

**THE SENATE
OF CANADA**

**LE SÉNAT
DU CANADA**

**NUNAVUT FISHERIES:
QUOTA ALLOCATIONS AND BENEFITS**

Report of the Standing Senate Committee
on
Fisheries and Oceans

Chair
The Honourable Gerald Comeau

Deputy Chair
The Honourable Joan Cook

April 2004

MEMBERSHIP

The Honourable Gerald Comeau, *Chair*

The Honourable Joan Cook, *Deputy Chair*

and

The Honourable Senators:

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Janis G. Johnson	Marilyn Trenholme Counsell
* John Lynch-Staunton (or Noël Kinsella)	Charlie Watt

* *Ex Officio* Members

In addition, the Honourable Senators George Baker, P.C., Aurélien Gill, Colin Kenny, Wilfred P. Moore, and Peter Stollery were members of the Committee at various times during this study or participated in its work on this matter during the Second or Third Sessions of the Thirty-seventh Parliament.

Research Staff:

Claude Emery, Analyst, Library of Parliament

Till Heyde

Clerk of the Committee

ORDER OF REFERENCE

Extract from the *Journals of the Senate* of Friday, 13 February 2004:

The Honourable Senator Kinsella for the Honourable Senator Comeau moved, seconded by the Honourable Senator LeBreton:

That the Senate Standing Committee on Fisheries and Oceans be authorised to examine and report on matters relating to quota allocations and benefits to Nunavut and Nunavik fishermen;

That the papers and evidence received and taken on the subject and the work accomplished during the Second Session of the Thirty-seventh Parliament be referred to the Committee; and

That the Committee submit its final report to the Senate no later than Monday, May 31, 2004.

The question being put on the motion, it was adopted.

Paul C. Bélisle

Clerk of the Senate

NOTE: Except for the paragraph relating to documents and evidence from the previous session, this Order of Reference is identical to the Committee's Order of Reference for this study during the Second Session of the Thirty-Seventh Parliament, adopted by the Senate on Wednesday, 6 November 2002.

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ACRONYMS

AFPR – Atlantic Fisheries Policy Review
AFS – Aboriginal Fisheries Strategy
AIP – Agreement in Principle
ASEP – Aboriginal Skills and Employment Program
BFC – Baffin Fisheries Coalition
CDQ – Community Development Quota
DFO – Department of Fisheries and Oceans
DSD – Department of Sustainable Development
GEAC – Groundfish Enterprise Allocation Council
HTO – Hunters and Trappers Organization
IPAC – Independent Panel on Access Criteria
IQ – Individual Quota
JBNQA – James Bay and Northern Quebec Agreement
MoU – Memorandum of Understanding
NAFO – Northwest Atlantic Fisheries Organization
NFWG – The Nunavut Fisheries Working Group
NLCA – Nunavut Land Claim Agreement
NMR – Nunavik Marine Region
NSA – Nunavut Settlement Area
NTDP – Northern Turbot Development Program
NTI – Nunavut Tunngavik Incorporated
NWMB – Nunavut Wildlife Management Board
RWO – Regional Wildlife Organization
SCH – Small Craft Harbours
TAC – Total Allowable Catch

NUNAVUT FISHERIES: QUOTA ALLOCATIONS AND BENEFITS

FOREWORD

With the right vessels and infrastructure, turbot has the potential to be a major contributor to Nunavut's economy. It is likely the last untapped natural fishery in the world. – Carey Bonnell, "More Fish, Please," Nunatsiaq News, 21 March 2003

[N]owhere else in Canada is the potential for emerging fisheries development greater than in Nunavut. – The Honourable Olayuk Akesuk, Minister of the Department of Sustainable Development (DSD), Government of Nunavut, Proceedings of the Standing Senate Committee on Fisheries and Oceans [hereafter referred to as Committee Proceedings], 22 October 2003

[In the North,] one of the areas in which there is actually a potential for real growth in opportunities is the fishery. – Arthur Kroeger, Chair of the Independent Panel on Access Criteria for the Atlantic Coast Commercial Fishery (IPAC), Committee Proceedings, 6 November 2001

The company allocations and mobile gear quota [in Division 0B] constitute one of the very few stable groundfish fishing opportunities in Atlantic Canada. – The Groundfish Enterprise Allocation Council (GEAC), Brief Submitted to the Committee, September 2003

[I]t is also known that only small vessels can bring employment to the community. – Morrissey Kunillusie, Vice-Chair, Nattivak Hunters and Trappers Organization (HTO), Committee Proceedings, 24 September 2003

In the fall of 2003, the Committee undertook a study on matters relating to quota allocations and benefits to northern fishers. Selected witnesses were invited to appear between mid-September and early November 2003, and in February 2004. A Call for Submissions, with a 30 September 2003 deadline, invited individuals and groups to submit written briefs. Our hearings were televised, and live audio of our public meetings was made available on the World-Wide Web.

Nunavummiut are a maritime people dependent on the sea and its resources. Indeed, all but one of Nunavut's 26 communities are located along its extensive coastline, which explains why many of the provisions of the Nunavut Land Claim Agreement (NLCA) provisions relate directly to marine matters. While fish has traditionally had a significant role in the subsistence diet of Inuit, the development of commercial fisheries is now a priority, and understandably so. The economic options in Nunavut are limited due to the area's remoteness, extreme environmental and physical conditions, and the small size of settlements. Fishing represents one of limited ways of providing economic opportunities and reducing dependence on social assistance. In Nunavut, the fisheries mean future jobs.

In Canada's North, the programs of the Department of Fisheries and Oceans (DFO) are conducted mainly in conjunction with co-management boards established by comprehensive land claims settlements. The first such agreement, the 1975 James Bay and Northern Quebec Agreement, set the tone for the other claims and modern-day treaties that followed, including the Nunavut Land Claims Agreement – the largest one in Canadian history. Significantly, since 1999, Nunavut is also geopolitical entity with legislative powers and economic development interests.

A number of developments have taken place since the Committee last visited Nunavut in 2000. In April 2002, the Independent Panel on Access Criteria (IPAC) reported to the Minister of Fisheries and Oceans. At the end of that year, a five-year management plan for turbot expired. A new three-year management plan began in January 2003. More significant has been the rapidly expanding exploratory turbot fishery in NAFO Division 0A. While the global fisheries picture is bleak,* the fishing grounds for turbot off the northern east coast of Baffin Island appear to be an exception. In 0A, the fishery resource is a new one for residents of Nunavut, especially Inuit, to develop. They must however be given the tools to do so.

South of Division 0A – in Division 0B – the situation is quite different. There, the turbot fishery is considered oversubscribed, and Nunavut's involvement in commercial fishing remains limited. For 0B, the recurring theme in our meetings was "adjacency" – generally understood to mean that priority of access should be given to those who are closest to the resource. In many respects, this report is a follow-up on the Committee's February 2002 study entitled *Selected Themes on Canada's Freshwater and Northern Fisheries*, which reported on the Territory's disproportionately small share of turbot in the Davis Strait fishery. While Nunavut should have more access to 0B turbot, more fish will not automatically result in an economically sustainable fishery.

* In its 2002 study on the *State of World Fisheries and Aquaculture*, the United Nations Food and Agriculture Organization warned that nearly half of the world's marine stocks were fully exploited, with no reasonable expectations for further expansion. Another 28% were either over-exploited or depleted. Some have been so severely run down they may never rebound. More recently, a May 2003 study published in *Nature* showed that the biomass of large predatory fish to be only about 10% of pre-industrial fishing levels.

Other important matters need to be addressed: inadequate exploratory research on marine stocks, and a lack of basic infrastructure to support greater fishing activity.

With respect to northern shrimp – the region’s other major commercial species – the DFO, announced an increase in the Shrimp Fishing Area 1 quota, in May 2003. The Department allocated 51% of the increase to Nunavut, with the balance going to interests in the South. The Government of Nunavut believes the decision contravenes the spirit of the Nunavut Land Claims Agreement, as well as the findings of the 2002 federal IPAC Report. It decided, in June 2003, to take the matter to the Federal Court of Canada. Given the current litigation, this report focuses mainly on turbot, or *Reinhardtius hippoglossoides* – also commonly known as Greenland halibut, or northern turbot.

The management of fisheries in the North presents many unique challenges. Committee members hope their recommendations are constructive, and will help ensure that the fishery develops in a way that is compatible with northern values, culture and lifestyles.

We sincerely appreciate the keen interest shown by those who so generously took the time to meet with us in Ottawa. We were impressed by the deep passion shown by participants in our study, in particular the strong sense of identity articulated by Inuit.

Senator G. Comeau

WHY A STUDY ON QUOTA ALLOCATIONS AND BENEFITS?

We would like to see more of the economic resources stay within Nunavut. – The Honourable Olayuk Akesuk, Minister of the DSD, Government of Nunavut, Committee Proceedings, 22 October 2003

The unemployment rate in Nunavut is high – especially for those who do not speak English. [...] When people do not speak English, they are just set aside. – Manasie Audlakik, Chairman, Baffin Fisheries Coalition (BFC), Committee Proceedings, 4 November 2003

The fishing industry [...] has been targeted as a resource that could stimulate economic development in the coastal communities of Nunavut. – The Nunavut Fisheries Working Group (NFWG), Brief Submitted to the Committee, October 2003

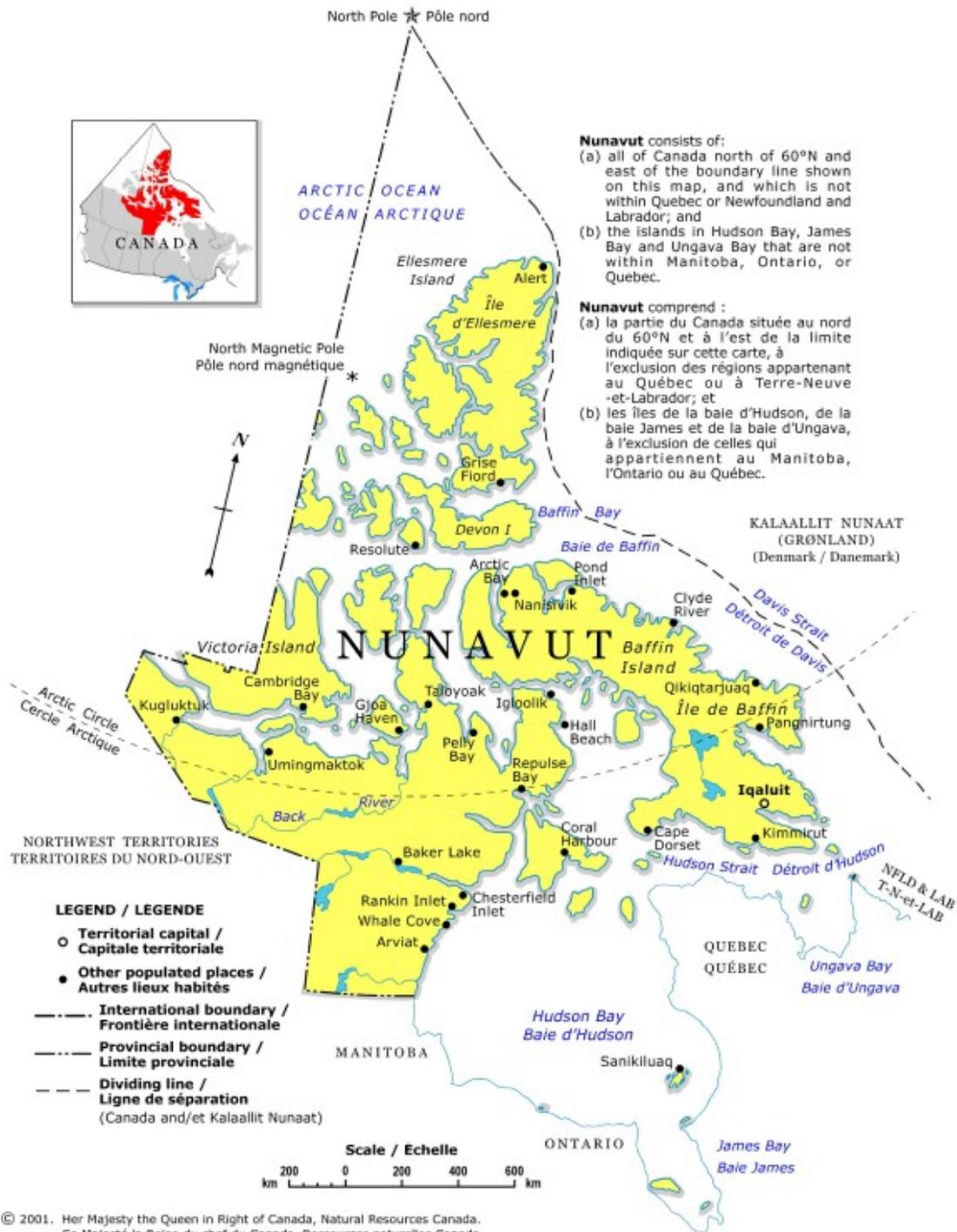
There is a golden opportunity to provide valuable, high paying jobs to geographically and economically depressed communities within Nunavut. – Jerry Ward, Chief Executive Officer, BFC, Committee Proceedings, 4 November 2003

Honourable Senators must remember that the fishing is taking place in Canadian waters. Yet, who is benefiting from the fish in those waters? Outside interests. – Sytukie Joamie, Committee Proceedings, 24 February 2004

In 1993, after many years of discussion and negotiations, the Inuit of the central and eastern Arctic and the Government of Canada signed an Aboriginal land claims agreement within the meaning of section 35 of the *Constitution Act, 1982*. The Nunavut Land Claims Agreement (NLCA) is Canada's largest land claim agreement. It created a relationship between the Nunavut Inuit and the Government of Canada respecting coordinated wildlife management both within and outside the geographic area covered by the Agreement, and set in motion plans for the creation of a new territorial government that afforded residents greater control over their future. On 1 April 1999, Nunavut – which means “our land” in Inuktitut – officially became Canada's third territory (see Map 1).

Nunavut: has an ocean coastline of 104,000 kilometres (approximately 43% of Canada's ocean coastline); encompasses about one-fifth of Canada's geography (or 1.9 million square kilometres); has a population of approximately 29,000, of whom 85% are Inuit; and is governed by a public government framework that represents all residents, Inuit and non-Inuit alike. The Government of Nunavut is the only one in Canada that functions within the framework of a land claim agreement, and operates under a consensus system of government rather than one based on political parties.

Map 1 – Nunavut



Source: Natural Resources Canada, http://atlas.gc.ca/english/quick_maps/index_quickmaps.htm

As Canada's newest political jurisdiction, Nunavut faces a number of economic and social challenges. About 91% of its budget comes from federal transfers. Demographically, the most startling feature of its population is its youth; with a median age of 22.1 years, Nunavut's population is the youngest in Canada. The population is also the fastest growing: in 2001, it was just under 29,000, representing an increase of 8% in only five years.⁽¹⁾ Forty-six percent of Nunavummiut are under 19 years of age, compared to 26% for the rest of Canada.⁽²⁾ This sets the stage for an increasing need to create jobs in a region where the largest employer is government, and where unemployment and the cost of living are significantly higher than in the rest of the country.

In 1999, the overall unemployment rate in Nunavut was 20.7%, compared with 8.5% for Canada overall. For Inuit, the rate was 28%, compared to 2.7% for non-Inuit. The unemployment rate was 11.9% in Nunavut's three regional centres, 29% in medium-sized communities, and 23.8% in the smaller communities.⁽³⁾ The picture is especially bleak in the communities. For instance, Qikiqtarjuaq, with a population of 519 people in 2001, had only 45 full-time jobs in the community. Unemployment in turn exacerbates a host of social problems, including alcoholism and high rates of youth suicide.

Another distinctive feature of the economy is its mix of traditional subsistence activities (wildlife harvesting), wage employment, private enterprise, and transfer payments. Sustainable development also faces many unique challenges: uneven distribution of economic opportunities; high transportation, energy and communication costs; isolation from potential markets; a small population with few industrial skills and little formal education; and insufficient transportation infrastructure. With regard to the values driving Nunavut's development, the Conference Board of Canada identified in 2001 the following:

- A collective approach to socio-economic development, including a strong belief that economic opportunities should be shared among all communities;
- A move towards greater self-reliance, including Inuit having greater political and economic control of Nunavut and its environment;
- Inuit Qaujimagajatuqangit, or the recognition of the value of Inuit knowledge and integrating it with other knowledge sources, with consensus building and consultation being the preferred route for decision making;

(1) Statistics Canada, "Population and Dwelling Counts, for Canada, Provinces and Territories, 2001 and 1996 Censuses," 2002, <http://www12.statcan.ca/english/census01/Products/Standard/popdwell/Table-PR.cfm>.

(2) Statistics Canada, "Provinces and Territories: East-West Split in Aging Patterns," 2002, <http://www12.statcan.ca/english/census01/Products/Analytic/companion/age/provs.cfm>.

(3) Government of Nunavut, Nunavut Bureau of Statistics, *1999 Nunavut Community Labour Force Survey: Overall Results and Basic Tables*, September 1999, <http://www.gov.nu.ca/English.pdf>.

- Economic development focused primarily at the community level because of strong attachment to one's community;
- Support of land-based economic activity as an important part of life, with no evidence to suggest that land-based economic activity is valued less than participation in the wage economy; and
- Sustainable development whereby equal importance is given to the development of human and natural capital.⁽⁴⁾

More specifically, the Conference Board identified Nunavut's fishery as having significant opportunities for continued economic growth. However, despite its extensive marine coastline and historic attachment to marine resources, Nunavut's involvement in commercial fishing remains limited. Because Nunavummiut do not own their own fishing vessels, boats from elsewhere are offered the opportunity to fish in offshore areas in exchange for seasonal employment for Inuit, and royalties. Significantly, royalty income – the proceeds of selling “fish in the water” – is much less than what could be obtained if the catch were directly harvested, processed and marketed by Nunavummiut themselves. According to one estimate in 2002, the number of people working on offshore vessels was approximately 20. Closer to shore (in “inshore waters”), approximately 24 Inuit fishers harvested turbot through the ice in Cumberland Sound for about four months, and 56 were employed in fish processing at Pangnirtung Fisheries.⁽⁵⁾

Jointly owned by the Nunavut Development Corporation and Inuit-owned Cumberland Sound Fisheries, the Pangnirtung plant processes Arctic char, and is the only fish plant licensed to serve the offshore. Since its opening in 1995, the plant has been a powerful symbol of Nunavut's economic future. Two other plants in Nunavut process Arctic char: Kivalliq Arctic Foods Ltd. in Rankin Inlet, and Kitimeot Foods Ltd. in Ikaluktutiak (Cambridge Bay). Other species that show promise for commercial development are cockles, scallops, sea urchins, crab, flounder, and various species of cod. Off the east coast of Baffin Island – the largest of Canada's islands and the 5th largest in the world – trained divers in the community of Qikiqtarjuaq have harvested clams since 1998. Although a small number of people are currently employed in fisheries, everyone considers the sector to have tremendous and largely untapped economic potential.

