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## **Standing Committee on Fisheries and Oceans**

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**EVIDENCE**

**Thursday, March 12, 2015**

**Chair**

**Mr. Rodney Weston**



## Standing Committee on Fisheries and Oceans

Thursday, March 12, 2015

• (1150)

[English]

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

I'd like to thank our guests for coming back again today. I apologize that we were cut short at the last meeting, and we are going to have a short meeting again.

Mr. Rosser, I believe you have a couple of opening comments that you want to make, based on the line of questioning from the last meeting, before we proceed to questions from members. Please proceed.

**Mr. Tom Rosser (Senior Assistant Deputy Minister, Strategic Policy, Department of Fisheries and Oceans):** Thank you very much, Mr. Chair.

You will recall from our testimony here earlier in the week that I was accompanied by Mr. Allan MacLean and Mr. Tim Angus. With your permission, we have also invited Ms. Angela Bexton to join us. Angela was part of the Canadian delegation to the negotiations that led to the port state measures agreement and has been closely involved in our departmental input into the drafting of Bill S-3 as well.

I will make very brief opening remarks, Mr. Chair, and then I would be happy to engage in further questions and answers with the committee.

We appreciate the opportunity to discuss the amendments and further questions. I'd like to reiterate a few points from the discussion earlier this week.

Working towards the ratification of the port state measures agreement provides an opportunity for Canada to strengthen an already robust port measures system in relation to foreign fishing vessels. The amendments being proposed will improve our existing enforcement regime and in our view should be undertaken whether the international agreement existed or not.

As I described on Tuesday, there have been situations in which Canada would have benefited from having the enhanced enforcement authorities in place. For example, a flag state might want to direct its vessel to a Canadian port for inspection purposes to avoid re-calling the vessel to its port and risking the possibility of compromised evidence.

Another example involves the situation in which the fish have already been partially off-loaded to places beyond the reach of existing authorities under current legislation.

Besides enhancing enforcement, the proposed amendments address another important aspect preventing illegal fishing, which is the prohibition of imports of illegally harvested fish products. Once fish enters the domestic market, it is almost impossible to determine how it was harvested, and it is effectively laundered. Thus, stopping illegally harvested fish and seafood products at the border is an essential contribution to the fight against illegal fishing.

States and regional fisheries management organizations are increasingly demanding proof of legal harvest. This is an evolving issue, so the bill as it stands makes some headway towards addressing the issue of prohibiting imports of illegally harvested fish products. More inevitably could be done, but the bill starts this process. The import prohibitions clearly demonstrate Canada's contribution to the global effort, in line with our key export markets, in particular the United States and the European Union.

IUU fishing is a global problem, but it mainly occurs in regions of the world where there is lax governance or limited capacity to undertake enforcement. This is why port state measures are important. Port state measures are considered cost-effective deterrents to IUU fishing activity that help compensate for lax control by flag states. Canada continues to support a suite of tools for monitoring, control and surveillance of fishing activities, but in regions of the world where the capacity for enforcement by the flag state is limited, port state measures can be effective.

As we are working through our domestic processes to enable Canada's ratification of the treaty, we also encourage other states to consider ratifying the treaty. Canada has supported these efforts in regional fisheries management organizations that are developing their own requirements for port state measures based on this international treaty or that are aligning existing requirements with this new global standard. We therefore see the momentum growing for these measures.

Again, speaking on behalf of my colleagues, let me say that we appreciate the opportunity, Mr. Chair, to make additional comments, and we welcome further questions.

*Merci.* Thank you.

**The Chair:** Thank you very much, Mr. Rosser.

We're going to start off with a 10-minute round, with Mr. Cleary leading off.

**Mr. Ryan Cleary (St. John's South—Mount Pearl, NDP):** Thank you to the witnesses for returning.

Mr. Rosser, I have a few questions on some statements you just made. One of the statements you made was that a flag state might want to direct a foreign vessel to a Canadian port so as to not compromise the evidence.

To your recollection, sir, in terms of foreign vessels outside the 200-mile limit, not inside Canadian waters, how often has that happened in the past 10 years?

