productive meeting on October 2 regarding the situation in Atlantic Canada. We are looking forward to more dialogue with chiefs there.

**Mr. Gord Johns:** Maybe just to give you an example, if you had a fish harvester in your organization who was caught burning down a lobster pound, cutting traps in the name of conservation and destroying lobster, what would you do?

**Mr. Bobby Jenkins:** We're not going to condone anything like that—

**Mr. Gord Johns:** But are there any consequences in your organization?

**Mr. Bobby Jenkins:** It would be up to the law to charge that individual.

**Mr. Gord Johns:** Okay, then your organizations don't have any sort of—

**Mr. Bobby Jenkins:** Also, at whatever port it happened, I would expect that under the harbour authority, representatives on the board of that respective harbour authority could do something along those lines. We would allow law enforcement to.... We can't personally charge anybody.

**Mr. Gord Johns:** Mr. Barron, do you have any additional comments?

**Mr. Michael Barron:** Our association doesn't have any bylaws in place to enforce anything like that, nor have we come across anything like that. It may be something that would come up for discussion, but to ask an association if they are going to enforce some type of law that's been broken on the water.... That's DFO's enforcement position. That onus shouldn't—

**Mr. Gord Johns:** Let's say DFO convicts somebody. How would your organization respond to a member who was convicted?

**Mr. Michael Barron:** That would have to be something that would go to a discussion among the board.

**Mr. Gord Johns:** I really appreciate your talking about how fisheries can be managed jointly. We believe that it should be nation-to-nation dialogue in how fisheries should move forward. Where I live in the Nuu-chah-nulth territories, the commercial fishers and the recreational fishers understand that it is the minister representing commercial at the negotiating table, negotiating nation-to-nation dialogue on quota and on establishing fishing rights.

However, they also have a management table in our region called “West Coast Aquatic Management”. It’s a really great model. Everybody is sitting at the table talking about their management plans, including the nations with their management plans. Everyone’s excited about it. They say it was working tremendously, but the department basically stepped away from the table. They’ve been almost invisible. They stopped resourcing the table over the last decade.

Can you cite any examples in your region where there were things that were working and the department stepped back and stopped supporting those discussions?

Go ahead, Mr. Barron. Maybe I’ll start with you again.

• (1830)

**Mr. Michael Barron:** There’s nothing I can think of right off the top of my head, but just in the little bit of dealings I’ve had up until this situation, DFO here in our local area has been fairly good in working with the industry. Since this stuff happened in October and up until now, they’ve kind of ceased all communication federally and locally, so....

**Mr. Gord Johns:** Do you see systemic racism in the department? Can you think of examples of it?

**Mr. Michael Barron:** Not that I can say.

**Mr. Gord Johns:** What about you, Mr. MacPherson and Mr. Jenkins? Can you comment on that?

**Mr. Ian MacPherson:** I think the frustration from our side has been that we’ve been dialoguing with some senior people in Ottawa on our concerns about the situation. Because it was in Southwest Nova Scotia, it was of great concern to everyone else.

One of the things we were seeking was dialogue, and we asked DFO to facilitate that. Our local manager did help in our most recent meeting. I’m glad we had it when we did, but that dialogue needs to happen in a lot of places, and that’s a role that DFO can fulfill. For some reason, there seems to be a reluctance.

**Mr. Gord Johns:** What about—

**The Chair:** Thank you, Mr. Johns. Your time has gone well past.

**Mr. Gord Johns:** Thank you.

**The Chair:** We’ll now go to Mr. Arnold for five minutes or less, please.

**Mr. Mel Arnold:** Thank you, Mr. Chair, but my time is actually moving over to Mr. Mazier.

**The Chair:** Mr. Mazier, when you’re ready, go ahead. The clock is ticking.

**Mr. Dan Mazier (Dauphin—Swan River—Neepawa, CPC):** Thank you, Mr. Chair.

**The Chair:** You have five minutes or less.

**Mr. Dan Mazier:** Just to follow up on Mr. Johns’ questioning on DFO, you’ve basically been asking any agency that would talk to you to please come and help you get to the table and help to coordinate these conversations, not only among harvesters but in communities.

