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Chair: Patrick Weiler



Standing Committee on Fisheries and Oceans

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• (1530)

[English]

The Chair (Patrick Weiler (West Vancouver—Sunshine Coast—Sea to Sky Country, Lib.)): I call this meeting to order.

[Translation]

Welcome to meeting number 12 of the Standing Committee on Fisheries and Oceans.

[English]

I want to start by acknowledging that we are gathered on the ancestral and unceded territory of the Algonquin Anishinabe people, and I express gratitude that we're able to do the important work of this committee on lands they've stewarded since time immemorial.

Pursuant to Standing Order 108(2), the committee is meeting to continue its study on the Review of the Fisheries Act.

[Translation]

Today's meeting is taking place in a hybrid format. Pursuant to the Standing Orders, members may participate in person in the room or remotely using Zoom. I see today, however, that everyone is here, in the room.

[English]

Before we continue, I would like to ask all in-person participants to consult the guidelines written on the cards on the table. These measures are in place to help prevent audio feedback incidents and to protect the health and safety of all participants, but particularly the interpreters.

You will also notice a QR code on the card, which links to a short awareness video.

I would like to make a few comments for the benefit of the witnesses and members.

Please wait until I recognize you by name before speaking.

[Translation]

Those in the room can use their earpiece and choose the appropriate channel.

[English]

I remind you that all comments should be addressed through the chair.

[Translation]

I would ask members to please raise their hand if they wish to speak. The clerk and I will do our best to maintain a consolidated speaking order. Thank you for your patience.

[English]

With that, I'd like to welcome our witnesses.

First, we have Bruce Chapman, executive director, Canadian Association of Prawn Producers.

We also have Melanie Sonnenberg, president, Canadian Independent Fish Harvesters Federation.

[Translation]

From the Fishermen's Maritime Union, we have Carl Allen, vice-president, New Brunswick; and Martin Mallet, executive director.

[English]

Also with us is Colin Sproul, president of the United Fisheries Conservation Alliance.

Before we go to the opening statements, I just want to pass the floor to Mr. Arnold, who has his hand up.

Mel Arnold (Kamloops—Shuswap—Central Rockies, CPC): Thank you, Mr. Chair.

I don't want to take up too much time, but as is the tradition, when the budget and the estimates are tabled, the minister comes to committee and addresses questions from the members. I'm just wondering if the chair or the clerk, or possibly the parliamentary secretary, may be able to provide us with any information on when the minister may be appearing before the votes on the estimates.

The Chair: Absolutely, Mr. Arnold.

Let me turn the microphone to the clerk to speak on that.

The Clerk of the Committee (Maxime Ricard): The minister was already invited for our next study on marine and coastal protection so if the committee wishes, I could extend that invitation for the minister to appear on both studies at the same time.

I'm in the hands of the committee.

• (1535)

The Chair: Mr. Arnold, please go ahead.

Mel Arnold: Traditionally, the minister appears specifically on the budget estimates.

The Chair: Thank you.

Mr. Morrissey, please go ahead.

Robert Morrissey (Egmont, Lib.): Chair, we're okay with an invitation being extended. As usual, it's left to the minister to confirm.

The Clerk: Yes, she will be invited for supplementary estimates (B). We don't know the exact deadline for reporting because that's three sitting days before the last supply day, but I will mention what we know so far in terms of reporting deadlines to the minister's office.

Mel Arnold: Just to clarify, she has not been invited yet, but she will appear before that deadline?

The Chair: My understanding is that the minister has already been invited.

With that, I'm going to turn it over to our witnesses for opening statements for five minutes or less.

We're going to start with Mr. Bruce Chapman.

Bruce Chapman (Executive Director, Canadian Association of Prawn Producers): Thank you, Chair.

The Canadian Association of Prawn Producers represents offshore licence-holders in eastern Canada's northern shrimp fishery. Some 65% of these licence-holders are enterprises owned by indigenous groups and inshore fishers, and the remainder are typified by family businesses. This sector represents, in our view, a successful blend of indigenous and non-indigenous communities in the area.

FOPO's review of the Fisheries Act comes at a time of great economic uncertainty for Canada's fisheries. Our own sector is virtually entirely export-oriented. It's vulnerable to unsecured access to our primary market, which is China.

The cold-water shrimp resource and its fishery are also vulnerable to fluctuating environmental and ecosystem conditions. The threat is extremely serious in the form of reduced TACs and quotas, but it's existential if the average catch rate diminishes significantly.

As we continue to navigate these troubled waters, we desperately need greater stability from the Government of Canada. The current Fisheries Act, in our view, provides the minister with both the direction and the discretion necessary to deliver its mandate for the well-being of the resource as well as the fishery. It is not the time for legislative changes that handcuff our collective ability to adapt to these challenges.