**Mr. Tom Rosser:** There is one instance that I'm aware of in which a foreign-flag vessel fishing outside of Canada's exclusive economic zone was directed by its flag state into a Canadian port. But under legislation as currently enacted, my understanding is that unless the boat requests entry into the port itself, which it may not choose to do if it is in violation of applicable laws, we don't currently have the legal authority to accommodate that situation. It has occurred in at least one instance of which I am aware.

**Mr. Ryan Cleary:** Okay. That's one instance in the past 10 years that you're aware of. That's out of how many vessels that have been cited, roughly, over the past 10 years?

**Mr. Tom Rosser:** I might turn to my colleague. Mr. MacLean might be able to give you a more precise indication of how frequently citations have been issued over the past decade.

Allan, do you have that?

**Mr. Allan MacLean (Director General, Conservation and Protection, Ecosystems and Fisheries Management - Operations, Department of Fisheries and Oceans):** I don't know. It might take a minute to get to it—

**Mr. Ryan Cleary:** Maybe I'll move on to my next question.

**Mr. Tom Rosser:** Yes, and we'll come back on that.

**Mr. Ryan Cleary:** Mr. Rosser, you also spoke about the fact that more could, to use your word, “inevitably” be done. Maybe you could expand on that. What more could be done?

**Mr. Tom Rosser:** I was trying to allude to the fact that...I mean, as an illegal activity, IUU fishing inevitably evolves over time. While we believe that the port state measures agreement implementation act, Bill S-3, represents an important step forward, inevitably those engaged in illegal activities, as the international legal regime evolves, may too respond to that in some fashion. It is an evolving process. We believe that these are positive, concrete steps, both domestically and internationally, but we need to recognize as well that we are trying to discourage an activity that itself is continually evolving.

• (1155)

**Mr. Ryan Cleary:** With all due respect, Mr. Rosser, I don't see this as concrete in any way whatsoever. I don't see this as changing the situation right now outside the 200-mile limit off the east coast of Canada in terms of foreign vessels and in terms of citations. I know that the number of citations is down. I personally would say that part of the reason for that is there are fewer fish to chase.

When you say—there was a question I asked you the other day—that you need the ratification of 25 countries before this can come into force, I believe that right now we have 11. That's 11 of 25 nations. How long did it take you to get 11 nations to come onside

with this, and how much longer do you think it will take you to get to your total of 25?

**Mr. Tom Rosser:** What I can say is I believe it's true that there have been 11 countries that have acceded to the treaty to date. In addition to that, if memory serves, there are, I think, a total of 35 or so that have signed the treaty or otherwise the state in question has indicated its intent to ratify the treaty. There are dozens of countries, more than enough to bring this treaty into force, that, like ourselves, have signalled an intent to ratify and are moving through to take the necessary domestic measures to do so.

Obviously, regulatory and legislative systems vary widely across the world when one is speaking of a global treaty, but we believe this treaty does enjoy a significant international global consensus around it.

**Mr. Ryan Cleary:** How much longer will it take to get 25?

**Mr. Tom Rosser:** It's hard to put a precise timeline on it, but as I said, there are dozens of countries going through processes similar to what we are going through now.

**Mr. Ryan Cleary:** Could you give a rough estimate?

**Mr. Tom Rosser:** This is fairly speculative on my part, but I would hope that within a couple of years we would see this treaty enter into force.

We do believe, though, that beyond simply bringing Canada into compliance with this treaty, this legislation will give our law enforcement officials additional abilities to carry out their responsibilities more effectively. In many cases, there—

**Mr. Ryan Cleary:** I'm sorry to cut you off, Mr. Rosser, but I have more questions and I have only limited time. I say this with all due respect, sir.

**Mr. Tom Rosser:** Okay.

**Mr. Ryan Cleary:** I asked you a question the other day in terms of the number of citations issued to foreign trawlers over the past 10 years outside the 200-mile limit and the follow-up in terms of the flag states, the home countries of the vessels in question. What penalties or court fines were imposed over the past 10 years? Can we have that information presented to this committee, sir?

**Mr. Tom Rosser:** What I would say is this. There is—we're speaking, I think, in a NAFO context—a process whereby information is shared by countries undertaking enforcement measures in the NAFO zone. We believe that a greater transparency in that regard would be beneficial.