At present, a \$98.5-million commercial fishery takes place in adjacent waters,⁽⁶⁾ but it generates only \$9 million in direct economic benefits for Nunavut, when both royalties and wages

(4) The Conference Board of Canada, *Nunavut Economic Outlook: An Examination of the Nunavut Economy*, May 2001, p. 57.

(5) The Conference Board of Canada, <http://www.gov.nu.ca/frv21.pdf>; *Committee Proceedings*, 22 October 2003; Jacques Whitford, *Social and Economic Benefits Assessment of Fisheries and Sealing in Nunavut*, Prepared for the Department of Sustainable Development, Government of Nunavut, 2002.

(6) The total landed value of turbot was approximately \$23.7 million, while the total catch of shrimp (northern and striped) was worth about \$74.7 million.

are combined. On the other hand, if Nunavut were to develop its own harvesting capability and obtain a percentage share of its adjacent resources that is comparable to that in the Atlantic provinces (i.e., 80-90%), the value of landings for Nunavut could be as much as \$80-\$90 million, not including the potential economic benefits of value-added shore-based processing. Put differently, it has been estimated that Nunavut currently realizes only about 10% of the potential benefits of commercial fishing.⁽⁷⁾ Understandably, fishery resources have become a focus for economic development.

OVERVIEW OF THE MANAGEMENT FRAMEWORK

We give the allocation to the Nunavut Wildlife Management Board. [...] How they go about fishing it we [...] leave [it] to them. – David Bevan, Director General, Resource Management Directorate, Fisheries Management, DFO, Committee Proceedings, 28 October 2003

DFO issues the quota or the allocation. In Nunavut, it is routed through the Nunavut Wildlife Management Board [...] which in turn distributes the allocation. – Jerry Ward, Chief Executive Officer, BFC, Committee Proceedings, 4 November 2003

There are always more applicants for those fisheries than there are available allocations. Therefore, it is extremely important for NWMB to evaluate applications impartially, using fair and objective criteria. – Ben Kovic, Chairman, Nunavut Wildlife Management Board (NWMB), Committee Proceedings, 22 October 2003

[The] absolute discretion of the Minister [of Fisheries and Oceans] to provide access to wealth from the fisheries [...] is extraordinary within the Canadian system of government ... – DFO, Atlantic Fisheries Policy Review, The Management of Fisheries on Canada's Atlantic Coast: A Discussion Document on Policy Direction and Principles, February 2001, p. 28

[Nunavut] has many fewer voters and Members of Parliament than Newfoundland and the Maritime provinces. Unlike those regions, its offshore fishery has not been fished out. – Cathy Towtongie, President, Nunavut Tunngavik Incorporated (NTI), Committee Proceedings, 17 September 2003

For administration purposes, the Northwest Atlantic Fisheries Organization (NAFO) divides the Northwest Atlantic Ocean into a set of zones using an alphanumeric code (see Map 2). At the request of Canada and Greenland, NAFO's Scientific Council assesses the turbot stock in Subarea 0 (waters belonging to Canada in the Davis Strait and Baffin Bay) and Subarea 1 (to the east of Subarea 0, in waters belonging to Greenland)⁽⁸⁾. The boundary line between the two zones is the

(7) The Nunavut Fisheries Working Group, Brief Submitted to the Committee, October 2003.

(8) In 1985, Greenland withdrew from the European Economic Union (now the European Union) and assumed all management responsibilities in NAFO Subarea 1.

equidistant line between the 200-mile limits of the two jurisdictions. On the Canadian side, Subarea 0 is further divided into Division 0A (or “0A”), the northern half of the region, and Division 0B (or “0B”), the southern half. Domestically, 0A and 0B fall under the jurisdiction of the Department of Fisheries and Oceans.

Subsection 7(1) of the *Fisheries Act* bestows on the Minister of Fisheries and Oceans *absolute discretion* to issue or authorize to be issued leases and licences for fisheries or fishing, the reason being that fisheries are a “common property resource” belonging to all Canadians.⁽⁹⁾ Licensing is a management tool given to the Minister whose responsibility is to manage and conserve the resource in the public interest. A fishing licence grants persons or enterprises permission to fish, or “access” to a fishery. What a licensee essentially acquires is a limited privilege to fish, but not a permanent or absolute right. An “allocation,” on the other hand, is the amount of fish that is distributed or assigned by the Minister to those who are permitted to fish. Decisions on who gets access to the fisheries and how much can be fished are difficult ones for the Minister to make: they have immediate and dramatic impacts on the lives and incomes of various individuals, companies and communities, and must ensure that stocks are conserved. Not surprisingly, lobbying and political considerations have played a major role in decision-making.⁽¹⁰⁾ Over the years, the traditional criteria invoked by the DFO in decision-making have included adjacency, historic dependence, economic viability, and equity.⁽¹¹⁾

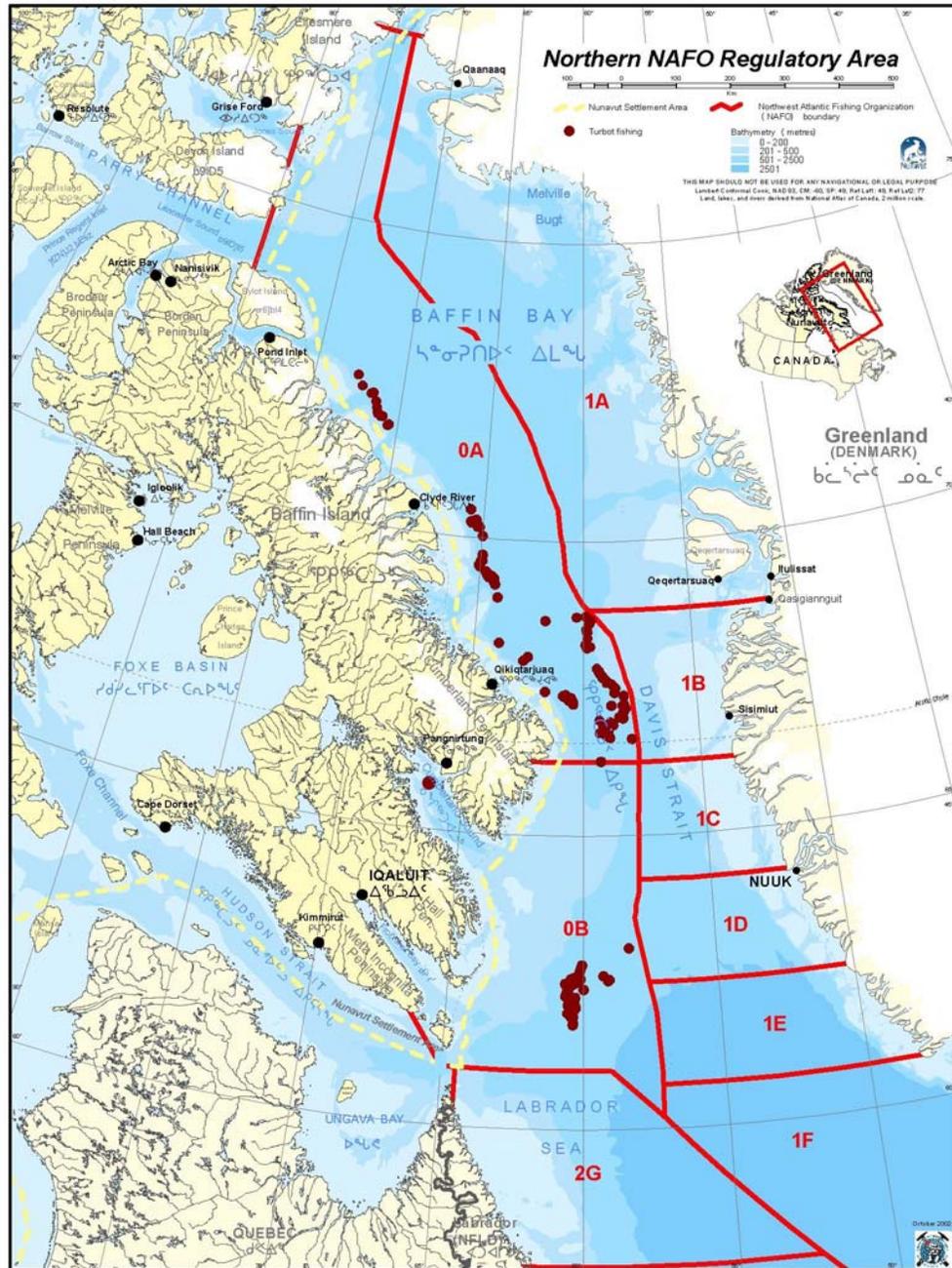
Besides conservation, other factors may influence the decision-making of the Minister of Fisheries and Oceans, such as political and socio-economic considerations, international policies, and any legislative obligations that the Government of Canada may have assumed. With respect to Nunavut, with the enactment of the *Nunavut Land Claims Agreement Act* and the *Nunavut Act*, the Minister’s discretion is no longer as “absolute.” While final decisions rest with the Minister, the NLCA imposes certain requirements, depending on where decisions are to take effect. In this respect, the NLCA divides NAFO Subarea 0 into two areas: the Nunavut Settlement Area (NSA), which takes in the area of Canada’s 12-mile territorial sea next to Nunavut’s coastline; and Zones I and II, areas within Canada’s 200-mile limit, but not including the 12-mile NSA.

(9) The *Constitution Act, 1867* incorporated English constitutional practices and common law into Canadian law, including the Magna Carta, which dealt with the public rights of access to fisheries. In tidal waters, there exists a public right to fish; an exclusive right can be created only by the explicit sanction of Parliament (by competent legislation).

(10) *Report of the Independent Panel on Access Criteria*, March 2002, http://www.dfo-mpo.gc.ca/afpr-rppa/IPAC_Pages/IPAC_PDFReport_e.pdf, p. 55.

(11) Standing Senate Committee on Fisheries, *The Atlantic Groundfish Fishery: Its Future*, December 1995, http://www.parl.gc.ca/36/1/parlbus/commbus/senate/com-e/fish-e/past_rep-e/95repen1.htm#contents.

Map 2 – Northern Fishing Areas in the Davis Strait and Baffin Bay



Source: Canada-Nunavut Geoscience Office, Iqaluit, October 2002.

Within the NSA, the main instrument of wildlife management (including the fishery) is the Nunavut Wildlife Management Board, which is both an institution of public government and an independent co-management body. The NWMB comprises nine members – four representatives of Inuit organizations, four representatives of the governments of Nunavut and Canada, and a chairperson (who may also be Inuit), nominated by the eight members and appointed by government.⁽¹²⁾ Board members are expected to make their decisions on behalf of the public of the NSA, and not as agents of their appointing bodies. As in other land claims settlements, co-management is intended to bridge the cultural differences between local users and fisheries managers. In the NSA, the NWMB's role includes: establishing, modifying or removing Total Allowable Harvests and Total Allowable Harvest surpluses; setting Basic Needs Levels and non-quota limitations; and providing the federal government with advice and recommendations on all aspects of wildlife management within Zone I (located in NAFO Subarea 0) and Zone II (areas adjacent to the NSA in the Hudson Strait and Hudson Bay). Three regional wildlife organizations (RWOs) and several hunters and trappers organizations (HTOs) throughout Nunavut oversee the harvesting by Inuit and are responsible for much of the management of the harvest at the local level.

Virtually all fishing for turbot (and shrimp) takes place in Zone I beyond the 12-mile territorial sea. The Government of Canada has both the primary and overall responsibilities for wildlife management in Zone I, subject to certain conditions and requirements. Article 15.3.4 of the NLCA requires the federal government to seek the NWMB's advice with respect to any wildlife management decisions that affect the substance and value of Inuit harvesting rights and opportunities within the marine areas of the NSA. Government must consider advice and recommendations on proposed decisions that would affect marine areas (Article 15.4.1). Of particular importance is Article 15.3.7, which: recognizes the importance of adjacency and the economic dependence of communities in the NSA on marine resources; obliges the government to give "special consideration" to these factors when allocating commercial fishing licences; and stipulates that the principles of adjacency and economic dependence "will be applied in such a way as to promote a fair distribution of licences between the residents of NSA and the other residents of Canada in a manner consistent with Canada's interjurisdictional obligations."

The function of the NWMB in Zones I and II is advisory: the Minister of Fisheries and Oceans is not bound by the Board's advice. That said, and *although not required to do so by the NLCA, the federal government and the NWMB have agreed that the Board is responsible for allocating Nunavut's share of commercial fish quotas in Zone I, outside the NSA.*⁽¹³⁾ This is

(12) NWMB, Responsibilities, http://www.nwmb.com/english/about_nwmb/responsibilities.php.

(13) Ben Kovic, Chairman, Nunavut Wildlife Management Board, *Committee Proceedings*, 22 October 2003.

significant because – as indicated above – both of Nunavut’s major commercial marine fisheries (turbot and shrimp) take place, for the most part, in Zone 1.⁽¹⁴⁾ On the role of the NWMB, the Committee was informed that the Board: had not yet established a Total Allowable Harvest for any marine fish species (although commercial quotas were in place for some species within the NSA); holds a groundfish licence issued to Nunavut by the DFO in 2002; decides on how commercial quotas of turbot (and shrimp) outside the NSA are to be sub-allocated to Nunavut fishers (and then notifies the Minister of Fisheries and Oceans of its decisions); decided in 2002 that fish allocations would be made for a three-year period; and has produced a policy document outlining the criteria to be used when evaluating quota applications from territorial interests (see Appendix 1, NWMB Policy on Commercial Marine Fish Allocations Inside and Outside the NSA).⁽¹⁵⁾

In 1992, Nunavik Inuit of northern Quebec, as represented by Makivik Corporation, began negotiating a comprehensive claim with the Government of Canada with respect to marine areas off the coast of Quebec for which they still had an Aboriginal claim. On 25 October 2002, Makivik Corporation and the federal government signed the Nunavik Marine Region (NMR) Agreement-in-Principle (AIP). Among other things, the NMR AIP: will create a marine region for Nunavik that will encircle northern Quebec’s coastline near the Labrador Sea through the Hudson Strait and down the Hudson Bay Coast; and guarantee Nunavimmiut a percentage of turbot catches in some areas outside the NMR. In the southern area of Davis Strait, Nunavik Inuit will be entitled to 4% of the Total Allowable Catch for turbot when the catch is equal or less than 5,500 tonnes, and 10% of that part of the TAC over 5,500 tonnes (should the DFO increase the TAC).⁽¹⁶⁾ The AIP also provides for the establishment of a new wildlife management board and other management institutions for the NMR compatible with the public management regimes for the Nunavut Settlement Area. Like their Nunavut neighbours, Nunavik Inuit also have an important socio-economic stake in the marine resources in the region. Approximately 10,000 Nunavik Inuit live in 15 communities situated along the coast of Hudson Bay, Hudson Strait, Ungava Bay and the Quebec/Labrador Peninsula, north of the 55th parallel.⁽¹⁷⁾

(14) With respect to turbot, the exception is the small-scale winter fishery in Cumberland Sound. *Nunavut Wildlife Management Board Policy: Allocation of Commercial Marine Fisheries Quotas in the NSA and Zones I and II*, NFWG Brief Submitted to the Committee, October 2003.

(15) However, annual reports must still be submitted to the NWMB. *Committee Proceedings*, 22 October 2003.

(16) Section 5.4.8 of the Agreement-in-Principle, http://www.ainc-inac.gc.ca/pr/agr/nunavik/mareg/art54_e.html; Department of Indian and Northern Affairs, Background, “Nunavut Inuit Marine region Agreement-in-Principle,” http://www.ainc-inac.gc.ca/nr/prs/s-d2002/02207bk_e.html.

(17) In 1975, the James Bay and Northern Quebec Agreement (JBNQA) created Nunavik (meaning “main land”), which was the first settled comprehensive land claim in Canada. The JBNQA provided for the creation of Makivik Corporation, a non-profit organization owned by the Inuit of Nunavik with the mandate to protect the integrity of the Agreement.

WHAT WE HEARD

A. Developing the 0A Turbot Fishery

1. Background

During the course of its consultations, the Panel examined the situation prevailing in Nunavut, which Panel members came to regard as a special case. – Report of the Independent Panel on Access Criteria, March 2002, p. 74

I know you have heard witnesses refer to the IPAC in the past, but that advice was limited to providing new access or the possibility of having new entrants in a particular fishery. – David Bevan, Director General, Resource Management Directorate, Fisheries Management, DFO, Committee Proceedings, 28 October 2003

The area in 0A is not oversubscribed at the moment. – Neil Greig, Adviser, Makivik Corporation, Committee Proceedings, 8 October 2003

We understand and can agree with DFO plans to provide Nunavut with priority access to growth in the TAC for this developing fishery. However, we do not support any suggestion that the Nunavut interests should have exclusive access. – The GEAC, Brief Submitted to the Committee, September 2003

I must say that the DFO has been very supportive and we wish to thank them for what we have accomplished so far. – Jerry Ward, Chief Executive Officer, BFC, Committee Proceedings, 4 November 2003

Division 0A is the northernmost half of NAFO Subarea 0, from just below the Arctic Circle at 66°15' North lat. to the northern extreme at 78° North lat. Because of the harsh environment and limited scientific knowledge about the fish stocks there, commercial fishing is a relatively new and developing activity.⁽¹⁸⁾ Bilateral negotiations between Canada and Greenland are the basis for establishing, then dividing, the NAFO TAC for Subareas 0 and 1. In 1995, Greenland's inshore waters in Division 1A were excluded from the NAFO TAC, and in 2001, a new offshore quota (4,000 tonnes) was introduced for Divisions 0A and 1A (offshore), separate from the 11,000 tonnes in Divisions 0B and 1BCDEF.⁽¹⁹⁾ By 2003, the recommended NAFO TAC had reached 8,000 tonnes.

(18) A test fishery was first conducted in 1993. By 2000, 290 tonnes were caught in a 58-day fishery.

(19) In 2000, the NAFO Scientific Council recommended a TAC of up to 4,000 tonnes for the 2001 0A+1A offshore fishery, based on the research carried out in 1999. DFO, "Dhaliwal Announces Increased Turbot Allocation and Staff for Nunavut in 2001," News Release, http://www.dfo-mpo.gc.ca/media/newsrel/2000/hq-ac79_e.htm.