We are extremely concerned about recent calls from environmental groups to amend the act that would limit commercial harvest stocks solely in the "healthy zone". Sustainable harvests at lower levels would be closed unnecessarily. Any suggestion that the trajectory of fish stocks is determined exclusively, or even in some cases primarily, by harvest rates is outdated.

DFO should continue to be focused on promoting growth and mitigating decline through responsible harvest rates, with fisheries to be closed only when they are in the critical zone, and only if there are no alternative conservation measures.

Over the past couple of decades, DFO science has shifted spending towards oceans and ecosystem research. We believe DFO ex-

penditures should be prioritized for applied science that should focus on sustainable utilization. We are asking DFO in this hard time to improve its stock assessment capacity and, if necessary, to finance that improvement through redirection of funds from other science programs. None of this requires a change in the Fisheries Act.

The review of the Fisheries Act also creates occasion for some interest groups to lobby for a change in quota allocations. The two most referenced allocation criteria are adjacency and historic dependence. FOPO has received presentations from some groups about their relatively low share of adjacent resource. At the core of that issue, the Independent Panel on Access Criteria concluded that, in the case of inshore fisheries, the application of adjacency is compelling. However, as the fishery becomes midshore and offshore fisheries, it's harder to justify, in particular when historic dependence is based on the premise that fishers who have historically fished a particular stock should enjoy continued access to that resource as well as that of the coastal communities from which they come.

To explain this more fully, each of the 17 offshore northern shrimp licences have been allocated an equal share of the quotas in each of the respective shrimp areas. The model was explicitly designed to achieve an economically viable year-round offshore shrimp fishery in areas mostly far away from local ports, facing seasonal ice coverage to a greater or lesser extent. Clearly, imposing adjacency on this model will render the model unviable.

The combination of allocation decisions and buyer-seller transactions over the past 30 years has, though, resulted in quota shares of indigenous and northern communities increasing from 27% to 77% of this northern shrimp complex.

Proponents who are advocating to include adjacency under the amended Fisheries Act have stated their interest to have quota shares that are comparable with the rest of eastern Canada.

Quota holders, though, based in the territory of Nunavut and the province of Newfoundland and Labrador, where these proponents come from, hold the highest percentage of share of quotas that are adjacent to their respective provinces, fully 75% to 80% of all species and sectors combined. Increases in quota shares for some participants are only achievable at the expense of other Canadians who also depend on the fishery, and in the case of the offshore shrimp fishery, at the expense of enterprises owned primarily by indigenous groups and inshore fishers.

We're facing reduced quotas, we're facing weakening catch rates and we're facing uncertain market access. Continued reinvestment in this fishery is at serious risk without a clear signal from government that quota shares are secure. This, too, does not require an amendment to the act.

• (1540)

Thank you.

The Chair: Thank you, Mr. Chapman.

Next we are going to Melanie Sonnenberg for five minutes.

Melanie Sonnenberg (President, Canadian Independent Fish Harvesters Federation): Thank you, Mr. Chair.

Good afternoon, Chair and members of the committee.

On behalf of the Canadian Independent Fish Harvesters Federation, I want to thank you for your time today and for this opportunity to highlight our concerns and suggestions for the Fisheries Act review.

The review is a pivotal opportunity to secure a sustainable and equitable Canadian fishery. The federation has four core recommendations we would like to address today, highlighting key structural vulnerabilities, suggesting ways to strengthen the independent harvester owner-operator and protecting this vital national public resource through strong legislative action.

Strengthening the owner-operator policy, which is the economic engine of our coastal region, and safeguarding against corporate and foreign control and ensuring fishing wealth stays in local hands is of the utmost importance to our federation. The problem is that this foundational policy and the inshore regulation exist solely under departmental control and interpretation. This lack of legislative foundation makes it legally vulnerable and susceptible to interpretation, which poses an unacceptable risk to thousands of fishing families in their coastal communities and has created significant erosion through controlling agreements in our community.

Our clear recommendation is legal entrenchment. We strongly urge this committee to recommend the Fisheries Act be amended to explicitly define and legally mandate the principles of owner-operator and fleet separation. The act must ensure commercial fishing rights are held by individuals who are actively engaged in the harvest with boots on the boat and reside in the community. This must apply across the board, including indigenous commercial communal access. This amendment would provide the necessary legal stability to protect independent family enterprises and ensure long-term coastal resilience.