**Mr. Ryan Cleary:** Is that a yes or a no?

**Mr. Tom Rosser:** What I was going to suggest was that we would certainly be willing to undertake with the NAFO parties a suggestion that greater transparency be brought to the information sharing—

**Mr. Ryan Cleary:** So that means no?

**Mr. Tom Rosser:** No, it doesn't mean no. It means that I believe you've made a constructive suggestion that we, upon reflection, have thought is worth raising with our NAFO partners—

**Mr. Ryan Cleary:** Do you need their permission first before you can do that?

**Mr. Tom Rosser:** It is a cooperative agreement, yes, and—

**Mr. Ryan Cleary:** Do you think it's in Canada's best interests to get the permission of foreign nations to release the sort of information that could be used to build a case against, say, the weaknesses of NAFO?

**Mr. Tom Rosser:** We think it's important to work respectfully with our international partners. We think that transparency is important and are willing to discuss with them how NAFO can become more transparent in this respect, yes, so we appreciate your suggestion in that context.

**Mr. Ryan Cleary:** Thank you. I would really appreciate that information, though. That would make my day.

In terms of illegally caught fish outside the 200-mile limit or illegally caught fish inside the 200-mile limit off the east coast, you mentioned global numbers the other day, but do you have any numbers specifically for the Grand Banks and the Flemish Cap?

• (1200)

**Mr. Tom Rosser:** Again, I will perhaps turn to Mr. MacLean, who may be able to offer greater precision than I on that matter.

As well, I don't know, Allan, if you were able to lay your hands on the document you were seeking in response to the earlier question.

**Mr. Allan MacLean:** In response to the earlier question, I have breakdowns I have to go through, but going back to 2002, there were 34 citations issued. In 2014, there were nine. Since 2002 we've seen that steady trend downward. When there are changes in measures, sometimes we see a slight peak upwards, but we have seen traditionally a trend downward.

Your question was related to the value of IUU product or illegal product fished on the Grand Banks. Was that the question?

**Mr. Ryan Cleary:** No, I'm just looking for an amount. Do you have an amount, for example, an estimate of the amount of illegally caught fish from the Grand Banks?

**Mr. Allan MacLean:** No, we do not.

**Mr. Ryan Cleary:** Not even an estimate, in terms of...?

**Mr. Allan MacLean:** No, I have nothing here, and I don't know if there has been an evaluation done on that.

**Mr. Ryan Cleary:** Do you have an estimate of the amount of illegally caught fish brought into Canadian ports?

**Mr. Allan MacLean:** Not with me.

**Mr. Ryan Cleary:** But isn't this bill all about preventing illegally caught fish from coming into Canada?

**Mr. Allan MacLean:** Yes.

**Mr. Ryan Cleary:** If the purpose of this is to prevent illegally caught fish from coming into Canada, don't you have any estimates on how much fish is coming into Canada, or any idea of what kind of problem it is, or the extent of this problem?

**Mr. Tom Rosser:** Allan or Angela may wish to offer their perspectives, but when we talk about IUU fishing, we are talking about a global problem. We know that the problem.... In global terms, Canada is a very minor contributor to it. We have a very robust regime—

**Mr. Ryan Cleary:** The answer is no, you don't know how much

**Mr. Tom Rosser:** Well, by definition, it's hard to be certain about the level of illegal activity.

**Mr. Ryan Cleary:** Not even a ballpark?

**Mr. Tom Rosser:** I would guess that we would have data on enforcement actions taken where we have identified instances of illegal fishing. Obviously, almost by definition, we can't know about those that we did not observe, but we take action where we see them, and as a result are confident that it is a relatively minor problem in Canada.

**Mr. Ryan Cleary:** Then why is this bill before the committee? If it's a relatively minor problem and you don't seem to have a grasp on the amount of illegally caught fish we're talking about, why are we taking the time to even look at this?

**Mr. Tom Rosser:** Well, because it is a very serious problem globally, and we are trying to do our part to help address a problem that is, although minor in Canada, serious globally. In so doing with this legislation, it is also our view that we will improve, in a very common-sense way, the enforcement powers of our fisheries officers and other law enforcement officials. We see there being a domestic benefit to this legislation, and it is also a Canadian contribution to resolving what is a serious global problem.

**Mr. Ryan Cleary:** Thank you.

**The Chair:** Thank you very much, Mr. Cleary.

Mr. Kamp, please.

**Mr. Randy Kamp (Pitt Meadows—Maple Ridge—Mission, CPC):** Thank you, gentlemen, for returning.

Welcome, Ms. Bexton. We're glad to have you here.