Canada and Greenland disagree on sharing arrangements in Divisions 0A and 1A, so fishing takes place in “an independent manner.”⁽²⁰⁾ Canada considers that it should receive more than 50% of the catch limit recommended by NAFO’s Scientific Council because the majority of the resource (said to be over 60%) is believed to be in Canadian waters. We were informed that Greenland, with very little fishing history in the offshore and low catches, claims half of the overall quota in Divisions 0A and 1A (offshore). Therefore, Canada takes half of the amount available for fishing as an initial quota in Division 0A, but later decides on whether additional quota should be assigned after determining Greenland’s catch. In 2003, the DFO initially assigned 4,000 tonnes to the Nunavut Wildlife Management Board, and then an additional 400 tonnes in October.

The 0A turbot fishery is an exploratory fishery. Between 1996 and 2001, Canadian catches were taken entirely by trawlers; longliners were first introduced in 2002 (Table 1). In our meetings, we heard that: longlining is a more selective method of catching fish and results in a higher-quality catch; and, because of the harsh environmental conditions, there are very few Canadian longliners able to fish in northern waters. According to the DFO’s *New Emerging Fisheries Policy* of September 2001, new fisheries proceed through three stages: a scientific stage that involves determining whether sufficient biomass for commercial exploitation exists; an exploratory stage that determines whether the prospective fishery has the potential to become economically viable; and the commercial stage in which a fishery is deemed to have become established.⁽²¹⁾ In undertaking new fisheries, the DFO is required by the policy; to work with appropriate Boards or other bodies established under Land Claims Agreements; and, where the Department is responsible for implementing obligations under those agreements, to implement the policy in a manner consistent with those obligations. As mentioned earlier, allocation criteria for established and emerging/exploratory fisheries were developed by the NWMB when reviewing requests for fish quotas.

Table 1 – Turbot Catches in Division 0A, 2001-2003

Allocations and Catches, in Tonnes

	2001	2002	2003
Allocation	3,500	4,000	4,000
Catch	2,642	3,589	4,280

(20) *Committee Proceedings*, 28 October 2003.

(21) There are application procedures and a licensing process for each stage. DFO, *New Emerging Fisheries Policy*, September 2001, http://www.dfo-mpo.gc.ca/communic/fish_man/nefp_e.htm.

Percentage of the Catch, by Gear Type

	2001	2002	2003
Trawler	100	67	60
Hook/Line	0	33	40
Gillnet	0	0	0

Vessels, by Nationality

	2001	2002	2003
Canadian	1	3	3
Foreign	4	5	2
Total*	5	8	5

* In 2001, there were five trawlers; in 2002, four trawlers and four longliners; and in 2003, three trawlers and two longliners.

Source: The BFC, Brief Submitted to the Committee, November 2003.

In August 2000, the Minister of Fisheries and Oceans announced that Nunavut would receive the entire Canadian quota of 0A turbot in 2001. In April 2002, within the context of the Atlantic Fisheries Policy Review,⁽²²⁾ the Minister of Fisheries and Oceans released a report by the Independent Panel on Access Criteria on the criteria used for granting licences in new or emerging fisheries, and in established fisheries experiencing a substantial increase in stock size and/or value. Because Nunavut does not enjoy the same level of access to its adjacent fisheries as do the Atlantic provinces, the IPAC concluded that “every effort should be made to remedy this anomalous situation.” In keeping with “the spirit of the Nunavut Land Claims Agreement, and the fair and consistent application of the adjacency principle,” the IPAC recommended that no additional access be granted to non-Nunavut interests in adjacent waters until Nunavut has achieved access to a major share of its adjacent fishery resources.⁽²³⁾ This recommendation pertaining to *new access* was accepted by the Minister in November 2002.

(22) The Atlantic Fisheries Policy Review (AFPR) – the first such review in two decades – was launched in May 1999. On 25 March 2004, the DFO issued a new policy framework to guide Atlantic fisheries management in the long term.

(23) Recommendation 6, in *Report of the Independent Panel on Access Criteria*, March 2002, p. 74. Created by the Minister of Fisheries and Oceans on June 2001, the IPAC was asked to provide advice on the definition, ranking application and appropriateness of access criteria, as well as general advice on the decision-making process, including ways to ensure openness and transparency in the Atlantic fisheries. The IPAC was specifically not asked to: remedy past wrongs in current access arrangements; and address issues pertaining to fish allocations.

The NWMB receives 100% of the 0A quota.⁽²⁴⁾ In the last three years, the catch increased rapidly, from 2,600 tonnes in 2001 to 3,600 tonnes in 2002, and to approximately 4,280 tonnes in 2003. During this period, the number of foreign vessels also declined. For 2004, we heard that fishing would be conducted entirely by Canadian fishing vessels.

2. The Baffin Fisheries Coalition

[The] BFC is a coalition. Its job is to grow the offshore fishery. – Jerry Ward, Chief Executive Officer, BFC, Committee Proceedings, 4 November 2003

The [NWMB] gets the quotas, and then what they do with them is their business. – David Bevan, Director General, Resource Management Directorate, Fisheries Management, DFO, Committee Proceedings, 28 October 2003

We do not believe there is any transparency in the current situation of royalty collection in Area 0A. – Seafreez Foods Inc./Barry Group Inc., Brief submitted to the Committee, September 2003

I have not met often with the BFC, and I do not know how they set this up in the beginning. – Morrissey Kunillusie, Vice-Chair, Nattivak HTO, Committee Proceedings, 24 September 2003

We are talking about the fishing industry. It is a multi-million dollar business and there are many things that might not be transparent. – Sytukie Joamie, Committee Proceedings, 24 February 2004

Following the DFO's decision to allocate all of Canada's 0A turbot quota to Nunavut in 2001, the Nunavut Wildlife Management Board decided in June 2001 to allocate the quota as a single unit to the Baffin Fisheries Coalition,⁽²⁵⁾ which has since received the entire allocation. The DFO, for its part, informed Committee members that the Department does not intervene in the business arrangements that are subsequently made to harvest the fish it assigns to the NWMB.⁽²⁶⁾ We also learned that the BFC was created largely through the efforts of the Nunavut Fisheries Working Group,⁽²⁷⁾ which was formed soon after Nunavut became a Territory in 1999 as a result of discussions among representatives of the Department of Sustainable Development,⁽²⁸⁾ Nunavut

(24) In fact, since 1996, Nunavut has received the full amount of every increase in "Subarea 0" turbot, despite DFO's announcement in 1997 that the Territory would be granted only half of any increase.

(25) The NWMB, Highlights of Meeting #29, 5-7 June 2001, http://www.nwmb.com/english/meetings/regular_meetings/html/rm_29_highlights.php.

(26) *Committee Proceedings*, 28 October 2003.

(27) The Working Group is an *ad hoc* group having no chair or spokesperson, which meets occasionally. DFO staff in Iqaluit were said to be a key advisor.

(28) The DSD is the Nunavut government department that has primary responsibility for fisheries.

Tunnigavik Incorporated, and the NWMB. The origins of the BFC were summarized by the NFWG as follows:

- In order to build Nunavut's harvesting capacity, the NWMB decided at a March 2001 Board meeting not to divide the Division 0A quota. It was also decided that the NFWG would work with the relevant Nunavut fishing interests to develop a plan to harvest the quota collectively.⁽²⁹⁾
- The NFWG subsequently arranged another meeting that was held on 19-20 April 2001, in Iqaluit. Funded by the DSD and attended by all 11 organizations involved in the Division 0B turbot fishery and the shrimp fishery, the meeting: dealt with the potential advantages of working together to build capacity; and ended with everyone agreeing to return to their respective organizations to decide whether or not to take part in a new industry group. Each organization was given two weeks to respond in the form of a letter to the NWMB.
- A unanimous vote in favour of not dividing the 0A turbot quota was followed by another meeting on 27-28 May 2001 in Iqaluit to discuss how to proceed. Everyone involved signed a Memorandum of Understanding to fish the new turbot quota in NAFO Division 0A, as a group.⁽³⁰⁾

The Baffin Fisheries Coalition is federally incorporated as a not-for-profit corporation without share capital under the provisions of Part II of the *Canada Corporations Act*. It has five directors,⁽³¹⁾ two employees (the CEO and a liaison officer⁽³²⁾), has so far focused its activities on offshore 0A turbot, and consists of the following 11 Inuit organizations:

- Pangnirtung Fisheries Ltd.
- Qikiqtaaluk Corporation
- Aqviq Marine
- Cumberland Sound Fisheries
- Kabva Marine Services Ltd.
- Amarak HTO – Quliruak Inc.
- Pangnirtung HTO
- Mayukalik HTO
- Mittimatalik HTO
- Namautaq HTO
- Nattivak HTO

(29) By then, 10 companies had submitted applications to the NWMB. The NWMB, Highlights of Meeting # 28, 23 March 2001, http://www.nwmb.com/english/meetings/regular_meetings/pdf/rm_28.pdf.

(30) NFWG, Brief Submitted to the Committee, October 2003.

(31) Industry Canada, Strategis, http://strategis.ic.gc.ca/cgi-bin/sc_mrksv/corpdire/dataOnline/corpns_re?company_select=3965619#ar/as.

(32) *Committee Proceedings*, 4 November 2004.

According to Nunavut's Minister of Sustainable Development, the Coalition's long-term objectives are to: develop the capacity of Nunavut fishing interests to harvest the turbot resources in the waters adjacent to Nunavut; develop the credibility of Nunavut fishers in the Atlantic fishing industry; and maximize fisheries development over the next 5-10 years.⁽³³⁾ According to the BFC itself, its stated objectives are to: undertake exploratory fishing; develop new inshore and emerging fisheries; develop offshore fisheries; recruit and train Inuit for current and new jobs in the offshore fishing industry; invest in a Nunavut fishing vessel; lobby for more access to other fishing quotas, including turbot in 0B; encourage scientific research; and administer the initiative, including preparing Calls for Proposals.⁽³⁴⁾ Because Nunavut does not have the harvesting capacity to undertake fishing operations directly, the Coalition's activities have so far consisted of selling its 0A allocation to non-Nunavut fishing companies – Canadian and foreign – in return for royalty fees and the hiring of a minimum number of Inuit as crew.

Appearing before us on 4 November 2003, the BFC's CEO, Mr. Jerry Ward, indicated that the 11 Inuit organizations who had signed the 2001 MoU: included everyone then involved in the fishery, or who historically had participated in the fishery; had agreed to work together to develop the 0A turbot fishery; and clearly knew that the revenues generated by the Coalition would be reinvested for a specified period (three years) in fisheries development initiatives to benefit Nunavut's marine fisheries as whole, rather than individually. Committee members were also told that the BFC and its board of directors decide, on an annual basis, how to distribute the funds and that the BFC's first three-year plan called for the proceeds of its activities to be directed to four accounts – one for the purchase a factory freezer vessel (30%), the second for exploratory fisheries and research (20%), the third in the form of free fish delivered to the processing plant in Pangnirtung (20%), and the remainder to operations (30%). We heard that: in 2003, the BFC carried out two training courses in Iqaluit for 24 Inuit workers; graduates who wished to work on the vessels contracted by the BFC had been successful in finding jobs; production at the Pangnirtung fish plant was significantly increased, resulting in much-needed employment in that community; and the BFC had been involved in two projects, one in Clyde River and the other one in Pond Inlet, to develop winter turbot fishing.

Committee members were informed that the BFC had successfully achieved the objectives set in its three-year business plan, and were assured by the BFC that the fishery would be fully Canadianized in 2004. On this last aspect, a number of highly critical comments were made in

(33) *Committee Proceedings*, 22 October 2003.

(34) The BFC, Brief Submitted to the Committee, November 2003.

written submissions to the Committee. Lack of transparency with respect to BFC tenders was the major complaint. In 2003, two foreign longliners were selected by the BFC to fish a portion of the 0A quota (with the DFO's approval), which reportedly resulted in Canadian companies not being considered. The two vessels in question belonged to a Norwegian concern described to us as having a less than reputable conservation record in fisheries. In the view of Terra Nova Trading,⁽³⁵⁾ the decision "not only deprived BFC of the opportunity to negotiate the best deal in a competitive process, but also hindered the establishment of closer ties with Canadian companies who could potentially assist the BFC in its long-term development goals." According to Arctic Harvesters Inc.,⁽³⁶⁾ tenders need to be open and transparent to ensure that Nunavut obtains the best deal possible. With regard to transparency, the GEAC asked that future requirements and compliance records be made public until the fishery is fully Canadianized.⁽³⁷⁾ Seafreez Foods Inc./Barry Group Inc. indicated to us that it had made a proposal to the BFC for a royalty fee of \$500 per tonne, had "since found out that many of the successful recipients received less money than this \$500," and did not know why it had not been considered.⁽³⁸⁾ It may also be pointed out that in October 2003, the DFO allocated an additional 400 tonnes of 0A turbot to the NWMB, which was immediately passed on to vessels on the fishing grounds, presumably without tender.

On the subject of transparency, Mr. Sytukie Joamie (of Iqaluit) voiced concerns not only about the tendering process, but also about the direction and control of the BFC.⁽³⁹⁾ He criticized the BFC for not sharing information with HTO members and Inuit ("We have not seen any written documents," "we have no access to information on what is happening," "they choose not to cooperate," and "they just give you the cold shoulder"), and asked that documents be made available to all BFC members and the general Inuit public. In addition, he: stated that some board directors were informed of decisions only after they had been taken; wondered why all 11 BFC members were not involved in the Call for Proposals process; and questioned the timing of the deadline of the

(35) Terra Nova Trading, in partnership with Dominion Trading Limited, participated in the 0A fishery in 2002. Dominion Trading Limited is a Canadian fishing company with several years' experience fishing turbot with hook and line technology, mostly in the Davis Strait in Division 0B. Terra Nova Trading, Brief Submitted to the Committee, 30 September 2003.

(36) Arctic Harvesters obtained Nunavut fishing contracts in 2003 for shrimp, and fished for turbot in Division 0B. In 0A, the company caught more than 1,000 tonnes of turbot in 2001. John Andrews, President, Arctic Harvesters Inc., Brief Submitted to the Committee, September 2003.

(37) The GEAC, Brief Submitted to the Committee, September 2003.

(38) Seafreez Foods Inc./Barry Group Inc., Brief submitted to the Committee, September 2003. Barry Group Inc. is based in Corner Brook, Newfoundland and Labrador.

(39) *Committee Proceedings*, 24 February 2004. Mr. Joamie did not speak on behalf of any particular organization. His involvement in the fishery includes: working as crew members on offshore fishing vessels; doing contract work for the Amarok HTA; being the chief negotiator for the Iqaluit and Kimmurut HTOs since 1999; and dealing with fisheries issues through Quliruak Inc., which is mandated to manage Amarok HTA's fishery quotas.

Coalition's Call for Proposals for 2004, which was set soon after the BFC's board meeting. The witness called for a re-writing of the MoU before its expiry date (28 May 2004) to more clearly recognize the fact that the BFC exists to serve the interests of its members, which are organizations acting on behalf of Inuit. Mr. Joamie put it this way: "I want BFC to succeed in the long term; I do not want it to falter. I am voicing my concern [...] before the situation goes too far."

In November 2003, the BFC informed the Committee that the next step of the business plan is the purchase of a factory freezer vessel, on which the Coalition's business strategy largely hinges. In this regard, two options were being considered: a second-hand vessel costing anywhere from \$15 million to \$20 million, or a new one costing \$25 million to \$35 million. It was explained that, while the 11-member coalition had agreed to "grow the offshore fishery," the focus of its activities in future could nonetheless be entirely different, and the future direction would depend on the wishes of its members and board. On the possibility of introducing a small-boat, commercial fishery, the BFC's CEO stated the following:

[I]s it the chicken or the egg? Do you use the offshore to develop the inshore? That is the approach the coalition has taken with all 11 members. [...] We would like nothing more than to see support of and investments in smaller vessels for the inshore. [...] However, the reality is that today there is no infrastructure in Nunavut. I will go on record as saying that within three to five years, you will see a substantial inshore fishery in Nunavut. However, we need to finance it. We need funding for training that goes along with these factory vessels. [...] It is a logical step at some point to look at more onshore facilities. – Jerry Ward, Chief Executive Officer, BFC, *Committee Proceedings*, 4 November 2003

Since then, we learned that the Coalition had created a wholly-owned subsidiary company ("611"), which has been seeking partnerships with coalition members to fish, on their behalf, their allocations in Division 0B.

3. Prospective Inuit Fishers

There should be support for developing [an] Inuit enterprise fishery instead of monopolization. [...] 0A is completely monopolized by one organization ... – Leese Papatsie, Owner, Jencor Fisheries, Committee Proceedings, 17 September 2003

We are sure that DFO has seen the down side to monopoly situations in the fishery and consequently, we suggest that DFO and the Government of Nunavut assure [...] that no one party has control of all or the majority of the quotas in Subarea 0. – John Andrews, President, Arctic Harvesters Inc., Brief Submitted to the Committee, September 2003

[T]he statement was made that BFC has a monopoly in the turbot fishery. [T]hat is misleading, because the BFC is a coalition of 11 Inuit-owned organizations throughout Baffin Island ... – Jerry Ward, Chief Executive Officer, BFC, Committee Proceedings, 4 November 2003

[The] BFC stated in their presentation that they were not a monopoly. Certain organizations have stated that BFC is a monopoly, and they denied that. However, BFC is truly a monopoly within 0A. – Sytukie Joamie, Committee Proceedings, 24 February 2004

It is a Nunavut resource; it is a people's resource. The benefits of this industry should be passed to the people of the region. – Trevor Decker, President, Tri-Nav, Committee Proceedings, 17 September 2003

In our meetings, the strong consensus was that Nunavut's fishery should or would in future be controlled and operated by Inuit, for the benefit of everyone in Nunavut. There was also agreement that employment was the main goal of developing the fishery. However, not everyone supported the Nunavut Wildlife Management Board's decision in 2001 to keep the Division 0A turbot quota intact for the exclusive use of the BFC. This is understandable: *the NWMB's allocation policy in 0A excludes prospective Inuit fishers, joint ventures and communities from entering and directly participating in the fishery.*

For instance, Committee members learned that 25 BFC-trained Inuit fishers had collectively applied for 0A turbot quota in 2003, but were turned down by the NWMB. Appearing before the Committee in February 2004, Mr. Sytukie Joamie spoke about the group's desire to eventually own small fishing vessels and make livelihoods in the fishery as independent fishers, and its members' belief as stakeholders and residents of Nunavut that they should be given the opportunity to participate in the early stages of the industry's development. As he put it: "We want to be able to fish quotas as fishermen and fish ourselves. The allocation process is such that we are not able to receive any quotas, even though we are fishermen."⁽⁴⁰⁾

We were also made aware of two Nunavut-based companies that had unsuccessfully attempted to gain access to the 0A turbot fishery. The first is Jencor Fisheries Ltd., a company owned by Ms. Leese Papatsie, who is an Inuit resident of Iqaluit and former DFO employee. In her testimony, she indicated that her company: was 100% Inuit-owned; was involved in a joint venture arrangement with Tri-Nav Ltd., a company based in Newfoundland and Labrador, with fishing experience in the North, including 0A turbot;⁽⁴¹⁾ had been provided with access to 45 fishing days for

(40) *Committee Proceedings*, 24 February 2004.