I want to follow up on Mr. Barron’s comments about how you called for a coalition to start. Just to be clear, there was no dialogue with DFO or the minister’s department. No one actually followed up with you and thought that this was a good idea and that maybe they should start a conversation like this.

**Mr. Michael Barron:** I didn’t say there was no coalition; I said there is a coalition of fishing associations that have been working together since October of 2019, and we’re trying to get the minister to come to the table with us as an industry.

**Mr. Dan Mazier:** That’s the way I understood it. Sorry. That’s right. Okay.

Do you think if those conversations had started back in 2019, what happened here recently would have happened? Since dialogue would have already started, do you think that would have helped in getting people to the table and using it as an example?

**Mr. Michael Barron:** I definitely think that things wouldn’t have escalated in the manner they have now if conversations had started. This falls solely on the lack of guidance or governance from DFO.

**Mr. Dan Mazier:** Have you heard anything from DFO on why they didn’t want to interact, why they either stepped back or weren’t engaging? Was this new to them?

Either one of you can answer that.

Did anybody else on the east coast take this kind of approach?

**Mr. Ian MacPherson:** I could speak to that.

We were told that the mandate was for nation-to-nation negotiations. We were not considered a stakeholder and wouldn’t be involved in any of those talks. Although we were told for a number of months that DFO would try to facilitate some dialogue with various first nations in Atlantic Canada and Quebec, that didn’t happen.

**Mr. Dan Mazier:** Okay.

We’ll shift gears a little here.

Talking about resources, I’m a farmer as well, but on the Prairies. You’re always looking after your resources, trying to protect them so you have next year’s crop.

Do you have any reports on how the stocks are doing right now? Is the fishing that's going on right now sustainable? If it were to drop and all of a sudden you noticed we were in a crisis, how long would it take to bring those stocks back? What would have to be done?

• (1835)

**Mr. Bobby Jenkins:** That's a good question.

That depends on how bad the stock got. If we saw a decrease of 20% to 25%, we would have to look at some sort of new conservation measure.

When we did the buyback and the reduction of traps in 2009-10, in some areas some of our LFAs were suffering 20% to 25% reduction of catches, as Mr. MacPherson mentioned earlier, so we took the initiative then to try to put in new conservation measures. It depends on what shape the stock is in and how far it falls. We would have to base it on that, on whatever science is available at the time.

**Mr. Michael Barron:** To add a little to what Mr. Jenkins said, with the fishing that's going on right now, depending on how that resource is handled or managed, we're not going to see immediate effects because it takes seven to nine years for a lobster to reach the catchable, marketable size. If anything truly detrimental is being done now, we're not going to see the effects until further down the road. There may be some short-term effects, but it's going to take a lot longer to see the effects of what's happening right now.

**Mr. Dan Mazier:** Then is there any agency—

**The Chair:** Thank you, Mr. Mazier. That's five minutes. They don't take long to pass when we're having fun.

**Mr. Dan Mazier:** Thank you.

**The Chair:** We'll now go to Mr. Battiste. You have five minutes or less, please.

**Mr. Jaime Battiste:** Thank you, and I would like to thank the witnesses for their testimony.

Mr. Barron, could you forward me the correspondence? The last correspondence I received was from the president of the Cape Breton Fish Harvesters Association. I've received no such correspondence in the past few weeks.

I want to talk to you a little about hearing from the fishing associations. I've been hearing quite a bit that the biggest concerns of the fishing associations are making sure of the long-term sustainability of the lobster industry and all the different industries, as well as a need for transparency.

Would you say that those are the top two concerns of the fishing associations? If there's a third, would you be able to elaborate on what I've missed?

**Mr. Michael Barron:** I will have no problem having our staff forward you that correspondence again.

As for the transparency and the resource, they are of the utmost importance to any fishermen's association, and I will have it be known that Chief Terry Paul has reached out. He's been quite busy with the election and stuff. He's going to look to have a sit-down with the associations here in Cape Breton. I'm extremely looking forward to having those negotiations—or, sorry, discussions.