I think we had most of our questions answered the other day, but let me start by saying that our understanding is that the reason we're dealing with this legislation is for us to be able to ratify the port state measures agreement. It requires some change to our domestic legislation in order to do that. As you said, Mr. Rosser, although it may not be a big problem here, IUU fishing within Canadian waters is a significant international problem and we want to be good citizens of the world.

Following up on where Mr. Cleary started, and I think it's a valid question, I am wondering, if for some reason we don't get to 25—we get stuck at 20—and this port state measures agreement never comes into force, if there is anything in these amendments to the Coastal Fisheries Protection Act where we would say that if we'd known this agreement was never going to be in force, we wish we hadn't done that.

Is there anything in this bill that should concern us? We want to be a participant and a good citizen and ratify the port state measures agreement, and I know we're using our influence to do as much as we can to ensure it does come into force, but if it doesn't, is there anything in here that would make our life more difficult, or if we'd known that it wasn't going to come into force, we'd wish we hadn't done something to our domestic legislation?

• (1205)

**Mr. Tom Rosser:** Mr. Chair, I'd like to thank the parliamentary secretary for his question.

I am of the view that you could characterize this piece of legislation as a no regrets bill, in the sense that while its intent is to bring us into compliance with an international treaty, I think the bill also has benefit to our law enforcement capabilities in Canada with respect to the importation of fish and fish products as well as the enforcement activities we undertake with respect to foreign fishing vessels.

Even if the treaty is never entered into force internationally, I think we would be better off with the passage of this bill. While there may be, in terms of definitions and things, things that we may not have included had it not been for the international agreement, I don't think there is anything in this bill as drafted that we would regret having proposed should the international treaty not enter into force.

**Mr. Randy Kamp:** Thank you very much. That's good to know.

Somewhat related to that, is there anything in the amended Coastal Fisheries Protection Act—the amendments we're making in Bill S-3—that directly impacts Canadian fishers or Canadian fishing operations in some form? In other words, are we making their life more difficult in some way, adding red tape or something like that?

**Mr. Tom Rosser:** No.

In terms of the domestic fishery sector, this bill is targeted exclusively at foreign fishing vessels. It will have no impact on the domestic fishing sector.

Insofar as it helps to curtail IUU fishing, it will be beneficial for the domestic fisheries sector, because one of the detrimental impacts of IUU fishing is that it depresses pricing in global markets for fish products.

The bill also could have some impact on importers of fish into Canada, although we are of the view that those impacts will be very minor in nature. It will have no impact whatsoever on Canadian-flagged fishing vessels.

**Mr. Randy Kamp:** Do I understand correctly that these importers will require documentation from these foreign-flagged enterprises before they can import their product, or am I missing that?

**Mr. Tom Rosser:** Because the bill will for the first time cover the importation of fish products into Canada, for those importing any kind of product into Canada, there would be some requisite forms that need to be filled out and that kind of thing. With the regulations that could follow the passage of this bill, there might be some incremental effort required on the part of importers of fish products to comply with the legislation.

The cost associated with this and the burden is something that will be explicitly analyzed and considered in the process of bringing into force regulations pertaining to this bill, if and when it receives royal assent. We believe, though, that they will be very minor in nature, and again, they will have no impact whatsoever on Canadian-flagged fishing vessels.

**Mr. Randy Kamp:** Okay, good. Thank you for that.

In the few minutes I have left, let me return to the notion of amending Bill S-3, which amends the Coastal Fisheries Protection Act, thus amending the amendments so as to have in the end a Coastal Fisheries Protection Act that is as robust as it can be.

We talked about a couple of areas in the last meeting. If I understand correctly, one of the areas is we have the right in our current legislation to put in place regulations for documentation, if we're a party to a regional fishing management organization, but it's not as clear that we can require documentation if we're not a party to that organization. It might be good to put that in this bill as an amendment. We've already given the clerk some possibilities.