(41) Joint ventures often involve one partner having access to a fishery, and the other having a vessel to fish the allocation.

crab in Subarea 0, but had been unable to obtain turbot; and had established a number of goals, including building a viable offshore fishing enterprise through a joint venture to be eventually owned entirely by Nunavummiut, employing them in all areas and at all levels in the enterprise, encouraging them to take a larger role in the offshore fishery, showing by example that Inuit can own and successfully operate such an enterprise, and ensuring that the benefits generated by the fishery remain in Nunavut's economy. Ms. Papatsie criticized the BFC for advertising its Call for Proposals in 2003 in Newfoundland media only, and suggested that if a company such as Jencor Fisheries was ever to participate meaningfully in the industry, it would have to be first allowed in, and then be allocated a sufficient amount of fish, over a sufficiently long period of time. She hoped that, in future, developmental offshore quotas would be set aside for new, privately-owned, local Inuit companies, and that an advisory body would be created to assist Inuit in obtaining fishing vessels and getting started in business.

Another company, Arctic Harvesters Inc., a Nunavut-registered company that purchased a factory freezer trawler in 2002 (the *Tuktu*, formerly the *Esther*), sent the Committee a written submission indicating that it was seeking one or more Inuit partners to fish in the region, and eventually take a controlling interest in the company. In the view of Mr. John Andrews, the company's President, partnerships between Inuit and southern fishing concerns "is how the fishery must go if it is to be controlled by Inuit, not southern interests." He asked that instead of the current BFC arrangement for 0A turbot, quotas be allotted directly to the communities, to Nunavut's HTOs, and whomever in Nunavut had demonstrated the ability and genuine interest in participating in the fishery. He wrote:

We feel that in the initial stages of developing a fishery in Nunavut, joint-venture with experienced parties is by far the best way to proceed. Such [...] ventures should allocate a portion of [their] operating budget for training of Nunavut residents who have shown an interest in working in the fishery. [They] should also include buyout options in favour of the Nunavut partner. Nunavut parties entering into such joint-ventures, because of inexperience in business, should be provided with competent advisors, to assist in negotiations ... – John Andrews, President, Arctic Harvesters Inc., Brief Submitted to the Committee, September 2003

Louisbourg Seafoods Ltd. of Cape Breton, Nova Scotia, indicated its interest in becoming involved in fishery development opportunities in Nunavut,⁽⁴²⁾ and there may be others who would welcome the opportunity. Mr. Neil Greig of Makivik Corporation, for instance, expressed his personal view and optimism about the possibility of greater cooperation between Nunavut and

(42) Louisbourg Seafoods Ltd., Brief Submitted to the Committee, September 2003.

Nunavik fishing interests once Nunavik's claim over marine areas is settled. In his words: "With all due respect to the legal mumbo jumbo, we are going to call our cousins in Kingnait or Iqaluit and say, 'We are going to go up here, do you want to come?' That in the end is how it will work ..."

4. Community Views

We hope we can benefit in obtaining more quotas to our community so that we can provide employment and reduce the high unemployment rate ... – Steven Aipellee, Chair, Namautaq HTO, Committee Proceedings, 24 September 2003

In our communities, in Qikiqtarjuaq, they speak of asking for change. I can relate their thoughts of change to you. There are many opportunities right now but they do not bring employment into the community. It has been said that the smaller the vessel the more employment could be brought into the communities. – Morrissey Kunillusie, Vice-Chair, Nattivak HTO, Committee Proceedings, 24 September 2003

I often heard in the communities that Nunavut should have its own vessels to be actively involved in the fishery. – Leese Papatsie, Owner, Jencor Fisheries, Committee Proceedings, 17 September 2003

Under the Baffin Fisheries Coalition, all of the benefits are leaving the northern region. There need to be plants in each community. – Sytukie Joamie, Committee Proceedings, 24 February 2004

We want a fishery that is controlled by Inuit and one that provides meaningful employment to our geographically and economically depressed coastal communities. Our objective, for the fisheries in our adjacent waters must be to maximize the benefits to the Inuit of Nunavut. – The BFC, Brief Submitted to the Committee, October 2003

While everyone agreed that employment was the objective of developing the 0A turbot fishery, not everyone agreed on the time frame for achieving that goal, nor did everyone share the BFC's vision of developing Nunavut's fishery based on the purchase of a factory freezer vessel. Appearing before the Committee were spokespersons from the local HTOs of Clyde River and Qikiqtarjuaq – two Inuit communities located on the east coast of Baffin Island next to Division 0A – who expressed considerable interest in developing their own fishing activities as a means of creating employment for Inuit, and of reducing their communities' dependence on social transfers.

In our hearings, the CEO of the BFC stated that a "substantial inshore fishery in Nunavut" would develop in *three to five years*. The Chair of the HTO in Clyde River, on the other hand, commented that, under the BFC's current strategy, it would take "at least twenty years" for any community benefits to be realized. He added that: "In the future, if we were to know what quotas we would have, it would help us to prepare for the future, to have our vessels repaired and to grow

from that point with more employment in the communities.”⁽⁴³⁾ The Vice-Chair of the Qikiqtarjuaq HTO reported that community members wanted to see not only more benefits from the fishery, but also a fish plant, and said that the best way “to maximize the benefits from the NAFO Subarea 0 fishery is to bring part of the fishing to the communities.” In his words: “It is known that the smaller the vessel, the more useful it is – in our area, at least. There is employment available in these bigger ships, but they do not allow a lot of employment within the communities. The smaller vessels will provide more employment within the community.”⁽⁴⁴⁾ Committee members learned that in Qikiqtarjuaq a quota request for 0A turbot had been spearheaded by the Qikiqtarjuaq Development Group – an organization consisting of three local community organizations having the express objective of bringing employment to the community. Several witnesses expressed interest in developing onshore fish processing for the community employment benefits that would ensue.

Spokespersons from Clyde River and Qikiqtarjuaq were of the opinion that only small, community-based fishing vessels in 0A would help raise community employment to any appreciable degree, and that Inuit employment on offshore factory ships, although economically important, did not create the “quality of life” or kind of employment that Inuit desire. This is significant, because both communities have first-hand experience working on large fishing vessels over a number of years in Division 0B.⁽⁴⁵⁾ In our meetings, witnesses brought up the fact that employment as crew on factory trawlers involves being at sea and away from home for very long periods of time – sometimes up to two months – which is foreign and contrary to Inuit cultural and family values. The following excerpts from the evidence illustrate this point:

There is not much employment in the communities of 0B where the quotas were given. The people who leave the communities to work on the ships leave their families for one to two months. That is the only way they can work, by leaving their families, and not too many men are willing to do that. – Steven Aipellee, Chair, Namautaq HTO, *Committee Proceedings*, 24 September 2003

They do [make a living offshore], but they have to leave their community to work somewhere in a foreign factory. [...] They can provide enough food, but they only go out for something like two months a year. – Morrissey Kunillusie, Vice-Chair, Nattivak HTO, *Committee Proceedings*, 24 September 2003

(43) Steven Aipellee, Chair, Namautaq HTO, *Committee Proceedings*, 24 September 2003.

(44) Morrissey Kunillusie, Vice-Chair, Nattivak HTO, *Committee Proceedings*, 24 September 2003.

(45) Since 1997, Namautaq HTO in Clyde River and Nattivak HTO in Qikiqtarjuaq have had a business arrangement with Clearwater Fine Foods of Nova Scotia to fish their 0B turbot quotas. Pond Inlet is a third community next to Division 0A with such an arrangement in 0B.

It is a culture shock. Just imagine someone who is used to living on the land and being home with his family having to go on a large fishing vessel – 60 to 65 meters, four or five storeys tall – for two months at a time without getting off. We have done a very poor job in orientating our people what to expect when they go on these vessels. That is one of the issues we are working on now. – Jerry Ward, Chief Executive Officer, BFC, *Committee Proceedings*, 4 November 2003

Training our people is one of the major challenges that we face in the development of our offshore fishery. We are faced with a culture change and as such it is difficult to take Inuit people who have traditionally been close to home and put them on the offshore vessels where it will be several months before they see their families again. – The BFC, Brief Submitted to the Committee, October 2003

It was felt that smaller fishing vessels, on the other hand, would significantly reduce the amount of time that a ship's crew needs to be away from home. As well, more people would be able to fish.

Simply put, there appears to be no consensus on how to proceed to develop the fishery in Division 0A. In fact, the testimony of the representatives of the HTOs of Clyde River and Qikiqtarjuaq suggests that communities are hoping to develop fishing activities quite independently of the BFC. Their preference was for small-boat, community-based fishing, which differs considerably from the BFC's strategy of acquiring a factory trawler to create employment. *What Committee members found most perplexing is that the two HTOs in question are members of the BFC, which purports to act on their behalf.* In addition, we heard that, since 1999, Quliurak Inc. had been inviting other HTOs to pool their allocations in order to obtain a better negotiating position with trawler operators, and that the organization had been established before the BFC. One witness put it this way: “[The] BFC competes against its own members when allocations are to be had.”⁽⁴⁶⁾

B. Adjacency and Equity in 0B

1. Background

In 1990, the Government of Canada established a groundfish development program [...] That left Inuit out in the cold. – Cathy Towtongie, President, NTI, *Committee Proceedings*, 17 September 2003

The Division 0B fishery has been fully subscribed since the Canadian quota was reduced in 1994. – David Bevan, Director General, Resource Management Directorate, Fisheries Management, DFO, *Committee Proceedings*, 28 October 2003

(46) Sytukie Joamie, *Committee Proceedings*, 24 February 2004. Quliurak Inc is the business arm of the Amarok HTA.

[F]or us to get our 1,000 metric tonnes we will displace somebody else. That is the only way it can be done under the current quota arrangement. – Neil Greig, Adviser, Makivik Corporation, Committee Proceedings, 8 October 2003

Traditionally southern interests have dominated this fishery and they do not want to lose it. – John Andrews, President, Arctic Harvesters Inc., Brief Submitted to the Committee, September 2003

We feel very strongly that northern communities in Northern Quebec and Labrador have not been treated fairly and have seen their allocations decline significantly in favour of large southern corporations ... – The Northern Coalition, Brief Submitted to the Committee, September 2003

In Division 0B – the southern half of NAFO Subarea 0 (from 61° North lat. to 66°15' North lat.) – commercial fishing for turbot has a longer history and fishing season than in Division 0A. There, in 1987, Inuit first began fishing turbot inshore in winter by longlining through the ice near Cumberland Sound. Prior to 1999, with the exception of this fishery and some exploratory fishing in 0A (which began in 1996), virtually all catches in NAFO Subarea 0 took place offshore in 0B.

In 1990, the DFO instituted the Northern Turbot Developmental Program (NTDP), which allowed Canadian offshore companies to charter foreign vessels to fish for turbot in northern waters, and was designed to assist the Atlantic fishing industry in adjusting to the loss of the northern cod fishery. Until then, the catch had been taken by foreign fishing fleets.⁽⁴⁷⁾ The federal NTDP: gave priority to proposals that maintained existing fish plant operations or contributed to the re-opening of closed plants, and that involved the use of Canadian vessels; and was meant to re-distribute quotas to companies that would fish them.⁽⁴⁸⁾ It was not until 1993 that Nunavut was granted a small allocation, with Cumberland Sound Fisheries and Unaaq Fisheries Inc. each getting 500 tonnes.

At 12,500 tonnes, the TAC in 0B was highest in 1992 and 1993; catches were respectively a record 9,716 tonnes, and 9,551 tonnes. In May 1993, a federal Panel on the Use of Foreign Vessels in Canadian Waters recommended, among other things, that 100% of the foreign catch be landed at Canadian ports, and that participants who did not comply with NTDP criteria in

(47) The fishery initially involved foreign vessel charters because of inadequate fishing capacity in Canada. Under the NTDP, the DFO evaluated annual harvesting proposals against program criteria, such as the degree of onshore processing and successful participation in the previous year's program.

(48) For the period between 1987 and 1989, 1,000 tonnes of turbot were allocated to offshore vessels, and a 2,000-tonne allocation was made available under a Resource Short Plant Program. In 1989, 2,600 tonnes were allocated to the Foreign Charter Fishery; catches, however, totaled 4 tonnes in 1987, 13 tonnes in 1988, and 180 tonnes in 1989.

1992 should be ineligible for participation in 1993.⁽⁴⁹⁾ In 1994, the Canadian TAC was reduced to 5,500 tonnes because of conservation concerns⁽⁵⁰⁾ – a catch limit that remains in effect to this day. That year, the newly created Fisheries Resource Conservation Council, in a special report to the Minister of Fisheries and Oceans, recommended that Canada discontinue using the words “underutilized” or “underexploited” with respect to turbot because the stock was in fact “overexploited.” In 1995, the DFO introduced a competitive fishery for those who held Atlantic groundfish licences, and the following year the Developmental Fishery became the Foreign Charter Fishery.

In April 1997, the Minister of the DFO announced an increase of 1,100 tonnes in Canada’s TAC. Of this amount, 100 tonnes were to be allocated to Nunavut, which would have seen its overall TAC share reduced from 27% to 24%.⁽⁵¹⁾ Nunavut Tunngavik Incorporated – a private federal corporation created to ensure that the NLCA is implemented in accordance with the terms of the Agreement – subsequently sought a judicial review of the Minister’s decision in the Federal Court of Canada, which set the decision aside as illegal in July 1997 and referred the matter back to the Minister for reconsideration. The Minister announced shortly thereafter, in August, that quotas for the balance of the 1997 fishing season would be the same as in 1996. The DFO also appealed the Federal Court’s ruling to the Federal Court of Appeal, which: acknowledged that the NLCA imposed procedural and substantive requirements that qualified the Minister’s absolute power in issuing licences under section 7 of the *Fisheries Act*; and decided that the intention of Article 15.3.7 of the NLCA was to establish a principle of “equity” – not priority – when distributing commercial fishing licences outside the NSA.⁽⁵²⁾

In June 1998, the Minister of Fisheries and Oceans announced a five-year management plan⁽⁵³⁾ for the period 1998 to 2002 that: instituted a policy of full Canadianization of Canada’s share of the Davis Strait turbot fishery (i.e., no foreign vessels would be allowed to fish); replaced the Foreign Charter Allocation with Company Allocations; and granted Nunavut half of any

(49) Leslie Harris, Chair, *Report of the Panel on the Use of Foreign Vessels in Canadian Waters*, May 1993.

(50) In June 1994, the Scientific Council of NAFO recommended a separate 11,000-tonne quota for Divisions 0B and 1B-1F.

(51) The announcement was made six weeks before the 1997 federal election. In setting the allocation, the Minister ignored the advice of senior departmental officials, the NWMB, and the Fisheries Resource Council of Canada, without explanation. House of Commons Standing Committee on Fisheries and Oceans, *The Nunavut Report*, December 1998.

(52) The appeal was dismissed on 13 July 1998.

(53) DFO, “Anderson Announces Fully Canadianized Davis Strait Turbot Fishery,” News Release, 9 June 1998, http://www.dfo-mpo.gc.ca/media/newsrel/1998/hq-ac33_e.htm.

future increase in the TAC. Prior to the announcement, the NWMB had recommended that Nunavut receive 40% of the TAC in 1998, 60% in 2000 and above 80% by 2002. NTI once again sought a judicial review in the Federal Court, which this time ruled that the Minister had met his obligations by specifically considering (and rejecting) the NWMB's recommendations. An appeal by NTI to the Federal Court of Appeal was dismissed in October 2000, and the Supreme Court of Canada declined to give leave for a further appeal in 2001, stating that the test of the exercise of the Minister's discretion was "patent unreasonableness."

Canada's 5,500-tonne TAC in Division 0B is divided into three separate allocations (Table 2). First, the DFO allocates a 1,500-tonne quota to Nunavut, which the NWMB reallocates to an inshore fishery (1,000 tonnes)⁽⁵⁴⁾ and to an offshore sector (500 tonnes) where the fish is sold "in the water" in exchange for royalties and the hiring of Inuit crew – the only means available for Inuit communities to generate economic returns. Royalty income helps to pay for the operation of local HTOs and provides much-needed economic benefits for the communities in question. Second, the DFO allocates 2,500 tonnes in the form of Company Quotas (formerly developmental allocations) to six companies, *none of which are based in Nunavut*. Third, a competitive fishery receives 1,500 tonnes, which are assigned to mobile fishing gear (a 600-tonne quota, fished mainly by one company based in Nova Scotia) and fixed-gear vessels (a 900-tonne quota, fished mainly by vessels from Newfoundland). While approximately 20 vessels from outside Nunavut were said to fish there, *none of Nunavut's residents are permitted to do so*. Catches are taken mainly by trawlers, although gillnets and hook-and-line fishing have become more important. All vessels in 0B are Canadian.

As already noted, Makivik Corporation and the federal government signed the Nunavik Marine Region Agreement-in-Principle in October 2002. Outside the NMR, in the southern area of Davis Strait, Nunavik Inuit will be entitled to 4% of the TAC for turbot when the catch is equal to or less than 5,500 tonnes, and 10% of that part of the TAC in excess of 5,500 tonnes.⁽⁵⁵⁾

(54) Quota left over at the end of the winter fishery is transferred to the offshore fishery. Because of poor ice conditions in recent years, fishers have been unable to harvest much of the inshore quota. The catch was 106 tonnes in 2002.

(55) Section 5.4.8 of the Agreement-in-Principle, http://www.ainc-inac.gc.ca/pr/agr/nunavik/mareg/art54_e.html.

Table 2 – Distribution of the TAC for Turbot in Division 0B, 2002

Fleet Sectors

Sector	Tonnes	Percentage
Nunavut residents*	1,500	27.30
Company quotas	2,500	45.40
Competitive fishery	1,500	27.30
Total	5,500	100.00

Company Quotas

Company	Tonnes	Percentage
SeaFreez	1,900	76.0
Clearwater	230	9.2
Seaku Fisheries Inc.	70	2.8
Nunavik Arctic Foods	70	2.8
Labrador Inuit Development Corporation	70	2.8
Torngat Producers Co-op	160	6.4
Total	2,500	100

- * In 2003, the quota was distributed among the following entities: Cumberland Sound Fisheries (750 tonnes); Nattivak HTO in Qikiqtarjuaq (330 tonnes); Mittimatalik HTO in Pond Inlet (45 tonnes); Namautaq HTO (45 tonnes) in Clyde River; Qikiqtaaluk Corporation (285 tonnes); and the Pangnirtung winter fishery (45 tonnes).