Another recommendation is to incorporate Canada's wild fishery as a strategic national asset critical for food security, sovereignty and cultural identity, because the act often manages it primarily through a narrow, short-term commercial lens. The problem is this short-sighted view fails to account for the fishery's broad national importance and value to the country as a whole. Our recommendation is a strategic asset designation embedded in the act. We propose introducing a high-level objective into the Fisheries Act that formally designates the resource as a national strategic asset, similar to what has been done with mining, which would be critical to food sovereignty and regional stability in coastal regions.

Furthermore, we require a new protection provision. Any major decision concerning the disposition of core fishing rights must undergo a rigorous national interest review. The review panel must include representatives from the inshore independent owner fleet. This mandates that management decisions prioritize a long-term

public good and national interest over short-term private, corporate and foreign entities and protect owner-operators and our communities.

We need to ensure harvester knowledge is foundational in DFO science. Independent harvesters possess unparalleled local ecological knowledge. Harvesters are the eyes and ears on the water, which is indispensable for effective management. The problem is the current system suffers from a disconnect. DFO science often operates in isolation using complex modelling that has very little on-the-water input, leading to management decisions that are often impractical or inaccurate when applied to the realities of the water.

Our recommendation is an integration mandate. We propose legally mandating the integration of harvester knowledge into DFO's scientific assessment and management processes. We recommend the advisory committees incorporate a formal co-management subcommittee for all major fisheries that focus solely on science and information sharing between harvesters and the department. This sharing of information must then require DFO to explicitly document how harvester-provided data was incorporated and reconciled or, if rejected, provide the rationale for that decision. This process is essential to improve accuracy and increase the legitimacy of management decisions.

Lastly, we must include British Columbia in the owner-operator model. The problem is the absence of owner-operator protections in British Columbia has facilitated acute corporatization leading to massive quota concentration and severely eroding independent Pacific fishing fleets, draining economic value from our coastal communities.

Our recommendation is a national application. We recommend amending the Fisheries Act to state the principles of owner-operator and fleet separation be applied nationally to all federally managed commercial fisheries, explicitly including those on the Pacific coast. DFO must accelerate the discussion and collaborate with B.C. stakeholders to design a tailor-made implementation strategy and a B.C. owner-operator policy to decentralize ownership and revitalize independent fishing on the Pacific coast. This must be done in a more timely and efficient manner or there will be little left of our public resource for independent harvesters to sustain.

In conclusion, the four recommendations that we have presented here today are structural necessities for a sustainable future: legal entrenchment of owner-operator; strategic designation of the fishery; mandatory integration of harvester knowledge; and national application of owner-operator to include B.C., all embedded legally within the act.

• (1545)

By adopting these targeted legislative amendments, this committee can ensure that our coastal communities remain vibrant.

Thank you.

The Chair: Thank you very much, Ms. Sonnenberg.

[*Translation*]

We will now hear from Mr. Mallet, from the Fishermen's Maritime Union.

[*English*]

Martin Mallet (Executive Director, Maritime Fishermen's Union): Thank you, Mr. Chair and the committee for having us.

The Maritime Fishermen's Union, MFU, represents over 1,300 inshore owner-operator fishermen in New Brunswick and Nova Scotia. Since its inception in 1977, the MFU's mission has been to represent, promote and defend the interests of inshore fishermen in the Maritimes and their communities.

I have four recommendations today.

The first is strengthening owner-operator protections. In 2018, the MFU supported all proposed changes to the Fisheries Act that had to do with increasing protections to the owner-operator fisherman concept.

The MFU is also one of the founding members of the Canadian Independent Fish Harvester's Federation. As such, we fully support the federation's recommendations here today, as just cited by Ms. Sonnenberg.

The central theme for independent inshore fishermen is ensuring that the benefits of the fishery resource flow to the people who fish it, not to large corporations or outside investors. While the 2019 amendments to the Fisheries Act and subsequent regulations in 2020 put these policies into law, loopholes in the regulations and ineffective enforcement remain a problem.

As such, controlling agreements or other creative legal workarounds are still used by fish processors and outside interests to exert effective control over fishing licenses and the proceeds from the catch, undermining the independent fishermen.

It should be mandated to have stricter, more frequent and more proactive enforcement of the anti-controlling agreement provisions. This may include following the money to trace the ultimate beneficiary of the catch and increasing penalties like fines, licence suspensions and cancellations for confirmed violations by non-harvesters who exert control.

Another area that needs to be addressed is the indigenous commercial communal loophole. The Marshall decisions and subsequent indigenous fishing access transfers were never about bands

leasing out fishing licences and quotas to non-native interests; they were about giving fishing access to band members so that they could pursue a livelihood in the fisheries.