The amended Coastal Fisheries Protection Act, with the current Bill S-3 amendments to it, would say:

No person shall, in connection with the importation of any fish or marine plant, transport...knowing that it was taken, harvested, possessed, transported...contrary to any of the following:

Then it lists:

(a) an international fisheries treaty or arrangement to which Canada is party...;

We understand that. Then it also says:

(b) any conservation or management measures of a fisheries management organization of which Canada is not a member that is prescribed by regulation;

Is it that last phrase, "prescribed by regulation", that sets the issue here, that we need to provide the authority for the government to put in place a regulation requiring documentation even from parties that are part of an RFMO we're not a member of?

Help me understand the necessity for this amendment, which we talked about the other day.

• (1210)

**Mr. Tom Rosser:** Again, Mr. Chair, I'd like to thank the parliamentary secretary for his question.

I think my colleague, Ms. Bexten, is perhaps best placed to offer some clarification on this issue.

**Ms. Angela Bexten (Acting Director, Global Fisheries & Marine Governance Bureau, Strategic Policy, Department of Fisheries and Oceans):** The short answer to your question with regard to documentation is that this provision in paragraph (b) of proposed subsection 5.6(1) would not be sufficient in regard to documentation. What we would do there by regulation is simply indicate for which regional fisheries management organizations Canada would be interested in implementing or looking at the conservation and management measures.

It would be clearer, especially for importers, if the documentation requirements could be more clearly indicated in regulation, and currently that enabling provision does not exist in the bill.

**Mr. Randy Kamp:** Thank you very much.

**The Chair:** Thank you very much, Mr. Kamp.

Mr. MacAulay.

**Hon. Lawrence MacAulay (Cardigan, Lib.):** First off, I want to welcome you here again. I hope that whatever figures you have on illegal fishing that were brought up previously can be forwarded to this committee. That's what we're dealing with, and the committee needs that.

Two years ago, Foreign Affairs was before the Senate committee on this, and they indicated that they expected this agreement to be ratified in about two years. That was two years ago, and if I understand correctly, Mr. Rosser, you expect it will be a year and a half to two years before it will be ratified.

For information for the committee, how many countries have ratified this, how many countries have it before their legislators, and just where are we with this agreement as it stands today?

**Mr. Tom Rosser:** My recollection is that we have seen 11 countries accede to the treaty to date, but we require a minimum of 25 for the treaty to enter into force globally. I further understand that the number that have signed the treaty signalling their intent to ratify it are at some stage in the process of moving towards accession to it, in numbers that I think are around 30 to 35, but certainly they are well in excess of 25. There are many countries like us that have signalled their intention to ratify it and are in the midst of moving through their domestic processes to give effect to that.

The other point which I think is important here is on two of our trading partners that are the most important in the fisheries and seafood context. These are the European Union, which has ratified the treaty, and the U.S., which has signed it. However, beyond the port state measures agreement, they have taken other measures that clearly indicate they take the global problems of IUU fisheries very seriously and are taking measures to curtail the import of IUU products into their respective markets.

It is important for us to play a leadership role to signal to them that we will be good partners in those global efforts.

• (1215)

**Hon. Lawrence MacAulay:** Representing the bureaucracy, do you feel that overfishing is a major problem in this country or not? That was in my colleague's question and answer, I think.

The government cut \$4.2 million from the offshore surveillance budget. Was that money needed or was it not needed? I'd like you to reflect on whether there is as much surveillance and if there is, how can that be when we took \$4.2 million out? Has it had any effect on what we're doing?

We need the information. We need to know what's going on and how much illegal activity is taking place.

I'd like you to expand on that, if you would.

**Mr. Tom Rosser:** Mr. Chair, I will certainly try to elaborate, and I may turn to my colleague, Mr. MacLean, for his thoughts as well.

All available evidence suggests that at a global level IUU fishing is a serious problem and has a significant impact both on ocean ecosystems and global markets for fish and seafood products. All available evidence also suggests that Canada is a very minor contributor to that global problem. By global standards, the problem is small here.

Where we would be able to offer data to the committee is on enforcement actions that have been taken against those accused of illegal fishing activities. What we don't know, and what is almost by definition unknowable, is what level of activity has taken place that has gone undetected. All available analysis and evidence suggest that

it's a small problem in Canada, but we can't confidently say it doesn't exist either.

In terms of this bill and enforcement activities, we believe that our enforcement regime in Canada is a robust one. We believe that this legislation will make it more so and will allow us to make better use of available enforcement resources by, among other things, enabling more effective collaboration between domestic law enforcement agencies, and where warranted, between Canadian law enforcement agencies and their relevant counterparts overseas.