Source: The Nunavut Fisheries Working Group, Brief Submitted to the Committee, October 2003

2. The Adjacency Principle

In 1990, when the Inuit were left out in the cold, Newfoundland fishers started to fish in 0A and 0B. As a result, they claimed historical use of the resource. – Cathy Towtongie, President, NTI, Committee Proceedings, 17 September 2003

Just imagine the uproar if 66% of Newfoundland's crab and shrimp went to Nova Scotia or if 66% of PEI's lobster was allocated to Newfoundland. Why does it continue to happen in Nunavut? – The BFC, Brief Submitted to the Committee, November 2003

Considerable investments were made and significant costs incurred by offshore groundfish license holders to develop the turbot fishery in 0B, based in large part on assurances by the Government of Canada that continued access to available quotas would be maintained. – The GEAC, Brief Submitted to the Committee, September 2003

How would residents from Newfoundland feel if 70 to 80% of their crab resource on the northeast coast went to groups from New Brunswick or Nova Scotia, or vice versa? That is what we face today. – Carey Bonnell, Manager, Fisheries and Sealing, Nunavut DSD, Committee Proceedings, 22 October 2003

We all know that allocations are a political game. It appears that when it comes to the North [...] this very important principle of adjacency is forgotten. – The Northern Coalition, Brief Submitted to the Committee, September 2003

In Division 0B, Nunavut's 27.3% share of the turbot TAC (5,500 tonnes) remains unchanged since the mid-1990s. When shrimp and turbot are added together, Nunavut's share is 34% overall. The Government of Nunavut seeks greater access to the fishery because of the economic and social benefits that would result. For its part, the DFO stressed that Nunavut now controls approximately 60% of the Subarea 0 turbot fishery (when Division 0A and 0B are combined).⁽⁵⁶⁾

“Adjacency” figured prominently in the Committee's discussions and in the written submissions we received. Generally understood to mean that priority of access should be given to those who are closest to the resource, the adjacency principle (or criterion) is based on: the recognition that coastal fishing communities and fishers in closest proximity to a given fishery should benefit most from it; and the implicit assumption that access based on adjacency will promote values of local stewardship and local economic development.⁽⁵⁷⁾

Adjacency was a major theme in a written submission by the Northern Coalition, a group formed in 1996 and consisting of seven offshore northern shrimp harvesters. According to the Northern Coalition, its members were in a position to harvest more 0B turbot; moreover, while supporting Nunavut's position in Divisions 0A and 0B, they strongly felt that the communities of northern Quebec and Labrador had never been given the same opportunity afforded the larger southern corporations in developing the fishery. The Northern Coalition pointed out that, collectively, its quotas had been considerably reduced over the years, from 3,250 tonnes in 1992 to 370 tonnes in 1998, and that two of its members had no quota at all. Members who now fish 0B turbot are: the Labrador Fishermen's Union Shrimp Co. Ltd, which purchases quota from enterprises holding Company Quotas and participates in the competitive fixed-gear fishery; the Labrador Inuit Development Corporation, which owns and operates several 65-foot vessels; and Makivik Corporation, which has an interest in two vessels that each receive 70 tonnes.

For their part, witnesses from Nunavut strongly emphasized that Nunavut had been the only exception to the adjacency rule in Canada's Atlantic fishing industry. They pointed out that, even though Nunavut is the only political jurisdiction next to Division 0B, its residents are not licensed to fish in the competitive fishery, nor do they own the company quotas issued by the DFO.

(56) The Department stated that, while the two stocks are separate for management purposes, it had not been scientifically determined that 0A turbot were any different than the fish in 0B.

(57) *Report of the Independent Panel on Access Criteria*, March 2002, p. 47.

Their view was that adjacency, along with the principles of historic and economic dependence, had been used by the Atlantic provinces in the past to limit fishing in their adjacent waters. An historical review of access to Atlantic groundfish conducted in 1997 (for the period from 1979 to 1991) was invoked in support this claim: the study was said to show a strong correlation between adjacency and access, with fishers of a province adjacent to a fishing area being allocated the majority share (e.g., 80% to 90% or more) of the groundfish resource.⁽⁵⁸⁾ Another similar study for Atlantic shellfish was said to show that access in 1997 had been restricted to fishers from one province.

It may be surmised that when the Nunavut Land Claims Agreement was being negotiated, the potential for commercial fishing in the region may still have been largely unknown because Canadian involvement in the fishery was limited. While the NLCA does not explicitly state what percentage of the catch Nunavut should be allocated in adjacent waters, Committee members were often reminded that the Agreement recognizes the importance of adjacency as a decision-making criterion for economic development. Article 15.3.7 stipulates that:⁽⁵⁹⁾

Government recognizes the importance of the principles of adjacency and economic dependence of communities in the Nunavut Settlement Area on marine resources, and shall give special consideration to these factors when allocating commercial fishing licences within Zones I and II. Adjacency means adjacent to or within a reasonable geographic distance of the zone in question. The principles will be applied in such a way as to promote a fair distribution of licences between the residents of the Nunavut Settlement Area and the other residents of Canada and in a manner consistent with Canada's interjurisdictional obligations.

Witnesses from Nunavut argued forcefully about the need to set fish quotas in accordance with the spirit and intent of Article 15.3.7. The adjacency principle was also raised in support of maintaining a 100% Inuit share of turbot in Division 0A. In addition to the principles of “adjacency” and “Inuit economic dependence on the resource” contained in Article 15.3.7 of the NLCA, they pointed out that:

- The NLCA is a land claims agreement within the meaning of Section 35 of the *Constitution Act, 1982*;
- Article 15.3.7 of the NLCA was arrived at in exchange for the surrender of Aboriginal rights held for thousands of years;

(58) Federal/Provincial Atlantic Fisheries Committee Working Group, *Historic Resource Access/Provincial Share Groundfish Summary Report*, 1997; *Resource Access/Provincial Shares Shellfish Summary Report*, 1997.

(59) The NFWG, Brief Submitted to the Committee, October 2003.

- The Crown has a duty to comply with its obligations contained in the NLCA;
- Because of the Agreement’s constitutional status, where there is any inconsistency or conflict between any federal, territorial or local government laws and the NLCA, the latter must prevail to the extent of the inconsistency or conflict;⁽⁶⁰⁾
- Prior to 1990, the only Canadian interests involved in the Subarea 0 turbot fishery were Inuit fishers; and
- While Nunavummiut actively sought in the early 1990s to participate in developing the fishery, they were shut out because priority was given to those who already held groundfish licences in the Atlantic fishing industry.

While sympathetic to Nunavut’s demands, the DFO stressed the need to respect the rights of those who had initially invested to develop the 0B fishery, and who had subsequently developed a historical attachment to the resource. Committee members were advised that to arbitrarily reassign fish to Nunavut interests would be deleterious to the Department’s “desire to bring stability, conservation ethics, shared stewardship and self-reliance to the fishery,” and that this would be a recipe for chaos in the fishing industry. It was emphasized that in fully subscribed fisheries, the only way to respond positively to an allocation request is to deprive someone else of fish, and no Minister had yet contemplated taking away a quota from an entity that had pioneered a given fishery. As the DFO’s Director General of Resource Management put it: “We would have a very difficult time maintaining order in the fishery, getting people to invest in restructuring of fisheries and conserving stocks and working with us in sharing stewardship.”⁽⁶¹⁾

In a written submission, the Groundfish Enterprise Allocation Council – an organization that represents offshore groundfish fishing enterprises in Canada’s Atlantic region – similarly argued that: “on-going private investment and sustainable employment in Canadian fisheries requires stability in fisheries policy”; and a key aspect of stability is “stability of access and the related assurance that historic percentage allocations and quota sharing plans will be respected.”⁽⁶²⁾ In addition, the GEAC stressed that earnings in the fishery support the continued viability of some 10 freezer trawlers and longliners that provide employment to over 100 crewmen who have virtually nowhere else to turn. About 300-400 plant workers in L’Anse au Loup (Labrador) and Dover (Newfoundland) were said to rely on 0B turbot as a key component of their limited employment opportunity.⁽⁶³⁾

(60) *Committee Proceedings*, 22 October 2003.

(61) *Committee Proceedings*, 28 October 2003.

(62) The GEAC, Brief Submitted to the Committee, September 2003.

(63) *Ibid.*

In our February 2002 report, this Committee concluded that Nunavut's share of the TAC for turbot was a glaring inconsistency in the application of the principle of adjacency and called for the Minister of the DFO to adopt a fair and consistent policy with respect to Nunavut's access to its adjacent Atlantic fishery resources. In his November 2002 response to the report of the Independent Panel on Access Criteria, the Minister accepted the IPAC's recommendation pertaining to new access. He mentioned, however, that his acceptance did "not affect the current status of other participants in these fisheries," and added that "other issues related to Nunavut's share or allocation of fisheries resources adjacent to the Territory [would] be addressed through other processes."⁽⁶⁴⁾

3. Increasing Nunavut's Share of 0B Turbot

[T]he Department of Fisheries and Oceans has not lived up to its obligations and has not significantly advanced our adjacent access and allocation position. – The Honourable Olayuk Akesuk, Minister of the DSD, Government of Nunavut, Committee Proceedings, 22 October 2003

Why can we not compete in the competitive portion of this quota? Why is it that one southern company, with no financial investment in this fishery has an allocation of 1,900 tonnes of the overall 2,500-tonne company quotas? – The BFC, Brief Submitted to the Committee, 4 November 2003

[I]f the Government of Canada is serious about making sure that Nunavut becomes a positive experiment between Aboriginal Inuit and the Government of Nunavut and the Government of Canada, we need access to the resources. – Cathy Towtongie, President, NTI, Committee Proceedings, 17 September 2003

We believe that we have as much history, adjacency to these stocks as our neighbours to the north and to the east, yet there is not a fair sharing of the resource. – Neil Greig, Adviser, Makivik Corporation, Committee Proceedings, 8 October 2003

How do you protect their interests and at the same time allow adjacent fishers in? – David Bevan, Director General, Resource Management Directorate, Fisheries Management, DFO, Committee Proceedings, 28 October 2003

In 0B, the TAC for turbot has remained unchanged since 1994. Nunavut currently receives 27.3% of the TAC, an amount it considers unfairly small when compared to provincial shares that exist elsewhere in the Atlantic fishing industry. Nunavut wants greater access, because fishing is one of a very limited number of ways of providing increased economic opportunities for Inuit and reducing dependence on social assistance.

(64) Minister of Fisheries and Oceans, Response to the Report of the Independent Panel on Access Criteria for the Atlantic Coast Commercial Fishery, 8 November 2002, http://www.dfo-mpo.gc.ca/afpr-rppa/IPAC_Pages/IPAC_Response_e.htm.

While southern interests are able to fish in the region on a seasonal basis, it was pointed out to us that none of Nunavut's residents hold Company Quotas or fishing licences in the competitive sector, nor do they have reciprocal access to more southern areas of the Atlantic fishery. Generally speaking, Nunavummiut did not asking for special favours or additional rights; they simply wanted to be treated fairly – not differently. The GEAC, for its part, argued that Canadian offshore groundfish companies were the ones who developed the turbot fishery “in good faith, pursuant to government policy.” On the subject of adjacency, DFO officials said that the Department was “moving as fast as it could, given the circumstances and the need to be fair.”⁽⁶⁵⁾

One way for Nunavut to increase its share of the fishery would be to purchase one or more company quotas and/or have existing groundfish licences in the competitive fishery transferred to territorial interests. The submission of the Nunavut Fisheries Working Group suggested that this could involve southern fishing enterprises that: had not shown a real financial commitment to the fishery; sold their quota to other Atlantic fishing concerns in return for royalties; and did not consistently participate in the fishery.⁽⁶⁶⁾ On the purchase and transfer of fishing access, witnesses from Nunavut criticized the federal policy that limits funding under the DFO's Aboriginal Fisheries Strategy (AFS) and Allocation Transfer Program only to regions where land claims settlements have not put in place. As such, Nunavut does not qualify for program assistance, even though the NLCA states that “nothing in the agreement shall affect the ability of Inuit to participate in and benefit from government programs for Inuit or aboriginal people” (Article 2.7.3).⁽⁶⁷⁾ Witnesses also asked that federal financial help be made available for buy-backs and/or licence transfers, similar to that provided to Aboriginal bands on the east coast as a result of the Supreme Court of Canada decision in the *Marshall* case. Following that decision in 1999, the DFO responded by beginning a process that provided the Mi'kmaq and Maliseet communities affected by the decision with increased access to the commercial fishery.

Witnesses from Nunavik in northern Quebec drew our attention to the fact that: Inuit in that region had not been able to obtain a groundfish licence through their land claims process; the only option available was the purchase of an existing licence(s); and Nunavik's 0B turbot quota was only 140 tonnes, or 2.5% of the TAC, despite having helped develop the fishery in northern waters in 1985 (in the area of 2G).

(65) *Committee Proceedings*, 28 October 2003.

(66) NFWG, Brief Submitted to the Committee, October 2003.

(67) In response to the Supreme Court's 1990 decision in *Sparrow*, the DFO launched the AFS in 1992. In 1994, the Department expanded the AFS to include the transfer of commercial licences to Aboriginal communities. The Allocation Transfer Program provides compensation to commercial licence holders who retire their licences, which are then reissued to Aboriginal groups.

In August 2002, the Government of Nunavut, Nunavut Tunngavik Incorporated and Makivik Corporation submitted a joint proposal to the Government of Canada, which would have changed Nunavut's share of 0B turbot (Appendix 2). The joint proposal contained three strategic components: securing Nunavik Inuit rights under a Nunavik Inuit Marine Region Agreement; providing a fisheries development strategy for the benefit of both Nunavut and Nunavik; and revising Article 15.3.7 of the NLCA to clarify Nunavut Inuit rights. Under the proposal, Nunavut's request for an 80-90% share of adjacent resources would have been reflected in the NLCA or in the Nunavik Marine Region Agreement. In its February 2003 response, the federal government indicated that it was not prepared to re-open the NLCA or address the proposal through Nunavik's Land Claim negotiations.

At 1,900 tonnes, Seafreez Foods Inc./Barry Group Inc. holds the most quota in 0B. The company indicated in its submission that it was "prepared to develop alliances with Nunavut interests to integrate fishing activity between 0A and 0B, which would be beneficial to both parties, given different fishing seasons," had "made proposals to transfer one of their licenses to a Nunavut corporation for the long term," but had yet to receive a reply.⁽⁶⁸⁾

C. Infrastructure

Ideally, the infrastructure of the fishing industry should be developed by the federal government ... – Sytukie Joamie, Committee Proceedings, 24 February 2004

[B]uild the wharves and they shall come. – Jerry Ward, Chief Executive Officer, BFC, Committee Proceedings, 4 November 2003

[A] number of important points have been made about the amount of funding that is devoted to fisheries infrastructure. Again, we seek equity ... – Michael d'Eça, Legal Adviser, NWMB, Committee Proceedings, 22 October 2003

Anybody who visits our northern communities will see 35- to 45-foot boats with holes in their sides because there is nowhere to land. – Carey Bonnell, Manager, Fisheries and Sealing, Nunavut DSD, Committee Proceedings, 22 October 2003

Significant investments must be made by the federal government to establish the basic infrastructure needed for fisheries development in Nunavut. If this does not happen, I fear we will be sitting before you five years from now with little progress to report. – The Honourable Olayuk Akesuk, Minister of the DSD, Government of Nunavut, Committee Proceedings, 22 October 2003

(68) Seafreez Foods Inc./Barry Group Inc., Brief submitted to the Committee, September 2003.

Participants in our meetings spoke a great deal about the need for improved physical infrastructure in Nunavut, which by national standards is woefully inadequate. While the fishery has the potential to generate employment in communities, at present Nunavut has no deep-water port facilities or small craft harbours, and no marine centres in support of either an inshore or an offshore fishing fleet. Onshore processing capability for turbot is limited to one fish plant in Pangnirtung. We heard that the development of the fishery would not be achieved without a major investment, and that there were three major infrastructure requirements: port facilities (the development of two to three small craft harbours); marine service centres in support of port facilities; and more processing capacity to support the development of the inshore sector.⁽⁶⁹⁾ Witnesses also mentioned the need for more adequate freezer facilities in the North.

According to the Department of Sustainable Development, approximately \$50 million for infrastructure investment is required to get the fisheries sector going. Several witnesses asked the federal government to make a major commitment towards infrastructure development in order to catch up with the rest of Canada and set the foundation of the northern economy. Committee members heard that while nearly \$56 million in spending had been announced for 2003-2004 for harbour developments and improvements in the rest of Canada, no commitments had been made in Nunavut despite repeated requests. The Nunavut Fisheries Working Group believed that much could be learned from the development of fishery-related infrastructure in northern Labrador, where tens of millions of dollars were invested in port and marine service facilities and processing plants, largely through federal/provincial cost-share agreements. As a result, northern Labrador was said to have a more significant fishery, with modern plants employing hundreds of people, mostly Aboriginal.⁽⁷⁰⁾

An interim report by the Conference Board of Canada in February 2004 reportedly concluded that: Nunavut's ability to take advantage of economic opportunities is at risk because of a huge infrastructure investment shortfall; and with the current annual capital budget of \$75 million, an annual infrastructure investment shortfall of \$40-\$50 million will be incurred over the next five years. On the subject of fisheries, the Conference Board concluded that without an adequate fleet of fishing vessels and appropriate marine and processing facilities, the benefits of fishing will remain limited, including the overall number of jobs.⁽⁷¹⁾

In February 2004, the DFO informed the Committee that: in the current fiscal environment, the policy of its Small Craft Harbours (SCH) program is to spend money at harbours it

(69) NFWG, Brief Submitted to the Committee, October 2003.

(70) *Ibid.*

(71) Arthur Johnson, "Study Predicts Huge Infrastructure Shortfall," *Nunatsiaq News*, 13 February 2004.

owns and focus its efforts on repairs rather than expansion; “Nunavut’s needs cannot be met within the scope of the current SCH program”; the Department had been investigating “how best to address the need for services not traditionally addressed through the existing SCH mandate”; and SCH “is providing technical support and advice for the strategic development of harbour infrastructure in Nunavut.” The Department also stated that it had been working “diligently with federal colleagues to attempt to secure access to infrastructure funding for harbours, especially Nunavut,” and that “there may be an opportunity to receive funding to develop harbours in the territories through the Northern Category of the Canada Strategic Infrastructure Fund.” In this regard, the DFO suggested that it was up to Nunavut to apply to Infrastructure Canada for the funding.⁽⁷²⁾

The following statement by Nunavut’s Minister of Sustainable Development encapsulates much of what we heard on infrastructure:

Picture your own coastal communities. Now, take away your harbours and port facilities, marine service centres, your core regional science programs, your Atlantic Canada Opportunities Agency funding and fisheries diversification programs. In your Atlantic Aboriginal communities, take away the Marshall decision and the Aboriginal Fisheries Strategy funding. Now imagine being told to develop your fisheries without these basic support structures in place. This is what we face in our attempts to develop a Nunavut-based fishing industry. – The Honourable Olayuk Akesuk, Minister of the DSD, Government of Nunavut, *Committee Proceedings*, 22 October 2003

D. Exploratory and Scientific Research

[A] solid scientific platform is the cornerstone of the successful development of any fishery throughout the world. Without it, true fisheries development cannot take place. – The Honourable Olayuk Akesuk, Minister of the DSD, Government of Nunavut, Committee Proceedings, 22 October 2003

Greenland does a lot of scientific research. [...] [I]n Nunavut, DFO spends just a fraction of what it spends in the south. – Gabriel Nirlungayuk, Director of Wildlife, Wildlife Department, NTI, Committee Proceedings, 17 September 2003

We have looked at what happened to the Newfoundland cod industry. [...] [W]e need scientific research so that we have the relevant data. – Cathy Towtongie, President, Nunavut Tunngavik Incorporated, Committee Proceedings, 17 September 2003

(72) Department of Fisheries and Oceans, Follow-Up to Senate Committee on Fisheries and Oceans, Annex C, “DFO’s Real Property Policies and Expenditures for Providing Infrastructure to Support a Fishery in Nunavut,” February 2004.