As for a third point, I can't really say right now, but transparency and protecting the resource are of the utmost importance.

**Mr. Jaime Battiste:** If there were a proposed way in which all of the Mi'kmaq fisheries, not just the moderate livelihood one, but also the food and ceremonial and.... If all of that were transparent and scientists were saying that because of the small level of this fishery—less than 1%—there wouldn't be damage to the overall industry, would it be something that you'd be able to support?

**Mr. Michael Barron:** At this time, I really can't answer that question without actually seeing any scientific facts in front of me.

**Mr. Jaime Battiste:** Okay.

I've heard from both witnesses—and feel free to answer this—that the fisheries associations have always said that they want a seat at the table. We've heard from the Mi'kmaq that because they have a constitutional right, they don't feel that's appropriate legally.

I'm wondering, if you had a spot at the table, what the crux of the argument would be to government. What would you say on behalf of the fishermen's associations that we need to consider in moving forward on a moderate livelihood study?

**Mr. Michael Barron:** Again, until negotiations or discussions actually start, I really don't have a lot to add to that, because those discussions have to be had. We have to be put in a room together so those discussions can happen and we can see what each party involved actually has in mind.

• (1840)

**Mr. Jaime Battiste:** Okay.

**Mr. Ian MacPherson:** We would echo that response, and I think it's just human nature. Without information, people always assume the worst, so I think that's part of the challenge we're all going through now.

**Mr. Jaime Battiste:** Would you say the fact that the Sipekne'katik and the Potlotek management plans haven't been sent to the fisheries associations is one of the biggest obstacles in terms of getting fisheries associations' support on these mandates that the Mi'kmaq have?

**Mr. Ian MacPherson:** Certainly, we think that would be a positive step. We have no idea of what's in those plans. As I mentioned earlier, when you're consistently running up to “we can't share this” and “we can't mention that”.... We get that to a degree, but that has caused some of the angst, for sure.

**Mr. Jaime Battiste:** How about you, Mr. Barron? Would you say that if you had those plans in front of you and they met both the transparency and sustainability aspects, it would be possible to get that support?

**Mr. Michael Barron:** Again, it would be hard to say that you could render that support without actually seeing the document. It would have to be put in front of all the associations for the associations to see.

**Mr. Jaime Battiste:** I have one last question. Do you think that having the fishermen's associations giving their testimony to these committees is a good start in terms of hearing from the fishermen themselves?

**Mr. Ian MacPherson:** We would say absolutely. Dialogue is always good, for sure.

**Mr. Jaime Battiste:** How about you, Mr. Barron?

**Mr. Ian MacPherson:** I guess one last thing is that we're talking about everyone's livelihoods, and those are pretty important things.

**Mr. Jaime Battiste:** Absolutely.

Would you echo those comments, Mr. Barron?

**Mr. Michael Barron:** Yes, I would echo those comments.

**Mr. Jaime Battiste:** I have no further questions. Thank you.

**Mr. Michael Barron:** Thank you.

**The Chair:** Thank you, Mr. Battiste. You were right on the mark at five minutes. Boy, that was pretty good. You're the first one this evening.

We'll now go to Madam Gill for two and a half minutes or less, please.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

Some stakeholders said that the committee could play an educational role in order to dismantle certain perceptions and ensure better collaboration.

What do you think of this statement, and what were your general expectations for your appearance before this committee?

[*English*]

**Mr. Ian MacPherson:** Could I have the question repeated? I missed the first part of it.

[*Translation*]

**Mrs. Marilène Gill:** Certainly. I hope that this won't shorten the time for the response.

Some stakeholders said that this committee must play an educational role to ensure better collaboration among the various stakeholders. What do you think about this? Also, do you have other expectations in terms of the work of this committee and in light of your testimony?

[*English*]

**Mr. Ian MacPherson:** Well, I guess our expectation would be that something comes out of this—that the fisheries committee, a vital committee, follows up, and that actions being spoken to or committed to are followed up.

This was where a lot of the frustration in the groups over the past year came from. We seem to have spun our wheels, and it's led to some significant problems in the industry.