Allan, I don't know if that's fair or if you have anything to add.

**Hon. Lawrence MacAulay:** If I could intercede for a moment, when this is ratified, and hopefully it will be, I expect that an information sharing network will be developed.

What type of information sharing will take place? Who will it be shared with, and will this be a global sharing network? I'm thinking about what goes on with security intelligence and this type of thing. You have to know what other countries are doing.

What kind of network do you expect to have in place to make sure that at DFO you know about the people who are not complying?

**Mr. Tom Rosser:** I think I will turn to my colleague to answer that one, but in general, there of course is collaboration on monitoring on the high seas and elsewhere. Internationally, there is good collaboration between the relevant law enforcement agencies now—

**Hon. Lawrence MacAulay:** Then what is this piece of legislation?

**Mr. Tom Rosser:** What it will do is enable existing collaboration and information sharing to happen more effectively than is possible now at a high level. That's my understanding, but Allan is better placed to answer that question than I.

**Mr. Allan MacLean:** Thank you, Tom.

The bill will allow greater collaboration between us and the Canada Border Services Agency, which has the responsibility for product entering into Canada. It will clarify the rules around exchanging information. It will allow both departments to access databases that hold valuable information on fishing activities and products that are coming into Canada. This bill in itself really enhances the ability for the two key partners to work together.

On an international scale—and I think this is what you've been getting at—the issue of IUU fishing has really taken on much greater interest. Canada is actively involved with Interpol. We have a number of different working groups that we sit on in Interpol and that focus specifically on IUU fishing and ensuring timely exchange of information.

As you said, Mr. MacAulay, we need to know what's happening elsewhere. We have a mechanism through Interpol. We also have a mechanism through another organization called the International Monitoring, Control and Surveillance Network.

• (1220)

**Hon. Lawrence MacAulay:** Thank you very much, Allan.

Mr. Rosser, in your opening statement, you indicated that one ship that you know of was intercepted and taken into port. I was wondering about that. I would like to ask you about this. If they're beyond the 200-mile limit and it's illegal fishing and you know it, what happens? Does this give us any more power?

Number one, if the flagship country does not wish to have that vessel confiscated, or if it does, what are the differences? Will you have the authority to go out and take that ship into port if it's fishing illegally? It's like what happened here a number of years ago, not for the fishing, but for the net itself, and you know what I'm referring to. Can that type of thing take place? What does this do to make it so that we catch the people who are fishing dishonestly?

**Mr. Allan MacLean:** There are clearly processes under regional fisheries management organizations that deal with vessels that are fishing illegally, and processes that are put in place. This particular bill really will focus on where a flag state requests a vessel to come into Canadian port to be inspected in a Canadian port.

This gives the government—gives the minister—the ability to allow that to happen, whereas previously we did not have it. It was only upon the request of the master of the vessel that the minister would issue a permit for that vessel to enter into port. This does give increased powers to the minister when a flag state requests a vessel to enter a Canadian port for the purpose of inspection.

**Hon. Lawrence MacAulay:** Thank you very much, but what happens if the flagship state or the vessel does not wish to enter our port and we know, or you have information through the information sharing network, which hopefully is set up.... I agree that there's some of it taking place right now, and I certainly hope it improves. Is there a way that we can do something with a vessel that's out there and fishing illegally so that we will be able to confiscate that vessel and take it into port? Is there anything in this bill to do it?

**Mr. Allan MacLean:** There is nothing specifically in this bill that would address that issue.

**Hon. Lawrence MacAulay:** Thank you very much.

On another point, the Canadian Maritime Law Association has issues with allowing the minister and not the court or judge to determine the amount and form of security to be given for the release of seized vessels or goods. Is that the way it should be? Should the minister have this power, or should the courts have this power? What's your view on that? There are differing views on this part of the bill.

**Mr. Tom Rosser:** My understanding is that the bill was drafted the way it was in order to respect our obligations under the convention on the international law of the sea. I don't know if other colleagues can elaborate beyond that.

**Ms. Angela Bexten:** First, I would mention that the securities issue is part of proposed section 13 of the act. It's not an issue that's being addressed by this bill.