The development of the turbot fishery in 0A is of some concern to us, as it should be to others. – Neil Greig, Adviser, Makivik Corporation, Committee Proceedings, 8 October 2003

DFO will strive to provide scientific support towards emerging fisheries development initiatives in and adjacent to Nunavut and will strive to develop scientific capacity with regard to emerging fisheries within the Nunavut Settlement Area. – Canada-Nunavut MoU on Emerging Fisheries Development, August 2000

One message that emerged loud and clear in all of our discussions was the need for more exploratory research on the marine resources adjacent to Nunavut.

Participants in our inquiry: were of the view that the DFO had conducted far too few stock assessments in northern waters; stressed the importance of having a sound information base to avoid the risk of overharvesting; expected more exploratory fishing to take place in inshore and offshore areas to determine the optimal use of fishing vessels and fishing gear; and recommended that more studies be conducted to assess the long-term sustainability of commercial fishing in the North.

Committee members heard comments made about the small size of turbot being caught in the offshore turbot fishery, as well as divergent views on the life cycle and distribution of the fish. For instance, the GEAC's brief: advised Committee members not to view the 0A fishery in isolation from other fisheries in the Northwest Atlantic; argued that turbot in Subarea 0 is a component of a larger stock complex and that the TAC for turbot further south (in Subarea 2 and Divisions 3KLMNO) had been reduced by over 50% at NAFO's September 2003 Annual Meeting because of conservation concerns; and noted that the fish is generally believed to spawn in northern waters (Divisions 0A and 0B), with spawn and larvae drift bringing younger fish to southern areas (Division 3L) and with a general northern migration taking place as the fish age.⁽⁷³⁾ The DFO, for its part, stated that north-south stock interactions are at present unclear, and that it had not yet been determined that Division 0A is a nursery area for turbot.⁽⁷⁴⁾ We heard that the waters around Pond Inlet and Ellesmere Island had yet to be surveyed. On this point, the BFC's CEO asked that exploratory activity be conducted to find out if fishing is possible there.

Scientific activity was also considered essential to identify and develop new and emerging fisheries. In our meetings, witnesses from the North stated that they hoped to develop new and emerging fisheries (e.g., for clams, scallops and sea urchins) in order to generate much-needed economic benefits to local economies. Although relatively small and providing limited employment,

(73) The GEAC, Brief Submitted to the Committee, September 2003.

(74) *Committee Proceedings*, 28 October 2003.

the inshore Arctic char fisheries might also offer opportunities for further expansion and development in both harvesting and processing. As recognized in the DFO's *New Emerging Fisheries Policy*, "Provinces and Territories have an economic development mandate and, as such, have interest in the development of new fisheries that offer alternatives for the preservation and development of coastal regions and communities."⁽⁷⁵⁾ Once marine resources closer to shore are identified and assessed, an inshore fishery based on small vessels and on-land processing could also be developed, with major economic and employment benefits for Inuit.

For instance, we heard that research to date suggests that turbot entering Cumberland Sound do not migrate back out, and do not contribute to the overall population (or spawning stock) in the Davis Strait. If this finding is scientifically confirmed, a separate quota could then be established for the same reasons that NAFO agreed to create an independent management zone for Greenland's inshore fishery in Division 1A in 1994. In Greenland, along its northwestern fjords, the inshore fishery harvested approximately 20,000 tonnes of turbot in 2002. In fact, when the TACs for turbot in Subareas 0, 1 and Division 1A are added together, Greenland has about a 75% share of the fishery in the region.

In August 2000, the federal Minister of Fisheries and Oceans and Nunavut's Minister of Sustainable Development signed a Memorandum of Understanding to strengthen cooperation on emerging fisheries development (Appendix 3). The two governments pledged to cooperate on maximizing marketing opportunities, promoting regional development, encouraging public and private-sector cooperation, and ensuring the most sustainable and economically viable use of under-exploited fishery resources for the benefit of Nunavut. That year, the DFO also undertook to provide scientific support and develop scientific capacity, with the Government of Nunavut assisting in data collection, evaluation and analysis of results.

In February 2002, this Committee reported that from the standpoint of new commercial fisheries, the marine waters off Baffin Island offered the best potential for development, but that scientific knowledge about species such as snow crab, sea urchins, clams, turbot, shrimp and marine plants was very limited. The Committee stressed that there was a lack of experimental and exploratory activity, and asked the federal government to move and operationalize the August 2000 MoU, in which the DFO agreed to: support the priorities of the Government of Nunavut in the pursuit of fisheries-related economic development funding from other agencies; and work towards the development of capacity amongst Nunavummiut in all shore-based and at-sea aspects of the fishery through education, training and development. The Committee also recommended that federal

(75) DFO, *New Emerging Fisheries Policy*, September 2001.

funding for multi-year, fish stock assessments in support of fisheries co-management in the North be increased.⁽⁷⁶⁾ Later that year, the Independent Panel on Access Criteria remarked that “the Minister’s decision with respect to turbot in division 0A and the recent Canada-Nunavut Memorandum of Understanding on Emerging Species Development [were] positive steps in the right direction.”

In our 22 October 2003 meeting, Nunavut’s Minister of Sustainable Development categorized the MoU as “an example of a policy that looks great in principle,” but also one that the Department had failed to take to the operational phase. He also criticized the DFO for not having a strategy or approach for dealing with Nunavut’s emerging fishing industry.⁽⁷⁷⁾

DISCUSSION AND CONCLUSION

Many of the barriers that I came across are within Nunavut. To be frank, when I first started this enterprise, I thought I would be fighting against southern companies. – Leesee Papatsie, Owner, Jencor Fisheries, Committee Proceedings, 17 September 2003

[F]actory freezer trawlers cannot create employment in the communities that are adjacent to NAFO Subarea 0 and it is also known that only small vessels can bring employment to the community. – Morrissey Kunillusie, Vice-Chair, Nattivak HTO, Committee Proceedings, 24 September 2003

More people can fish with smaller boats. – Steven Aipellee, Chair, Namautaq HTO, Committee Proceedings, 24 September 2003

[I] cannot go to a meeting of the BFC. I was kicked out of a BFC meeting two weeks ago. [...] If [the] BFC does not fix itself by May 28, 2004 [...] it will keep running away. Somebody in authority should do something ... – Sytukie Joamie, Committee Proceedings, 24 February 2004

[N]either the Department’s reports to Parliament nor its Fishery of the Future strategy reflect any consideration of the social implications of fishery management decisions. – Report of the Auditor General of Canada, April 1999, Chapter 4, paragraph 4.22

In our meetings, witnesses from the North all agreed that employment for Inuit was the main goal in developing the turbot fishery. There was also agreement that Nunavut’s fishery should or would in future be owned and operated by Inuit, and that Nunavut needs to own its own vessels if it is to control its destiny and provide employment. However, there was less consensus on how to achieve the employment objective. There remain basic questions for Nunavut to decide. For instance: “What should the fishery look like in three, five or ten years?” Or “What role should the

(76) Senate Committee on Fisheries, *Selected Themes on Canada’s Freshwater and Northern Fisheries*, <http://www.parl.gc.ca/37/1/parlbus/commbus/senate/com-E/fish-e/rep-e/repintfeb02-e.htm>.

(77) *Committee Proceedings*, 22 October 2003.

Baffin Fisheries Coalition assume if exploratory fishing in 0A progresses to the commercial stage?” Based on what we heard, information must be more readily shared with Inuit during that decision-making, and their views must be actively sought. The process needs to be much more participative and inclusive – ironically, the very type of consensus-seeking that Inuit themselves have practised for centuries.

Inuit comprise 85% of Nunavut’s population, so that the Territory’s unique social and cultural setting must also be fully taken into account. Among the values driving economic development in Nunavut today, the Conference Board of Canada recently identified: a collectivist approach and strong belief that economic opportunities should be shared among all communities; greater self-reliance; Inuit traditional knowledge and consensus-building in reaching decisions; and economic development focused primarily at the community level. In examining the traditional and wage-based sectors of the economy, the Conference Board concluded that Nunavut’s future depended on both, and that reliance on only one was not feasible from a socio-economic perspective.⁽⁷⁸⁾ It may also be pointed out that Nunavummiut are the most generous and charitable people in Canada.⁽⁷⁹⁾ With respect to their fledgling commercial fishery, we believe there exists a real opportunity at this juncture to set a new standard in wealth creation and in fisheries management.

Although not a requirement under the Nunavut Land Claim Agreement, the DFO delegates to the Nunavut Wildlife Management Board responsibility for allocating Nunavut’s share of commercial fish quotas beyond 12 miles, outside the Nunavut Settlement Area. The DFO sets the Total Allowable Catch, but the Nunavut Wildlife Management Board decides who should receive quotas. While the Committee is supportive of the federal Minister of Fisheries and Oceans’ decision to allocate 100% of the 0A turbot quota to Nunavut, we are less enthusiastic about the NWMB’s decision to reallocate the entire amount to the Baffin Fisheries Coalition. *The NWMB’s decision excludes prospective individual Inuit fishers, joint ventures and communities from the fishery.* We even heard that the BFC competes against some of its own Inuit member organizations for quota.

Exploratory licences are issued by the DFO for one year to determine whether a species or stock can sustain a commercially viable operation, and to collect biological data and build a preliminary database. If fishing is successful and sustainable, they are renewed the following year. From what we have been able to ascertain, the NWMB has allocated 0A turbot over more than one year in the manner of a commercial quota (e.g., a Company Quota), assigning it to the Baffin Fisheries Coalition, which operates within the framework of a multi-year business plan.⁽⁸⁰⁾ This does not appear to be in line with federal policy.

(78) Conference Board of Canada, *Nunavut Economic Outlook: An Examination of the Nunavut Economy*, May 2001, p. 57.

(79) Statistics Canada, *The Daily*, “Charitable Donors,” 29 October 2003, <http://www.statcan.ca/Daily/English/030929/d031029b.htm>.

(80) The NWMB’s policy since 2002 is to set fish allocations over a three-year period. The reason given was to cut down on staff workload and unnecessary paperwork (“It takes a lot of time for our staff and also for the participants to write the applications every year”).

On marine fish allocations, the NWMB's policy states that: exploratory licences or allocations are not to be considered to provide any guarantee of a permanent licence or allocation in the fishery (criterion #1); and access to exploratory or emerging fisheries should not be exclusive to the first applicant (criterion #4) – a statement that seems to imply that more than one applicant is desirable. With respect to licensing, the DFO's *New Emerging Fisheries Policy* stipulates that: “scientific licence holders (stage I) will be given priority for exploratory licences (stage II)” and “exploratory licence holders (stage II) will be given priority for regular licences (stages III),” once exploratory fisheries reach the commercial stage.⁽⁸¹⁾ On this aspect of the federal policy, it may be pointed out that the scientific (test fishing) phase of the 0A fishery was conducted until 2000 by parties other than the BFC, which however receives the entire exploratory allocation.

With regard to Division 0B, we heard that Nunavut interests could not meet the eligibility criteria of the DFO's Northern Turbot Development Program of the early 1990s,⁽⁸²⁾ and that, because of their limited involvement in the early developmental stage, their participation had since been limited because southern interests were able to claim “historical attachment” to the resource. We hope a similar inequitable outcome will not be repeated in 0A, a region where prospective Inuit fishers, fishing enterprises or communities have yet to be given an opportunity to participate in the fishery.

Concerns were expressed during our inquiry about the direction and control of the Baffin Fisheries Coalition. Testimony and written submissions suggested that the BFC needs to do a much better job of informing people of its activities, as many do not understand the Coalition's mandate or objectives. It also needs to be more accountable to the Inuit organizations that make up the Coalition. We heard that the BFC had not shared information on its plans and decisions with all of them.

Questions were raised about the BFC's five-member executive, how it was created and how the directors were appointed. As well, we heard that although the directors who originally signed the MoU in 2001 are NLCA beneficiaries, their views are not necessarily representative of the other six Coalition members. It was suggested that the 2001 MoU needs to be rewritten before its expiry on 28 May 2004, to more clearly recognize the fact that the Coalition exists to further the interests of all its member organizations, which are in turn acting on behalf of Inuit. Written submissions to the Committee asked that a much more transparent process be put in place when the BFC makes its annual Call for Proposals to fish 0A turbot. The reason given was the need to ensure that the people of Nunavut are receiving the best possible returns from their turbot allocation.

(81) DFO, *New Emerging Fisheries Policy*, September 2001, http://www.dfo-mpo.gc.ca/communic/fish_man/nefp_e.htm.

(82) The criteria were said to have favoured southern Atlantic groundfish licence holders and fishing concerns with onshore processing facilities.

That said, *no one in our hearings specifically asked that the BFC be abolished*. As a vehicle to “jump start” Nunavut’s fledgling fishery, the BFC appears to have played an important role in exploratory fishing, because fisheries-related infrastructure – fishing vessels, wharves, breakwaters, and processing and storage facilities – is sorely lacking in Nunavut. We view it as significant that the 0A fishery will be fully Canadianized in 2004 (the Committee was told that foreign vessels would no longer be employed), because royalty arrangements with foreign vessels provide few benefits in terms of onshore processing for Nunavut or the Atlantic fishing industry.

The NWMB’s policy on commercial fish allocations states that exploratory licences are to be reviewed annually by the Nunavut Fisheries Working Group (criterion #6), an *ad hoc* board purporting to consist of representatives of the Department of Sustainable Development, Nunavut Tunngavik Incorporated and the Nunavut Wildlife Management Board. DFO staff in Iqaluit were also said to have a key advisory role. The NFWG, which has no chair or spokesperson, was described as having worked very effectively in the past several years, and as having been instrumental in forming the Baffin Fisheries Coalition. In at least two presentations – one given to the Government of Nunavut on 2 October 2002 and the other given to Nancy Karetak-Lindell, Member of Parliament for the constituency of Nunavut, and Senator Willie Adams of the Senatorial Division of Nunavut Territory, on 8 January 2003 – the BFC indicated that it, too, was a member of the NFWG. This fact is of concern to the Committee, as it may pose a conflict of interest.

We learned in our deliberations that the Baffin Fisheries Coalition was planning to purchase, at considerable cost, a large factory vessel to further develop Inuit fishers’ experience and expertise by training and employing them as crew. In contrast, we heard that Inuit typically do not wish to be away from home and family for extended periods of time – sometimes for up to two months – on factory boats. For its part, the BFC believed this sticking point could be addressed through better job orientation and training, and also asked that funding be made available under the Aboriginal Skills and Employment Partnership (ASEP) program⁽⁸³⁾ in order to develop and maintain its training program for Inuit. The Committee also heard that the BFC’s revenues in the offshore could in future fund the development of the inshore fishery, and that *there could be a substantial inshore fishery in Nunavut within the next three to five years*.

(83) With total funding of \$85 million, the ASEP program announced on 3 October 2003 is a five-year initiative designed to promote maximum employment for Aboriginal people in major economic developments across Canada, and provide lasting benefits for Aboriginal communities, families and individuals. Government of Canada, “Government of Canada announces Aboriginal Skills and Employment Partnership program,” News Release, 3 October 2003.

In contrast, the testimony of Inuit community representatives suggests that fisheries-related *employment created by factory vessels will not be sufficient, nor will it come about soon enough*. The presentations of the HTOs in Qikiqtarjuaq and Clyde River were especially revealing because of their past involvement in the 0B offshore fishery since 1997. Committee members were made aware of their plans to develop their own small-boat fishing capability to fish in 0A, either by repairing existing small vessels or by purchasing new ones. Their clear preference was for small-boat, community-based fishing, a completely different strategy than that of purchasing a factory trawler to create employment. *We find it troubling that the views of the two HTOs are so notably different from the development strategy pursued by the BFC, the very organization that purports to act on their behalf. We were equally perplexed to hear that Inuit who had been trained by the BFC to work on factory boats desired to own their own fishing vessels and make livelihoods in the fishery as independent fishers.*

The evidence suggests that there are two very different and competing visions for Nunavut's fishery. The first is based on what may be described as the *industrial fisheries* model – mechanized, capital-intensive fishing, usually having a high production requirement. Industrial fishing represents the majority of activity now taking place in Nunavut: large vessels from elsewhere catch Nunavut's turbot allocation in exchange for seasonal employment for a few Inuit crew, and royalties. The second type of fishery, which many witnesses hoped for, may be categorized as *smaller-scale fishing*,⁽⁸⁴⁾ or “inshore fishing,” typically involving fishing households, smaller vessels and amounts of capital, and shorter fishing trips closer to shore. Some of the advantages include: less sensitivity to changes in operating costs; more flexibility in adapting to changes in market conditions or fish stock abundance; and more employment created in coastal communities adjacent to the resource.⁽⁸⁵⁾ There are other benefits as well. For instance, the DFO's 2002 framework for new or additional access in Atlantic fisheries states that the adjacency criterion “is based on the implicit assumption that access based on adjacency will promote values of local stewardship and local economic development,” and that adjacency is most compelling in the case of inshore fisheries.⁽⁸⁶⁾

(84) United Nations Atlas of the Oceans, “Types of Fisheries,” http://www.oceansatlas.com/world_fisheries_and_aquaculture/html/tech/capture/typesoffi/default.htm.

(85) In 1993, this Committee published a report that outlined some of the basic differences between the “inshore” (small boat) and “offshore” (trawler) sectors of the Atlantic groundfish fishery. We noted statistics compiled by the DFO showing that the offshore sector, which had half of the groundfish TAC, had generated only 5% of fishing-related employment in the Atlantic region. The inshore sector, which had the other half of the TAC, had generated 95% of the jobs. Standing Senate Committee on Fisheries, *Report on the Atlantic Commercial Inshore Fishery*, June 1993. See also Karl Laubstein, “Canada's Atlantic Fisheries: The Role of the Inshore Section,” *Maritime Affairs Bulletin*, No. 2, 1989.