Currently, bands can purchase and accumulate owner-operator licences, convert them into communal licences, and then lease them out, bypassing owner-operator protections. It should be made mandatory, through policy or regulations, to have indigenous participation in the prosecution of indigenous commercial access—boots on the boats.

My second recommendation is effective enforcement of the Fisheries Act. More effective penalties designed to dissuade would-be offenders—especially punitive for repeat offenders—are also needed for conservation-related offences. As some resources on fisheries have become more lucrative, financial penalties have not followed increased income levels from the fisheries. A review of appropriate penalties in all fisheries is required.

My third recommendation is enhancing co-management and consultation. Fishermen often feel that management decisions, particularly in crisis situations—such as the right whale crisis in Atlantic Canada and the Atlantic mackerel moratorium—are made for them, not with them.

While the minister may consider social, economic and cultural factors, these considerations are discretionary and not mandatory. If the act is opened, it should be amended to make the consideration of social, economic and cultural factors a mandatory requirement for the minister when making decisions related to the inshore commercial fishery.

To ensure that the expertise and livelihoods of commercial fishermen are fully integrated into the fisheries governance, the reviewed Fisheries Act must mandate more formal structured and ongoing consultation processes with fishermen and their associations.

I'll skip to my fourth recommendation in the interest of time: Review the current Fisheries Act for redundancies and inefficiencies. Since the last review of the Fisheries Act, it has become evident that the DFO workload has expanded significantly but without necessarily improving their results.

For example, among the additions to section 6 of the Fisheries Act, the part that mandates that the minister develop and implement fish stock rebuilding plans leads to management redundancies and focuses rebuilding of fish stocks on fishing efforts solely, whereas, in many instances, climate change and changing predation dynamics are the leading causes of fish stock collapse and of their inability to recover.

In some cases, fish stocks may never recover into historical healthy zone status according to the current outdated precautionary approach of DFO. These sections could be repealed and resources redirected to enhance holistic ecosystem science and resource management through current advisory committee structures.

Finally, the precautionary approach should be modernized to account for habitat carrying capacity changes related to climate change and other changing environmental factors.

• (1550)

Thank you.

The Chair: Thank you very much. You were right on time.

Last but not least, we're going to Mr. Colin Sproul for five minutes.

Colin Sproul (President, Unified Fisheries Conservation Alliance): Good afternoon, Chair and honourable committee members. Thank you for the opportunity to appear today.

The Unified Fisheries Conservation Alliance, UFCA, is an alliance of commercial fishery stakeholders calling on the Government of Canada to establish clear, lasting, responsible regulatory oversight of all fisheries: commercial, food, social and ceremonial. We represent thousands of independent multi-species commercial fishermen and fishery associations from across the Maritimes. Our membership also includes small to medium-sized businesses that are directly or indirectly tied to the Atlantic Canadian commercial fishery.

For thousands of Atlantic Canadians who work on boats and wharves, in processing plants and throughout the supply chain, the commercial fishery is their livelihood. For rural communities and governments, the fishery represents jobs, a tax base and an economic impact that helps to provide vital services for all residents.

Unfortunately, regulatory uncertainty is causing anxiety and concern among fishers and other stakeholders over the long-term sustainability and prosperity of the industry. Clear rules, compliance and enforcement are needed. To achieve this, we need to work together.

We want to collaborate with the Government of Canada and first nations to inform and understand viewpoints and ultimately establish regulatory certainty. The UFCA believes that indigenous and non-indigenous fishermen can work side by side in the future like they do today in the commercial fishery. We recognize and acknowledge the importance of co-operation with indigenous communities and that indigenous fishermen have a right to fish for commercial, food, social and ceremonial purposes.

Just as commercial fisheries operate today, there is room for diversity. There can be differences within allocation structure, admin-

istration and process; however, rules must ultimately and clearly form part of an integrated set of regulations that conserve fishery resources for generations to come and ensure a fair and respectful fishery for all. The UFCA continues to advocate on behalf of commercial fishermen and all those who rely on a sustainable fishery.

Our members have serious concerns surrounding proposed changes to the act. Regulatory authority within the act is already sufficient to achieve well-managed, sustainable fisheries. What is sorely lacking in the management of Canadian fisheries today is the application of science-based decision-making in collaboration with fish harvesters and respect for existing law. These processes have been replaced with ideological and political calculation at the peril of all communities that rely on healthy fisheries.

Potential changes most relevant to the UFCA's membership are those proposed by first nations governments and environmental non-governmental organizations, ENGOs. Changes proposed to indigenous commercial fisheries by the department and some Atlantic first nations governments are a clear departure from the scope of rights ratified by the Marshall decisions.