To answer the question that has come forward, the Coastal Fisheries Protection Act, as you know, applies to foreign fishing vessels. We have to look at the international context. Generally the rule is that once a foreign fishing vessel leaves Canadian waters, our jurisdiction ceases. This is not the case within NAFO, but as a general rule that's how it works.

The minister is advised by the department on any risks associated with that vessel. It is important for the minister to be able to establish the level for the security, given the potential for such a vessel to flee.

● (1225)

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

Mr. Leef.

**Mr. Ryan Leef (Yukon, CPC):** Thank you to our witnesses.

I'll get into the weeds a little bit on the bill. As a former ex officio fisheries officer, I'd like to drill down on some of the enforcement components of this bill. I see a lot of provisions outlined in this now that I suppose to some degree I'm surprised didn't exist in some other context previously.

First, though, I was in Washington this week talking about Arctic issues. We know that the Arctic waters are becoming a little bit more accessible. To Mr. Cleary's point, he's reflecting back on past enforcement history and stats around what Canada has experienced before, but we do need to look into the future as well when we're presenting this kind of legislation.

Looking at it from an enforcement perspective, could you talk about what we know about changing fisheries patterns and Arctic waters opening up, and where this bill could provide opportunities when we move into the future, regardless of what our enforcement statistics might have looked like in the past? Is that or is that not a serious consideration? Could this bill be of benefit to a changing Arctic fisheries environment?

**Mr. Tom Rosser:** Mr. Chair, I wish to thank the member for the question. I'll offer my thoughts and then perhaps turn to my colleagues.

When it comes to fishing in the high Arctic beyond the exclusive economic zones of the five Arctic coastal states, there is no regime in place to govern fishing in that region, the principal reason being that there is no fishing activity taking place there currently. However, if that region were to become more accessible, one could imagine fishing vessels attempting to access it. There have been some informal discussions between the Arctic coastal states and other interested parties about how we could prepare to avoid such an eventuality and discourage unregulated fishing from taking place in that region.

It is conceivable that some of the provisions in this bill might be helpful in terms of putting in place an international agreement in that regard—

**Mr. Ryan Leef:** We have a framework here that's adaptable.

**Mr. Tom Rosser:** —but I'm perhaps getting into more hypotheticals than I should.

**Mr. Ryan Leef:** No, no, fair enough; we don't need to go there. But the framework exists, and the moulding of this looks pretty solid in terms of the authorities and the punishment sections.

Proposed section 18.03 refers to offences and punishments of \$500,000 maximum on indictment, \$100,000 on summary, and second offences double. Then an interesting section right after that talks about fines and consideration of the benefits that may be realized.



How do those fine structures compare from an enforcement point of view with other legislation? Do you think those fine amounts are adequate?

**Mr. Tom Rosser:** Let me turn to my colleagues, Ms. Bexten and perhaps Mr. MacLean, to try and answer that one.

**Ms. Angela Bexten:** Thank you.

We undertook some research to determine the fine levels there. We looked at a number of pieces of federal legislation with regard to the fine levels, particularly those that related to wildlife and the harvesting of wildlife. The levels of the fines that you see there are very much in line with, for example, the Fisheries Act, the Species at Risk Act, and WAPPRIITA, the acronym for—

**Mr. Ryan Leef:** —the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act.

**Ms. Angela Bexten:** Yes. It's a long one.

That is administered by Environment Canada. The fines there are in line with existing federal legislation for wildlife harvesting.

**Mr. Ryan Leef:** Excellent.

With respect to a combined program, where you're running education, compliance, and ultimately an enforcement program when you do this line of work, how do you think Canada has stood in terms of its...? I mean, you reflect on Canada not being a big contributor in terms of illegal international trade. I think that's a good thing. That exemplifies that Canada has a strong presence, and has had in the past solid laws in place and a decent penalty structure. Only adding to that, I think, we'll continue to see that trend of Canada being a fairly secure region.

Would you agree with that, and could you maybe expand on Canada's presence in the coastal waters?

• (1230)

**Mr. Tom Rosser:** At a high level, I would say that we believe we have a very robust enforcement and compliance regime in Canada, and that by global standards it compares very favourably with those in place in other jurisdictions.

I would concede that my colleague Mr. MacLean may not be altogether neutral on the matter, but he nonetheless may be able to give greater precision in terms of how our efforts compare with those of our international partners.