(86) The DFO framework applies to fisheries that have seen substantial increases in stock levels or landed value. As a fishery moves away from shore, adjacency as the only criterion for decisions becomes harder to justify, and other criteria must also be considered, such as historic dependence. DFO, *New Access Framework*, November 2002, http://www.dfo-mpo.gc.ca/communic/fish_man/frame-cadre/access_framework_e.htm.

In November 2003, the Minister of Fisheries and Oceans released a discussion paper, *Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries*, within the context of the AFPR. Consultations were conducted in January 2004 “to explore options aimed at developing specific measures to strengthen the vitality of inshore fleets,” which the Minister described as being “the backbone of the fishing industry.”⁽⁸⁷⁾ In the context of Nunavut, small-scale fishing would also constitute more culturally acceptable employment, and afford Inuit the opportunity to exercise traditional skills and maintain a traditional lifestyle. This is especially important for unilingual Inuit, who have the highest level of unemployment, but who are at the same time the most skilled at living off the land and sea and at providing for their families and their communities, and whom Inuit society considers to have a priority right over the harvesting of fish and wildlife in Nunavut. As such, unilingual Inuit have an integral and important role to play in planning the future fishery.

In Canada and around the globe, the various types of fisheries management systems generally fall within two categories: competitive fisheries; and systems of individual quotas, which may be allocated to individuals, companies (e.g., Company Quotas) or geographically defined communities, which then assign fishing rights to individuals. In 0A, the exploratory turbot quota is allocated in the manner of a Company Quota.⁽⁸⁸⁾ In the 0B competitive fishery, none of Nunavut's residents hold a competitive fishing licence, so that Nunavut has no historic catches. The NFWG's written submission expressed concern that the DFO might eventually want to introduce IQs in Division 0B. Given the severe budgetary constraints faced by the DFO, that worry appears justified, because IQ-managed systems are generally regarded as being less costly to manage.⁽⁸⁹⁾ In 0B, the 1,500-tonne Nunavut quota is allocated to six community-based entities. However, the amount of fish is too small to conduct viable fisheries. More importantly, three of the six entities – Pond Inlet, Clyde River and Qikiqtarjuaq – are actually located next to Division 0A, at a considerable distance from 0B.⁽⁹⁰⁾

(87) DFO, *Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries*, Discussion Document, November 2003, http://www.dfo-mpo.gc.ca/afpr-rppa/Doc_Doc/discodoc2003_e.htm.

(88) In 0B, Company Quotas were formerly developmental allocations.

(89) The concept of property in fisheries may be viewed as falling along a continuum, from open access, unrestricted or unregulated fisheries, to regulated common property fisheries (e.g., when access is restricted to those holding permits), to privatized or exclusive fisheries.

(90) On the subject of community allocations, the Alaskan system of Community Development Quotas (CDQ) was mentioned in our hearings. Instituted in 1992, the goal of the CDQ program is to assist isolated communities in western Alaska to develop local infrastructure and expertise in support of the long-term participation of Aboriginal Alaskans in fisheries traditionally dominated by non-local interests. CDQ groups are reported to have channeled significant resources toward fisheries-related infrastructure development. Northern Economics Inc., *An Assessment of the Socioeconomical Impacts of the Western Alaska Community Development Quota Program*, Prepared for the Alaska Department of Community and Economic Development, Division of Community and Business Development, November 2002, <http://www.cdqdb.org/reading/studies/neicdqreview.pdf>.

In our study, we looked at the feasibility of community-based fishing in small boats close to shore. Interestingly, a review of the BFC's catch reports in 0A, from August 2003 to October 2003, showed that the largest single daily catch (by weight) of turbot was recorded less than 30 miles from Clyde River. Fishing reports near Pond Inlet and Qikiqtarjuaq were no different. These data strongly suggest that with the proper infrastructure in place (vessels, storage facilities and transportation), small-boat fisheries are an economically viable option. *The presence of large numbers of turbot so close to shore, if confirmed, raises the question of the suitability and reasonableness of developing fishing capacity based on the use of one or more large vessels.*

With respect to the issue of "adjacency" in 0B, we were advised that the Government of Canada has four interrelated obligations under Article 15.3.7 of the NLCA: recognition of the importance of the adjacency principle; recognition of the importance of the principle of economic dependence of communities on marine resources; giving special consideration to both principles when allocating commercial fishing licences; and applying them in a way that promotes a fair distribution of licences between residents of the Nunavut Settlement Area and the other residents of Canada. In our meetings, we were asked to use these obligations as a yardstick to measure the fairness of current allocations and benefits to Nunavut fishers.⁽⁹¹⁾ When viewed in the context of the Atlantic fishery, as a maritime jurisdiction, Nunavut has an unreasonably small (27.27%) share of the 0B fishery – one that has remained unchanged since the mid-1990s. Moreover, none of Nunavut's residents hold company quotas or even a licence in the competitive sector, which severely limits Nunavut's ability to build vessel capacity.

The Groundfish Enterprise Allocation Council, in its written submission, cautioned that "If any one interest, or if any one Senate or Commons committee can review and unravel percentage shares and quota sharing plans based on a snapshot review of circumstance, the fishing industry of Canada will ultimately be relegated to be an instrument of social policy."⁽⁹²⁾ DFO officials similarly stated that reassigning 0B turbot to Nunavut would be contrary to the Department's objective of bringing about "conservation and sustainable use," "self-reliant fisheries," "shared stewardship," and "stable and transparent access and allocation processes" – said to be the four generally agreed-upon "policy anchors" that had so far resulted from the Atlantic Fisheries Policy Review consultation process (although these were "still under consideration"). It was also pointed out that the last three Ministers of Fisheries and Oceans had agreed on the need to set fleet shares in individual fisheries for longer terms (i.e., multi-year fishing plans), rather than having to consider new arrangements each year. In this regard, the DFO's position is consistent with the views expressed in the Department's 2001 AFPR discussion paper, in which it is suggested that:

(91) Michael d'Eça, Legal Adviser, NWMB, *Committee Proceedings*, 22 October 2003.

(92) GEAC, Brief Submitted to the Committee, September 2003.

co-management could be expanded, because DFO no longer has the resources to regulate and monitor every fishing activity; the Department would remove itself over time from having to make decisions on commercial allocations, because of criticism that those decisions are “political;” and these changes would be conditional on the recognition of sharing arrangements and the fixing of fleet shares for longer terms, with some exceptions.⁽⁹³⁾

On 25 March 2004, a few days before the Committee submitted its report, the Minister of Fisheries and Oceans released *A Policy Framework for the Management of Fisheries on Canada’s Atlantic Coast*. Described as “the first comprehensive blueprint to guide fisheries management on Canada’s Atlantic coast,” the Policy Framework is the culmination of Phase I of the Atlantic Fisheries Policy Review. Phase II is expected to focus on the implementation of specific policies or programs. Also announced was the “stabilization” of existing sharing arrangements in 29 Atlantic fisheries for 2004, including “Area 0 turbot” off Nunavut.⁽⁹⁴⁾ In order to circumvent the annual debate over resource shares, the DFO proposed that they be established for longer terms: “In fisheries where allocation arrangements are already in place through fisheries management plans and where the resource is relatively stable, the goal is to ensure that the same commercial harvesting groups will get the same proportion of the Total Allowable Catch each year.”⁽⁹⁵⁾ With respect to Nunavut, the Department indicated that its concerns, as a new territory, would be addressed.⁽⁹⁶⁾

Nunavut’s access to and share of the 0B fishery could be increased by buying out or transferring fishing licences held by southern concerns with no real financial commitment to the fishery and that reallocate their quota on a royalty basis to others in the Atlantic fishery. Because of the likely high costs of this approach,⁽⁹⁷⁾ witnesses asked that federal financial help be made

(93) DFO, Atlantic Fisheries Policy Review, http://www.dfo-mpo.gc.ca/afpr-rppa/FAQs_e.htm.

(94) DFO, “Regan Releases Atlantic Fisheries Policy Framework and Stabilizes Sharing Arrangements for 2004,” News Release, 25 March 2004, http://www.dfo-mpo.gc.ca/media/newsrel/2004/hq-ac27_e.htm.

(95) DFO, *A New Policy Framework for the Management of Fisheries on Canada’s Atlantic Coast*, March 2004, http://www.dfo-mpo.gc.ca/afpr-rppa/Doc_Doc/policy_framework/Policy_Framework_e.pdf.

(96) DFO, “Fisheries Arrangements Stabilized for 2004,” Backgrounder, March 2004, http://www.dfo-mpo.gc.ca/media/backgrou/2004/hq-ac27a_e.htm.

(97) Commercial fishing permits are treated as private property; this subject was discussed at length in our 1998 study on *Privatization and Quota Licensing in Canada’s Fisheries*. In that report, we recommended, among other things, that: the DFO more thoroughly consider the long-term social and economic effects of IQ licences on Canada’s coastal communities, Aboriginal and other, and not extend them until the needs of coastal communities, Aboriginal and other, have been fully assessed; the DFO issue a clear, unequivocal and written public statement on whether it views Canada’s commercial fisheries as primarily industrial or rather as the economic basis of a traditional Canadian way of life; and the Department more equitably distribute the resource in order to allow small-scale fishers a better opportunity of participating in the fisheries. Standing Senate Committee on Fisheries, *Privatization and Quota Licensing in Canada’s Fisheries*, December 1998. <http://www.parl.gc.ca/36/1/parlbus/commbus/senate/com-e/fish-e/rep-e/rep03dec98-e.htm#TABLE%20OF%20CONTENTS>.

available, such as that provided to Aboriginal bands on the East Coast as a result of the Supreme Court of Canada decision in the *Marshall* case, or assistance under the DFO's Aboriginal Fisheries Strategy and Allocation Transfer Program. With regard to the AFS program, some witnesses criticized federal policy that limits funding only to regions where land claims settlements have not been put in place, even though the Nunavut Land Claim Agreement states that "nothing in the agreement shall affect the ability of Inuit to participate in and benefit from government programs for Inuit or aboriginal people" (Article 2.7.3).

Committee members note that Nunavut's share of 0B turbot could increase in another, perhaps less obvious, way. Turbot in the fjords of northwestern Greenland are considered to be resident stock: studies have shown that, once the fish have migrated into the fjords, they do not intermingle with outside populations and therefore do not contribute to the spawning stock in the offshore. Accordingly, in 1995, a separate management unit with a separate TAC was established for the inshore area of NAFO Division 1A. Significantly, the inshore fishery in 1A harvested approximately 20,000 tonnes of turbot in 2002. In fact, when the TACs for turbot in Subareas 0, 1 and Division 1A are added together, Greenland has about a 75% share of the fishery in the region. Off Nunavut, in inshore waters, a tagging study conducted in Cumberland Sound reportedly pointed to a similar resident turbot population. This could mean that a separate management unit, similar to the one in 1A, could be established close to shore, with all the much-needed economic benefits that such an arrangement may bring.

In our meetings, concerns were frequently raised about the inadequate amount of scientific and exploratory research being conducted in the North. For instance, relatively little is known about turbot, such as the fish's timing and location of spawning and migration patterns. However, we do have a three-year history of successful fishing in very close proximity to the communities of Pond Inlet, Clyde River and Qikiqtarjuaq. Obviously, research should be a top priority in the Arctic, where the marine ecosystem is characterized by relatively simple food webs, long food chains supporting top predators, long-lived species with low reproductive rates, and lower biological productivity overall, because of the cold climate. Scientific and exploratory research was also said to be essential to identify new fisheries, and to ensure their long-term sustainability.

Another priority should be the use of longliners, instead of trawlers. As the word implies, longlining involves the use of long lines with a series of baited hooks spread along the ocean floor. This method of harvesting fish is generally considered to be less harmful to the ocean bottom, more selective in terms of fish size, more labour intensive, and results in higher quality catches and higher returns.

While greater catches are important, infrastructure is needed to make them more profitable. Without infrastructure, the royalty feature of Nunavut's fishery – selling “fish in the water” – will continue to be the main method of conducting the fishery. The resource will thus generate fewer economic benefits than if it were directly harvested and processed by Nunavummiut themselves. In considering possible ways of overcoming the infrastructure barrier, Committee members were made aware of a proposal to develop community-based fishing in Clyde River and Qikiqtarjuaq that would require a 1,000-tonne quota of 0A turbot, and involve the use of one or more vessels to collect, freeze and deliver catches to southern ports, and to re-provision smaller, community boats with ice and supplies on their way back. In exchange for the service provided and to reduce costs, the vessel(s) could be allowed to harvest a portion of that quota.⁽⁹⁸⁾

Broadly speaking, witnesses from the North expressed their deep frustration about what they viewed as a lack of federal commitment to the region. Their dissatisfaction was particularly evident on the subject of infrastructure. We heard that very little had been done over the years to address what was called “Nunavut's infrastructure deficit,” that Nunavut had in fact been excluded from the DFO's Small Craft Harbours (SCH) program, and that, while nearly \$56 million was announced for harbour developments and improvements in the rest of Canada in 2003-2004, nothing has been committed for Nunavut.

Inuit in Nunavut and neighbouring Greenland share a common Inuit identity, with many Nunavummiut having relatives in that jurisdiction and vice-versa. They speak closely related languages, consider themselves to be one people, and share a common marine resource in the Davis Strait and Baffin Bay. However, the similarity ends with the fishery resource. Nunavut's fishing industry pales by comparison with that of Greenland; the major reason has been the Danish and Home Rule governments' historic economic support of the fishery (e.g., low-cost loans to fishers, and significant investment in infrastructure and science). In Greenland, the fishing industry is the most important economic activity, with shrimp, turbot and crab being the major species harvested. Approximately 6,500 people – mostly Inuit – are employed in the industry. The fleet consists of over 300 fishing vessels, and the official unemployment rate is 10%.⁽⁹⁹⁾ Along the northwestern coast, in inshore waters, Greenland's catch of Division 1A turbot was approximately 20,000 tonnes in 2002. In Nunavut, on the other hand, approximately 100 people are employed in fishing and processing, and last year's total catch of turbot (in 0A and 0B) was less than 6,000 tonnes.

(98) Clyde River Hunters and Trappers Association, *Development of Community-Based Fishing Fleet and Processing Facilities on Baffin Island: Conceptual Plans for Discussion With Community Leaders*, October 2003.

(99) Greenland has a population of 56,000 people. See the Danish Presidency, “Greenland in Brief,” <http://www.eu2002.dk/EU2002/denmark/default.asp?MenuElementID=6117>.

In our February 2002 report, this Committee asked the Government of Canada to proceed with operationalizing the Memorandum of Understanding on Emerging Species Development it signed with Nunavut in August 2000. In that agreement, the federal government, as represented by the DFO, pledged, with much fanfare, to support the Government of Nunavut's pursuit of fisheries-related economic development funding from other agencies, and to work towards the development of capacity amongst Nunavummiut in all shore-based and at-sea aspects of the fishery through education, training and development. We were disappointed to hear the Nunavut Minister of Sustainable Development tell us in October 2003 that the MoU had not been operationalized, and that the DFO had no strategy or approach for dealing with Nunavut's emerging fishing industry.

In the North, on a number of fronts, the Committee would like to see a more strategic and regional approach, such as that proposed by the Government of Nunavut, Nunavut Tunngavik Incorporated and Makivik Corporation in August 2002 (Appendix 3), but which was rejected by the federal government in February 2003. We view greater federal support and a more sizeable federal commitment as a form of nation-building. Sooner or later, the federal government must commit itself financially to the North. A delay in this investment will prove costlier in the long run in terms of lost economic opportunities.

RECOMMENDATIONS

- 1. The Committee recommends that the Department of Fisheries and Oceans continue to assign 100% of the 0A exploratory turbot allocation to Nunavut.**
- 2. The Committee recommends that the Nunavut Wildlife Management Board, in planning the future Nunavut fishing industry, consider instituting small-vessel community fisheries. The Baffin Fisheries Coalition (BFC) should reconsider its fishery development strategy and plan for their development.**
- 3. The Committee recommends that the Government of Canada, as represented by the Department of Fisheries and Oceans, move to operationalize the Memorandum of Understanding on emerging fisheries it signed with the Government of Nunavut in August 2000 by committing adequate funds to a first-ever federal-territorial, cost-shared, fisheries development agreement. The agreement should include a federal government commitment to funding a multi-year research program, and an investment in at least two harbour developments in Nunavut.**
- 4. The Committee recommends that the Department of Fisheries and Oceans provide Nunavut's communities with information in the form of charts indicating where Division 0A turbot were caught in the exploratory fishery in**

2001, 2002 and 2003, and the amount of fish harvested at each location. Another important step in instituting community fisheries would be to conduct an inventory of community assets to determine fisheries-related infrastructure requirements. Communities might want to call on the experience of those involved in community-based fisheries in place elsewhere in Canada.

5. The Committee recommends that, if foreign vessels are required to fish 0A turbot, the Department of Fisheries and Oceans permit their use only if they are longliners harvesting on behalf of Inuit communities or companies designated by Nunavut Tunngavik Incorporated in adjacent waters. Additionally, the vessels should be crewed entirely by Canadians, at least half of whom should be Inuit; they should be required to land their catches at Canadian ports; and they should identify “Nunavut” on their product labels.

6. To ensure accountability and transparency, the Committee recommends that BFC members revise the BFC Memorandum of Understanding, and consider including the following elements:

- (a) a restructured executive to better represent Inuit community interests;
- (b) the requirement that decisions relating to tenders and the distribution of BFC funds be made by all BFC members; and
- (c) the right of all BFC members to have access to all financial statements and documents relating to the Coalition’s activities and operations, including documents pertaining to past tenders and contracts.

7. If agreement on a fishing plan and changes or modifications to the BFC’s Memorandum of Understanding cannot be achieved by 28 May 2004 (recommendation #6), the Committee recommends that the current MoU be extended for one year.

8. To better inform everyone about its activities, the Committee recommends that the Baffin Fisheries Coalition publish an annual report; the report would include the BFC Memorandum of Understanding, an outline of the organization’s structure, plans and activities, the number of Inuit employed, and audited income and financial statements. The report should be made publicly available in Inuktitut, English and French.

9. The Committee recommends that the Nunavut Fisheries Working Group (NFWG) not be involved in conducting annual reviews of exploratory licences (criterion #6 of the Nunavut Wildlife Management Board’s (NWMB) policy on commercial fish allocations) until the Group’s authority is formally confirmed by the organizations that make up its membership. The Baffin Fisheries Coalition should not be a member of the NFWG, as this might pose a conflict of interest.