They would see the minister abdicate her authority, an authority that has been clarified by the Supreme Court of Canada, and they would further exclude rights holders from participation in fishing. The wanted changes are a road map for corporatization and vertical integration within rights-based fisheries. They would only serve to dramatically increase the leasing of fishery access to non-indigenous corporations, access that was granted expressly to implement Marshall rights. Most ominous to our members are proposed changes that would create a back door for a corporate takeover of the fishery in our own communities through nominal first nations ownership.

Also of concern to our members is the growing and inappropriate influence of ENGOs in fisheries management. Today, these groups routinely sit at stakeholder tables, where they have no business as stakeholders, while using their considerable resources to drown out harvester voices. Many of these groups gain the majority of their funding from foreign sources and then use that money to lobby against the sustainable economic development of Canadian resources. Meanwhile, the federal government boasts of its collaboration with these groups while holding out their alliance as social licence for management decisions that unnecessarily hurt fishing communities.

Fisheries management in Canada has lost its way. Any proposed changes to the act cannot solve all of the key problems facing us today. They can only be solved through transparent collaboration with real stakeholders. Ideology and politics must be rejected by the leadership of the Department of Fisheries. Science-based decision-making and respect for the law must be embraced again.

Thank you. I invite questions.

• (1555)

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

That ends our opening remarks. We're going to go right into our first round of questions, starting with Mr. Arnold for six minutes.

Mel Arnold: Thank you, Mr. Chair.

I thank all of the witnesses for being here for this important study.

Mr. Sproul, on November 18, 2020, five years ago, 516 days after Bill C-68 received royal assent to amend the Fisheries Act, former minister Jordan, the minister at the time, was asked about reports of irregular landings of lobster in and around St. Marys Bay in 2020. She told this committee that "The fluctuations in landings in St. Marys Bay are consistent with those across all of the LFAs, so we do not see a conservation challenge right now. The stocks are healthy."

In your opinion, what effect did the 2019 changes to the act have on irregular lobster landings in and around St. Marys Bay?

Colin Sproul: I would immediately dispute former minister Jordan's opinion on it. In that time period, we'd seen a huge reduction in lobster landings within St. Marys Bay, and the out-migration of at least one-third of the fishing access to other points within the fishing area where people can still make a living.

We also saw the closure of Riverside Lobster, one of Nova Scotia's largest lobster-processing plants, and the resultant loss of 200 jobs in the community.

As I said in my comments, and I will echo it again, this isn't about the act; this is about respect for law, respect for existing licensing policy and the application of law enforcement in our communities.

• (1600)

Mel Arnold: Since 2019, have you been able to raise the concerns about irregular landings of lobster with one or more of the fisheries ministers?

Colin Sproul: Yes, we've raised those concerns extensively with all of the fisheries ministers since 2019.

Mel Arnold: And what were the responses?

Colin Sproul: Well, given the 10 years of extreme poaching and organized criminal activity within our communities, responses mean nothing to our membership anymore. The only things they will judge are action and results, and for a long period of time, we've seen neither.

This has resulted in huge damage to the sustainability of the resource, the outbreak of violence in our communities, and I think most importantly of all, a gulf being driven between indigenous and non-indigenous fishermen that never existed in the past.

Mel Arnold: Thank you.

In your opinion, were the St. Marys Bay lobster stocks healthy in November 2020?

Colin Sproul: Yes.

Mel Arnold: Are those same lobster stocks healthy today?

Colin Sproul: No, they're not healthy anymore due to the presence of an incredibly large, commercial, out-of-season fishery.

Mel Arnold: Okay. Thank you.

I'll switch now to Ms. Sonnenberg.

Principal owner-operator and fleet separation were established in the Fisheries Act through Bill C-68 in 2019. Is that correct?

Melanie Sonnenberg: That's correct.

Mel Arnold: Thank you.

Bill C-68 received royal assent on June 21, 2019, with Jonathan Wilkinson as fisheries minister. After the provisions of Bill C-68 came into force, when did you first raise concerns with the fisheries minister that owner-operator provisions were not being enforced?

Melanie Sonnenberg: Very soon after the regulation came into force, we started asking for reports as to what was being done. Then it became clear we were not going to see much being done. Since the time that it came into force, we've raised this basically on a monthly basis.

Mel Arnold: Okay. My next question was going to be what the minister's response was at the time, but it doesn't sound like there was a response at the time. Can you provide what the response has been? Has there been one?

Melanie Sonnenberg: It has varied with different ministers, and as it was pointed out earlier, we have seen a variety of ministers in the last few years.

I think where the stumbling block happens is between the minister and the department. The act was one portion, one piece of it, as you know, and then when the regulations came in, the expectation was it would provide the vehicle to back the act up.