[*Translation*]

**Mrs. Marilène Gill:** Mr. Barron, what do you think?

[*English*]

**Mr. Michael Barron:** I feel that the role of the committee would be to increase this dialogue through the department and with first nations, because the dialogue has to be started. Hopefully by having this committee, we can start the discussions.

[*Translation*]

**Mrs. Marilène Gill:** Thank you.

● (1845)

[*English*]

**The Chair:** Thank you, Mr. Barron. Thank you, Madame Gill.

We'll now go to Mr. Johns for two and a half minutes or less, please.

**Mr. Gord Johns:** As a question of both of your organizations, do you have any goals when it comes to reconciliation? Do you have any plans around community engagement, or learning and listening plans when it comes to the indigenous communities whose lands you're on? By comparison, unions often have strong targets to educate their members around support for indigenous workers within their memberships.

Can you speak, from your organization's lens, to what you're doing?

**Mr. Michael Barron:** As I mentioned a few moments ago, we're looking to have the discussions with Chief Terry and are looking forward to hearing his views. Once we understand the views that they have, then we can address the situation and address that to our membership.

**Mr. Gord Johns:** Mr. MacPherson and Mr. Jenkins, do you want to comment on that as well?

**Mr. Ian MacPherson:** I have one quick thing, Mr. Johns. It's from your last round, when we ran out of time. We do have.... Members have to be in good standing with the association, and the board would deal with something of the kind you alluded to earlier.

**Mr. Gord Johns:** I appreciate that.

**Mr. Ian MacPherson:** That being said, we reached out and we want to continue to do that dialogue. One thing that Chief Bernard said was that a real education process needs to happen for everybody to understand treaties and how they work, and rights and all those things.

I can tell you that all of our lobster advisers were represented. Our executive was there. It was fruitful, and we're looking forward to the next meeting. That's how it started.

**Mr. Gord Johns:** Going back to an earlier question around systemic racism in the DFO, we saw a lobster pound being burned. We saw intimidation, assaults, traps being cut, lobster being destroyed. We saw the slow reaction of the RCMP to create peace and safety.

Do you not see systemic racism in the way that protecting the Mi'kmaq fishers and their community was approached?

**Mr. Bobby Jenkins:** Thank you for the question.

That's a hard question to answer. We're still not 100% sure what led to the events down there. We didn't condone a lobster plant being burnt or a van or a truck being burnt or anything like that.

Again, I will respectfully say on behalf of the RCMP that it's their jurisdiction, not ours. If charges should have been laid, then they should have been laid, and it's up to them to lay them. All we can speak on is on behalf of our membership—

**Mr. Gord Johns:** Mr. Barron, do you have a comment on that?

**Mr. Bobby Jenkins:** I don't see what you're speaking to, in our membership, on racism.

**Mr. Gord Johns:** I'm just asking if you believe you've seen any systemic racism in terms of the response.

**Mr. Michael Barron:** To speak to the slow response from the RCMP, the slow response was due to the fact that DFO wouldn't go to the so-called plants that were involved in buying some of these moderate livelihood lobsters. That led to the slow response from the RCMP.

The delayed response from DFO over time led to the frustration. To outright say that I see systemic racism, no, I can't say that I do.

That's too hard of a question to ask without being involved first-hand down there.

**The Chair:** Thank you, Mr. Johns.

That concludes our testimony from our witnesses this evening. I want to thank Mr. Barron, Mr. MacPherson and Mr. Jenkins for appearing in our second hour of this evening's committee meeting.

Before we adjourn the meeting, I want to remind members that the deadline for final witnesses on this study is 5 p.m. eastern time tomorrow. Please send them to the clerk via email before that deadline.

I want to thank Nancy and the table staff for staying late this evening for us to hear this testimony. As well, thank you to our own staff, the staff of the various MPs. I'm sure some of them are working late too because of the extension. We have to try to get in as much testimony as we can so that we can produce a very noteworthy and worthwhile report at the end of the study.

Thank you, everybody. We'll see you on, I guess, Thursday.

The meeting is adjourned.

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