10. The Committee recommends that the Department of Fisheries and Oceans continue its policy that no new access to 0B turbot be given to non-Nunavut interests until Nunavut has achieved a major share of that fishery, as recommended by the Independent Panel on Access Criteria and accepted by the Minister of Fisheries and Oceans in November 2002.

- 11. The Committee recommends that in Division 0B, the Department of Fisheries and Oceans make funding available to Nunavut for the purchase of one or more company quotas and/or groundfish licences in the competitive fishery.**
- 12. The Committee recommends that exploratory fishing in Cumberland Sound be stepped up to determine whether a separate management zone should be established.**
- 13. The Committee recommends that the Department of Fisheries and Oceans review the NWMB's allocation criteria for established and emerging/exploratory fisheries outside the Nunavut Settlement Area to ensure that they are consistent with the Department's own framework.**
- 14. The Committee recommends that the Department of Fisheries and Oceans regularly monitor the economic and social benefits received by Inuit in Nunavut's fishing industry, and report to Parliament.**

APPENDIX 1

NWMB Policy on Commercial Marine Fish Allocations Inside and Outside the NSA

Allocation Criteria – Established Fisheries:

[... The] NWMB will use the following criteria in evaluating applications for quotas in fisheries with established commercial quotas:

1. Adjacency to the fishing area. Communities closest to the fishing area will have priority over those farther from the fishing area (in accordance with principle 3 above);
2. Ownership/sponsorship of the economic enterprise applying for the quota – RWO/HTO ownership/sponsorship (in accordance with principle 2 above), ownership by a resident of Nunavut (in accordance with principles 5 and 6 above);
3. History in the fishery including past demonstrated ability to harvest quotas allocated to the applicant (in accordance with principles 2 and 4 above);
4. Economic dependency on marine resources. While the NWMB recognizes that all communities in the NSA are dependent on marine resources, for the purpose of deciding upon allocations among NSA applicants and communities, those applicants and communities with a dependence on the fishery will have priority over new applicants (in accordance with principles 2 and 4 above);
5. Employment provided to Nunavut residents, especially Inuit, in both the harvesting and processing phases (in accordance with principle 6 above);
6. Training provided to Nunavut residents, especially Inuit, in both the harvesting and processing phases (in accordance with principle 6 above);
7. Other economic benefits to Nunavut residents, especially Inuit (in accordance with principle 6 above);
8. Harvesting method (in accordance with principle 1 above);
9. Compliance with any management plan, conservation plan or harvesting plan approved by the NWMB (in accordance with principle 1 above).

The NWMB will take the combination of the above factors into account in reviewing all applications.

Review Criteria – Emerging/Exploratory Fisheries:

These fisheries are new fisheries. No proponent will have a history in the proposed fishery. However, the same principles will govern the Board's review of these applications. Emerging fisheries/exploratory fisheries will require time to prove the level of resources available. The following criteria will be used by the NWMB in evaluating proposals for these fisheries and in making decisions or recommendations on these fisheries:

1. Any exploratory licence/allocation should not be considered to provide any guarantee of a permanent licence/allocation in the fishery;
2. Any decisions on permanent licences/allocations will not be approved until the exploratory fishery has provided results on which long-term sustainable quotas can be set (in accordance with principle 1 above);
3. Participation in the exploratory fisheries should be restricted to Nunavut companies or to Nunavut interests joint-ventured with southern interests (in accordance with principles 2, 3, 4 and 5 above);
4. Access to exploratory/emerging fisheries should not be exclusive to the first applicant. Overall exploratory allocations shall be reviewed as additional participants are added to the fishery to ensure that no conservation concern is created (in accordance with principles 1 and 6 above);
5. Where the number of applicants interested in participating in an exploratory fishery creates a conservation concern, the evaluation of applications shall be based on the same criteria as for established fisheries, except for history in the fishery (in accordance with principles 1 through 6 above);

6. Exploratory licences should be issued for up to 5 years, subject to annual reporting by the proponent and an annual review of the fishery by the Nunavut Fisheries Working Group (NFWG) (in accordance with principles 4 and 6 above);
7. Proponents for such exploratory fisheries shall be encouraged to move towards onshore processing, and local employment (in accordance with principles 4 and 6 above).

Source: Nunavut Fisheries Working Group, Submission, Appendix 1, *Nunavut Wildlife Management Board Policy: Allocation of Commercial Marine Fisheries Quotas in the NSA and Zones I and II*, October 2003

APPENDIX 2

Joint Makivik, Nunavut Tunngavik Incorporated, and Government of Nunavut Proposal Regarding Nunavut and Nunavik Participation in the Commercial Fishery

August 26, 2002

Without Prejudice

This proposal is submitted for the purposes of addressing issues surrounding Article 5, Part 4 of the draft Nunavik Marine Region Agreement-in-Principle.

The proposal includes three strategic components:

1. Securing Nunavik Inuit rights under a Nunavik Inuit Marine Region Agreement;
2. Clarification of Nunavut Inuit rights under the *Nunavut Land Claims Agreement* (NLCA); and
3. Providing for a fisheries development strategy for the benefit of Nunavut and Nunavik.

Nunavik Inuit Marine Region Agreement

Nunavik's current allocations and a right to a corresponding share of future increases in allocations (as contemplated in the current text of Article 5, Part 4) should be reflected in the Nunavik Inuit Marine Region Final Agreement.

Nunavut Land Claims Agreement

Nunavut's entitlement to a major share (80-90%) of its adjacent fishery resources should be reflected in (an amendment to) the NLCA or in the Nunavik Inuit Marine Region Final Agreement. A timeline of (3-5) years for achieving this objective should be identified in the NLCA or Nunavik Inuit Marine Region Final Agreement.

Economic Development Strategy for Nunavut and Nunavik

The achievement of set allocation levels and the effective participation by Nunavut and Nunavik in the commercial fishery would be facilitated by:

1. The establishment of a process under the new management plan for the Davis Strait turbot fishery designed to provide Nunavut interests with access and allocations comparable to other adjacent jurisdictions as well as provide Nunavik interests with access and allocation provisions reflecting their historic attachment to the fishery in Davis Strait. This could be achieved in the following two ways:

- Initiate a buyout and transfer program that would remove one or more of the existing players from the Davis Strait turbot fishery.⁽¹⁾
- Provide Nunavut interests with 90% of any increases or changes in the 0B turbot and groundfish fishery (10% Nunavik) until Nunavut achieves 80-90% of the resource for NAFO Sub-area 0.

(1) Seafreez Fine Foods, for example, currently has a 1,900-tonne quota in the 0B turbot fishery yet they have made little investment into this fishery. Rather, they sub-allocate this quota on a royalty basis to existing players in the Atlantic fishing industry. The buyout and transfer of this quota would significantly increase Nunavut and Nunavik's share of the 0B turbot fishery and would provide both interests with an opportunity to make a significant investment into their fisheries. The transfer would be on a 90%/10% sharing arrangement between Nunavut and Nunavik.

2. The establishment of a process under the new Northern Shrimp Management Plan to:

- Provide Nunavut and Nunavik interests with exclusive control of the striped shrimp (*Pandalus montagui*) fishery in the Hudson Strait, Ungava Bay region. Until recently this fishery was directed exclusively in Shrimp Fishing Area (SFA) 3, which falls within the boundaries of the Nunavut Settlement Area and the future Nunavik Marine Region. In recent years some of this harvesting activity has expanded into SFA's 2 and 4; however, much of the fishing is still concentrated in SFA 3. As the striped shrimp fishery is a northern resource that lies directly adjacent to both Nunavut and Nunavik, it is proposed that the existing offshore competitive quota of 3,300 tonnes in the Hudson Strait, Ungava Bay region be transferred to Nunavut and Nunavik interests on a 50/50 sharing arrangement.
- Provide Nunavut and Nunavik interests with a major share of increases in pink shrimp (*Pandalus borealis*) (8% Nunavik) until Nunavut achieves 80-90% of the resource for NAFO Sub-area 0 (SFA's 0+1+2).

3. The extension of DFO's Small-Craft Harbours (SCH) Program into Nunavut and Nunavik under its new funding agreement. Nunavut has 6 communities in the eastern Baffin region that lie directly adjacent to the shrimp and turbot resource. None of these communities currently has a docking facility capable of landing vessels even of the most modest sizes. Over the past number of years Nunavik interests have become very active players in the shrimp and turbot fishery and an investment into docking facilities would substantially aid in the development of this industry. It is proposed that DFO invest in 3 SCH sites in Nunavut and 2 in Nunavik.

4. The initiation of a multi-year multi-species research project in the Davis Strait, Baffin Bay, Hudson Strait and Ungava Bay regions to support the further development of this fishing industry. This research is necessary in order to permit and promote the responsible development of these fisheries based on conservation considerations and the goal of sustainability within a precautionary framework.

5. Investment in fisheries development and diversification to achieve the spirit and intent of the Canada-Nunavut MOU on Emerging Fisheries Development signed in 2000. This investment could be made on a cost shared basis involving the federal government. Such an agreement could model recent agreements between the federal government and the province of Newfoundland and Labrador, i.e., Canada/Newfoundland Inshore Fisheries Development Agreement (NIFDA), (funded at \$60 million), the Canada Newfoundland Cooperative Agreement for Fishing Industry Development (CAFID) (funded at approximately \$6.5 million) and the Newfoundland and Labrador Fisheries Diversification Program (FDP) (funded at \$10 million). The standard cost sharing arrangement for such an agreement is 80% federal and 20% provincial/territorial.

Since 1999, the federal government has invested nearly \$400 million in the purchase and transfer of licenses, quotas, boats, gear and infrastructure to allow Aboriginals to enter the commercial fishery. None of these investments have gone towards supporting Nunavut or Nunavik interests. It is also important to note that Nunavut and Nunavik's nearest neighbour, Labrador, currently has at least 22 harbours under the control and management of SCH.

APPENDIX 3

Canada–Nunavut Memorandum of Understanding on Emerging Fisheries Development, August 2000

BETWEEN: Her Majesty In Right of Canada as represented by the Minister for the Department of Fisheries and Oceans of Canada (DFO)

AND: Her Majesty In Right of Nunavut as represented by the Minister for the Department of Sustainable Development (DSD)

Hereinafter referred to as the Parties.

WHEREAS: The Parties recognize that the Nunavut Wildlife Management Board is, pursuant to section 5.2.33 of the Nunavut Land Claims Agreement, "the main instrument of wildlife management in the Nunavut Settlement Area and the main regulator of access to wildlife and (has) the primary responsibility in relation thereto in the manner described in the (Nunavut Land Claims) Agreement" and recognize further that this Memorandum of Understanding is intended to acknowledge but not to alter, usurp or otherwise diminish that responsibility.

WHEREAS: The Parties wish to facilitate cooperation and coordination in planning and in application of emerging fisheries development in Nunavut.

WHEREAS: The Parties recognize that development of emerging species located in or adjacent to Nunavut should be used for the economic betterment of the people of Nunavut.

WHEREAS: The Parties recognize the importance of the commercial fishery to the economy of Nunavut.

WHEREAS: The Parties have a mutual interest in promoting fisheries diversification while ensuring conservation of the fishery resource.

WHEREAS: The Parties recognize the need for industry to participate actively and to fund activities such as monitoring and research and assessment associated with emerging fisheries.

WHEREAS: The Parties recognize the principle that new fisheries must be self-regulated and self-supportive and managed on a sustainable basis.

WHEREAS: The Parties recognize the importance of scientific support to the development of emerging fisheries in and adjacent to Nunavut.

WHEREAS: The Parties wish to ensure that the management of emerging fisheries development will be dealt with in a streamlined and efficient manner.

WHEREAS: The Nunavut Government has identified fisheries development and diversification as a core business function in areas such as exploratory fishing, experimental fishing gear, and resource surveys for new fisheries opportunities.

WHEREAS: DFO has identified conservation, sustainability and viability as core principles and will proceed cautiously with emerging fisheries development, in accordance with the precautionary approach, an ecosystem approach and with other sound principles of fisheries management in order to better understand the impact of new fisheries on fish stocks and the ecosystem.

And Whereas: The Parties shall strive to:

- a. diversify Nunavut fisheries and seafood production and ensure conservation of stocks and realize the optimal, environmentally sustainable and economically viable use of fishery resources for the benefit of Nunavut.
- b. Encourage a competitive business approach to fisheries development and diversification, and maximize marketing opportunities.
- c. Diversify the seafood sector in Nunavut to promote employment opportunities, foster community and regional development, and secure social and economic stability; and
- d. Encourage public and private sector cooperation in fisheries development and diversification, including new arrangements between regional and local community-based groups and harvesters.

1. Definition:

In this MOU:

Fisheries and Seafood shall be understood to include the full range of activities related to the production, harvesting, processing and marketing of food and other products from marine fisheries, including plants and animals.

2. Objective:

The objective of the MOU is to facilitate Federal/Territorial cooperation and coordination in the planning and implementation of emerging fisheries development and diversification in Nunavut.

THEREFORE, without prejudice and subject to their respective constitutional jurisdictions, the Parties agree to cooperate as follows:

3. The Parties will carry out fisheries development initiatives in a manner consistent with the provisions of the Nunavut Land Claims Agreement.
4. The Parties will strive to participate with individuals engaged in fish harvesting, processing, and marketing industries and with communities to explore fisheries and seafood development and diversification opportunities.
5. DSD will identify at the beginning of each calendar year and throughout the calendar year, specific fisheries development initiatives (the "Strategy") such as exploratory fishing projects. In this context, DFO will consider applications for exploratory licences required for each species covered by the Strategy. The Strategy for 2000-2001 is attached as Annex A.
6. The Parties agree that the development of emerging fisheries beyond the exploratory and developmental phase in and adjacent to Nunavut will be administered by DFO offices located in Nunavut.
7. DFO will strive to provide scientific support towards emerging fisheries development initiatives in and adjacent to Nunavut and will strive to develop scientific capacity with regard to emerging fisheries within the Nunavut Settlement Area.
8. The Parties agree that, subject to the authorities of the Nunavut Wildlife Management Board, due to the extreme and unique fishing conditions that exist in the North, providing safety concerns are met, no vessel size restrictions will be placed on the development of emerging fisheries.

9. DFO and DSD, within the framework of their respective policies and subject to the authorities of the Nunavut Wildlife Management Board, will strive to facilitate the commercial development and diversification of new or underutilized fish resources in Nunavut and will strive to develop management and licensing regimes to encourage and support these initiatives beyond the exploratory and development phase.
10. DSD will assist in data collection, evaluation and analysis of results of these initiatives and encourage industry cooperation and participation.
11. DFO agrees that, subject to the authorities of the Nunavut Wildlife Management Board, Nunavut interests will be given priority consideration in the licensing of Nunavut fisheries beyond the exploratory and developmental stage.
12. The Parties agree to work toward the development of a fishing infrastructure including but not limited to shore-based handling and processing facilities and fleet infrastructure. DFO agrees to support the priorities of the Government of Nunavut in the pursuit of fisheries-related economic development funding from other agencies.
13. The Parties agree to work towards the development of capacity amongst Nunavummiut in all shore-based and at-sea aspects of the fishery through education, training and development.
14. The Parties agree that, subject to the authorities of the Nunavut Wildlife Management Board, in cases where Nunavut does not have the capacity to exploit an emerging fishery, joint ventures with the private sector may be pursued on the condition that a Nunavut interest has majority ownership which will lead to a hundred per cent ownership (100 %), over a period of time.
15. DSD will, subject to the authorities of the Nunavut Wildlife Management Board, establish as part of its core business mandate, policies and programs to maximize fisheries resource diversification and development opportunities to complement the objective of this MOU.
16. The Parties will establish an Emerging Fisheries and Seafood Diversification Committee (the "Committee") and will for that purpose determine its terms of reference, membership, and structure, in consultation with industry stakeholders within one month of the signing of this MOU.
17. The Committee will coordinate preparation and implementation of The Strategy and programming in line with the overall objective of the Parties and will make recommendations on policy and programming to the Parties hereto.
18. The Committee will prepare an annual fisheries diversification work plan in support of the commercialization of new species opportunities.
19. The Committee will be guided by the precautionary principle outlined in Annex B attached hereto.
20. This MOU is not intended to be relied upon by the Parties as creating any new legal rights or obligations.
21. This MOU will remain in force for one year after either Party formally notifies in writing the other Party of its intention to terminate the MOU.

ANNEX A
STRATEGY 2000/2001

SNOW CRAB

-facilitate the development of exploratory snow crab fisheries in NAFO Areas 0A, 0B, Hudson Strait and in Nunavut Settlement Area waters.

MARINE PLANTS

-facilitate the development of exploratory marine plant harvest and usage in the waters of Hudson Bay

SEA URCHINS

-facilitate the development of exploratory sea urchin fisheries in the waters of Hudson Bay

CLAMS

-facilitate the development of exploratory clam fisheries in Nunavut Settlement Area waters.

ANNEX B
TO THE CANADA-NUNAVUT MOU ON EMERGING FISHERIES DEVELOPMENT

Article 6 (of the United Nations Fish Stocks Agreement dated August 4, 1995)
Application of the Precautionary Approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.
2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failure to take conservation and management measures.
3. In implementing the precautionary approach, States shall:
 - a. Improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;
 - b. Apply these guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;
 - c. Take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, and stock condition in relation to such reference points.

APPENDIX 4

Witnesses

Second Session, Thirty-seventh Parliament

Wednesday, 17 September 2003

From Jencor Fisheries:
Leesee Papatsie, Owner.

From Tri-Nav Limited:
Trevor Decker, President.

From Nunavut Tunngavik Incorporated:
Cathy Towtongie, President;
Gabriel Niglugayuq, Director, Wildlife Department.

Wednesday, 24 September 2003

From the Nattivak Hunters and Trappers Organization:
Morrissey Kuniliusie, Vice-Chair;
Stevie Audlakiak.

From the Namautaq Hunters and Trappers Organization:
Steven Aipellee, Chair.

Wednesday, 8 October 2003

From Makivik Corporation:
Neil Greig, Adviser;
Marc Allard, Adviser.

Wednesday, 22 October 2003

The Honourable Olayuk Akesuk, Minister of Sustainable Development, Government of Nunavut.

From the Nunavut Department of Sustainable Development:
Alex Campbell, Deputy Minister;
Carey Bonnell, Manager, Fisheries and Sealing.

From the Nunavut Wildlife Management Board:
Ben Kovic, Chairman;
Michelle Wheatley, Director, Wildlife Management;
Michael d'Eça, Legal Advisor.

Tuesday, 28 October 2003

From the Department of Fisheries and Oceans:

David Bevan, Director General, Resource Management Directorate, Fisheries Management.

Tuesday, 4 November 2003

From the Baffin Fisheries Coalition:

Manasie Audlakik, Chairman;

Jerry Ward, Chief Executive Officer.

Third Session, Thirty-seventh Parliament

Tuesday, 24 February 2004

As an Individual:

Sytukie Joamie.