One of the shortcomings in the regulations was the ability for a company or an individual to come in with an agreement that would be reviewed during a transfer in a licence exchange. They were given 12 months to rectify the problem, and because of the wording in the regulation, it really stymied the ability for serious action.

We went from asking for updates on what was going to happen to asking for the cleaning up of the problem that existed inside the new regulation to today, and we are still working back and forth, asking for that correction to be made in that, which is desperately needed in order to properly enforce the regulation as it was written.

Mel Arnold: So the act and the regulations are there but are just not being enforced?

Melanie Sonnenberg: The act is there, the regulation has the shortcoming, and there's been no attempt until recently to rectify the issue that is creating what we would consider to be, in some neighbourhoods, an increase in controlling agreements on the water.

Mel Arnold: An increase—

The Chair: I'm going to have to jump in there, Mr. Arnold, as the time has elapsed.

With that, we'll move on to Mr. Cormier for six minutes.

[*Translation*]

Serge Cormier (Acadie—Bathurst, Lib.): Thank you, Mr. Chair.

Good afternoon everyone.

Thank you to the witnesses for being with us today.

My questions are mainly for Mr. Allen or Mr. Mallet.

I have no doubt my fellow members around the table agree with some of the points you raised. We've discussed many of them throughout this study.

The first thing I want to ask you about is the issue of fines. As far as I'm concerned—and other members around the table will agree with me—the fines for certain offences are rather low. They're not high enough. I'm talking about things such as poaching or being in possession of egg-bearing female lobsters.

Indigenous communities also feel that the fines are too low. They fish for food, social and ceremonial purposes, and they sell their catches. We talked about that.

Do you consider the fines to be too low, encouraging certain individuals to do the same thing the next day or week?

I don't think a \$500 fine for a catch or poached fish that can bring in thousands of dollars is going to deter anyone.

Where do you stand on those fines, which may be too low?

• (1605)

[*English*]

Carl Allen (Vice-President, New Brunswick, Maritime Fishermen's Union): I would agree with that. The fines typically are not high enough. Depending on the offence, we're doing this exercise within the Maritime Fishermen's Union right now of trying not to use the word "fair" but an "appropriate" fine for the offence. If you're talking about an offence that doesn't affect the sustainability of the resource, then maybe we shouldn't be so harsh. For instance, failing to report a lost trap due to the right whale really has no effect on the resource.

To your point about undersized lobsters, buried females and fishing in a closed zone, in a lot of cases the fines are not appropriate. I don't think a lot of people use the term the government uses: "cost-benefit analysis". When you do the cost-benefit analysis and ask about the cost of getting caught, it's way smaller than the benefit of breaking the rule, so let's break the rules. The amount I'd get away with before I even get caught would more than compensate for the fine for being caught.

Once upon a time if you were found guilty of serious offences, you lost time on the water. Somehow it got to be a case of, "Oh, well, but that's impacting his livelihood". However, if I'm affecting the sustainability of the resource, I may be affecting your livelihood and someone else's livelihood.

No, I don't think the fines are enough.

[*Translation*]

Serge Cormier: All right. Thank you.

Now I'll get to the heart of the matter.

This may be difficult for some to talk about, but we need to talk about these problems. We need to talk about what's going on in the industry if we want our lobster fishery to thrive for future generations.

I'm sure you saw the recent story that aired on the Radio-Canada show *Enquête*. Investigative journalists went undercover in communities and witnessed things that were going on, on both the indigenous side and the commercial side. The focus was on indigenous fisheries. In the indigenous food, social and ceremonial fishery, indigenous fishermen were selling their catches to groups that were reselling them on the black market, organized crime groups and so forth.

Are you aware of that happening in your communities?

Is that something you're seeing more and more often in indigenous communities?

[*English*]

Carl Allen: In some first nations communities it's one of those worst-kept secrets. The same thing has happened in St. Marys Bay, where we've turned a bunch of FSC fisheries into quasi-commercial fisheries. They're out-of-season fisheries and in some cases these fisheries are taking place during a biologically sensitive time of the year when there should be no fishery. There shouldn't even be an FSC fishery, let alone one that gets turned into a quasi-commercial fishery, if we want to have truly sustainable resources.

This is an issue that we've been bringing up over and over again. What happened in St. Marys Bay, in the incident between non-first nations and first nations fishers, was because things got so bad that nobody was doing anything. Non-first nations fishers felt that was the only option, but I think they made a mistake at the time.

Serge Cormier: I have just one minute left. I'm sorry. The time goes fast.

[*Translation*]

I understand that. Selling catches harvested for food, social and ceremonial purposes is prohibited under the act.