**Mr. Allan MacLean:** Thank you.

From a global perspective, Canada has a very, very strong reputation as having a solid compliance and enforcement regime in place. We are viewed as leaders. We are viewed as a country that can help developing nations in enhancing their capacity. Yes, I can put my own personal flavour on this, but from a global perspective we are recognized as having a very strong and robust compliance and enforcement regime.

**Mr. Ryan Leef:** Excellent. Thank you. That obviously is highlighted in enforcement statistics. If we're seeing low rates of violation or low estimation rates, then clearly it's signalling to the players in any international or illegal pursuit that it's not a jurisdiction in which you want to be pursuing those activities for fear of being caught and appropriately dealt with.

I'll again go into the weeds a little bit with a technical question. Proposed section 7.4 talks about the "dwelling place". This is purely an enforcement line of questioning. When you board a vessel, that's a place that can be inspected or searched either on warrant or without warrant, and in some cases under exigent circumstances. Are there places on vessels that are considered to be dwelling places, by definition?

**Mr. Tom Rosser:** I think the answer to that question is, yes, in some circumstances.

**Mr. Allan MacLean:** Yes, there are places that are considered areas that you would not normally enter into.

**Mr. Ryan Leef:** Does the exigent circumstances provision allow you to apply that to a dwelling place?

**Mr. Allan MacLean:** Yes, exactly, and that would be very common. It's in the Fisheries Act and in other legislation.

**Mr. Ryan Leef:** Okay. Perfect.

Can you expand a little bit on the prohibited import piece under proposed section 5.6? Sometimes there obviously will be some inland reach. I see there is one section in the bill that allows protection officers to stop vessels and vehicles, so the vehicle portion would obviously have some inland reach for the authority of protection officers.

Is that an accurate assessment?

**Mr. Tom Rosser:** My understanding, and again, colleagues can confirm, is that one of the intentions of the bill is to move beyond simply enforcement on fishing vessels and fishing wharves to cover the importation of fish and seafood products at all ports of entry. One can imagine illegal product entering the country at land crossings and elsewhere, and one of the intents of the bill is to cover those eventualities.

Is that fair...?

**Mr. Ryan Leef:** It's okay. That makes sense. We have inland waters that access the coast that people can come up into and that are quite deep. In Yukon we have the Yukon River, 2,300 kilometres from the Bering Sea right up inland. That expands some of that search authority, which I think is excellent.

In terms of prohibited import and products, is there a main fisheries product that Canada has centred on with that specific section, or is there such a broad range of potential contraventions of the act that you couldn't narrow it down? I know in some wildlife and fisheries enforcement in particular regions, you have really identifiable things that are high in trade and are subject to abuse. Is that the case with this act, or is it just too broad to narrow it down?

• (1235)

**Mr. Tom Rosser:** My understanding is, particularly as states adopt the port state measures agreement, that it is becoming more common for regional fish management organizations and others to adopt certification data to enable border officers to identify whether a product has been legally harvested or not.

One of the things that this bill will do is it will give us the authority to recognize those certification systems. For Chilean sea bass or Patagonian toothfish, I understand there is such a certification system in place. One of the things the bill will allow border officers to do is to ensure that the appropriate certification data accompanies fish imports into the country.

Again, I'll turn to colleagues to make sure I got that right.

**Ms. Angela Bexten:** Just to elaborate on that a little bit more, the example that was provided is one particular example. Bluefin tuna would be another. I would highlight, in relation to the issue brought up earlier, that currently the bill is limited in the sense that our current regulatory-making powers only relate to organizations or treaties to which Canada is party.

Canada is party to the organization that manages Patagonian toothfish, as it is for bluefin tuna, but we would not be able to develop import requirements regarding documentation for organizations or treaties to which we are not party. There is a bit of a distinction there, a technical distinction.

Right now, however, they are referred to as catch documentation schemes or statistical documentation programs in a number of regional fisheries management organizations to which Canada is party. In those instances we would be able to establish some requirements with regard to those imports.

**Mr. Ryan Leef:** Thank you.

**The Chair:** Thank you very much. Mr. Leef.

To our guests, I want to thank you very much for being here again today. We certainly appreciate your taking the time to answer members' questions on this piece of legislation.

We're going to suspend for a few minutes to move to committee business.

Thank you.

*[Proceedings continue in camera]*

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