Let's talk about the commercial fishery now.

What we want is a sustainable industry, one that will continue for many more years. Mr. Sproul spoke of the importance of making science-based decisions and knowing the state of the resource.

Why does the lobster industry still not have dockside weighing?

That would probably be a way to deal, once and for all, with the issue of dockside monitoring and catch control, specifically how harvesters get their catches.

It's probably also the way to put an end, once and for all, to lobster smuggling, whether in indigenous communities or the commercial fishery. As you know, some harvesters don't report their full catches.

Why isn't dockside weighing mandatory?

• (1610)

[*English*]

The Chair: I'm sorry, but I'm going to have to ask for a short answer. We're out of time.

Carl Allen: I'll try.

I would say that the short answer for why lobster has never been a monitored fishery is that it's not a quota fishery. It's effort-based, not quota-based, and that's one of the reasons from the harvester side of it. Most fisheries in the past only went to dockside once they went to a quota fishery. We look at it as it becomes cumbersome and expensive for us for a fishery that doesn't have a quota.

Serge Cormier: I don't think fishers would like a quota-based fishery.

Carl Allen: No, no—I don't want to have that debate. I'm just saying that's the simple answer.

The Chair: I'm going to have to jump in.

Thank you very much, Mr. Cormier.

[*Translation*]

I now give the floor to Mr. Deschênes for six minutes.

Alexis Deschênes (Gaspésie—Les Îles-de-la-Madeleine—Lis-tuguj, BQ): Thank you very much, Mr. Chair.

Good afternoon, everyone.

I'm glad we have all of these interesting witnesses with us.

I just want to take a few minutes, Mr. Chair, to move a motion, as my colleague Mr. Arnold has to leave before the end of the meeting. I would just like us to vote on the motion. It was sent to everyone on November 14.

The motion is to give us more time to study the law enforcement barriers. I asked that we add at least three additional meetings and invite the following witnesses to answer questions on this topic.

The following people would be invited to testify:

- (a) fisheries officers and/or union representatives of fisheries officers;
- (b) the Conservation and Protection Directorate of Fisheries and Oceans Canada;
- (c) the Deputy Minister of Fisheries and Oceans Canada and her Associate Deputy Minister;
- (d) representatives of the RCMP;

(e) the Minister of Justice;

(f) the Deputy Minister of Justice;

(g) retired fisheries officers; and

(h) any other witnesses the committee deems relevant.

I propose that these witnesses appear before the committee. I would like us to be able to debate my motion now, since everyone is here.

The Chair: Thank you very much, Mr. Deschênes. I've stopped the clock.

We will now move on to debate on the motion proposed by Mr. Deschênes.

Mr. Arnold, go ahead.

[*English*]

Mel Arnold: Thank you, Mr. Chair.

I appreciate Mr. Deschênes' approach on this, but because some of the witnesses he listed are scheduled to appear this coming Thursday, I'd like to amend the motion. Instead of saying, "at least three additional meetings", it would say, "no more than two additional meetings".

The Chair: Thank you, Mr. Arnold.

Go ahead, Monsieur Cormier.

[*Translation*]

Serge Cormier: I thank my colleague for his motion.

I, for one, think we should take the time to consider the Fisheries Act very carefully.

Given all the news reports we've seen recently about the fishing industry, including questionable licence sales and business controls, where things aren't clear, I think we should keep the three meetings.

I would even suggest planning three meetings and, if necessary, adding another one. However, I agree that we should hold at least three meetings.

I know that a number of groups would like to come and testify before the committee to advocate for certain changes or to maintain certain provisions.

Obviously, I think it behooves us to take a very serious look at the Fisheries Act. That way, our committee will be able to make good recommendations at the end of this study.

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

Mr. Arnold, the floor is yours.

[*English*]

Mel Arnold: Thank you, Mr. Chair.

We took the time to work out a timetable of what's left for meetings. Next week, we have the commissioner appearing. There would be five meetings remaining after that. If we have one of those meetings with the minister and officials and two more for the Fisheries Act review, it would leave one meeting to review version one of the redfish and lobster report and another to finish the redfish and lobster report. That is why we're suggesting keeping it at two meetings.

We can have the study wrapped up before the winter break and leave it with the analysts to draft version one for when we come back in January.

That's our proposal for the best use of time.

• (1615)

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

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

(Motion agreed to [*See Minutes of Proceedings*])

[*Translation*]

The Chair: Mr. Deschênes, you have the floor for five minutes and 45 seconds.

Alexis Deschênes: Thank you very much, Mr. Chair.

I thank my colleagues for supporting this motion. I think we can work together to shed light on the situation and improve things. We want to make sure to protect the resource, to reward honest fishers who play by the rules and, finally, to enforce the Fisheries Act.

In a way, this is the outcome of the testimony we have heard, which was quite alarming and showed us that there was a problem with the application of the act.

My next questions will be on that very topic.

I'll start with you, Mr. Mallet.

We saw in a recent report that there was lobster trafficking, which was done in a very subtle way, as we understand it.

We have also heard testimony at this committee that fishery officers were not intervening.

What is your experience with fishery officers?

Have you ever asked for interventions?

If so, how did it go?

Martin Mallet: Thank you for the question, Mr. Deschênes.

The Maritime Fishermen's Union, or MFU, and other associations, such as those represented by my colleagues here today, regularly report to fishery officers issues related to compliance with the Fisheries Act.

Our reports even get as far as the minister's office. We end up repeating ourselves on specific subjects. This includes out-of-season fishing by certain indigenous groups or individuals. That was mentioned in the news report. We've been reporting it for several decades.

Alexis Deschênes: What is going on?

Martin Mallet: We've seen a pattern of letting things slide. We are told every year that there will be closed door consultations and negotiations between the department and first nations, one band at a time. We have struggled—

Alexis Deschênes: I want to make sure we understand each other, Mr. Mallet. Is the department telling you that negotiations are going to be held?

Martin Mallet: Yes, that's right.

Alexis Deschênes: The situation is actually clear. Food fishing is allowed, but not for commercial purposes.

The department tells you that it will negotiate, correct?

Martin Mallet: Agreements are signed. Every year, we receive copies. We forwarded them to the journalists on the program *Enquête*. It is written in black and white that the food fishery products must not be sold or shared with non-indigenous people. However, that practice is tolerated.

Alexis Deschênes: So the department is telling you that it is ready to discuss the subject and negotiate.

Is that correct?

Martin Mallet: We're told every year that negotiations will be held to try to improve the situation. However, as long as there are no fines or consequences for those who continue to break these agreements, nothing will get done.

I say this from experience. We've been trying to change things for decades, and it's not happening.

Alexis Deschênes: So it's to be understood that the problem is of a political nature. It is the department that agrees to discuss the application of the act.

Is that why fishery officers aren't intervening?

Martin Mallet: I think the problem is entirely political.

Alexis Deschênes: Thank you, Mr. Mallet.

Mr. Sproul, you're in the media today. I read an article about you in a Nova Scotia press review.

Can you hear me okay?

Can we stop the clock, Mr. Chair?

• (1620)

[*English*]

Colin Sproul: I'm sorry. The volume in the translation suddenly dropped.

It's okay now.

[*Translation*]

Alexis Deschênes: You're in the media today, Mr. Sproul.

In the article, you describe a situation in Nova Scotia. Apparently, lobsters are being illegally traded.

I would like you to explain the situation to the entire committee. Trucks loaded with lobsters caught out of season leaving Nova Scotia were involved.

Is that correct?

[English]

Colin Sproul: Yes. Essentially, it's our firm belief that, at the highest levels of the Canadian government, there has been a conspiracy to prevent the application of fisheries and criminal law in southwest Nova Scotia. We've seen tractor-trailer load after tractor-trailer load of lobster leaving southwest Nova Scotia to go to processing plants in New Brunswick and elsewhere and, as well, across the border to go to China and to the United States, with zero interdiction of any of it by the government.

[Translation]

Alexis Deschênes: How can you be sure that the lobsters in those trucks were caught illegally?

[English]

Colin Sproul: Well, after a decade of facing this activity, over the last number of years the Unified Fisheries Conservation Alliance engaged professional private investigative firms from outside Nova Scotia to investigate. Within a couple of months, they were able to gather enough evidence for us to move forward in a civil suit against lobster buyers within and outside Nova Scotia. We're suing each of them for \$10 million, but it doesn't even begin to cover the losses for our members. However, the question the committee should ask themselves is why, if our private investigators were able to gather enough evidence to move successfully forward on a civil suit in a month, for 10 years, could the Department of Fisheries and Oceans and the RCMP not bring anything to bear on this issue? Why have our communities been allowed to devolve into chaos and violence?

[Translation]

Alexis Deschênes: From what I understand, the department received your report on that situation, as well as the result of your investigations conducted by private investigators.

Is that correct?

[English]

The Chair: There's just time for a very short answer.

Colin Sproul: We shared what we can while still protecting the integrity of our legal case, but we certainly shared a ton of information with the department now. The UFCA has been in existence for nearly six years, and in all that time, we shared the information with law enforcement and repeatedly urged them to act.

[Translation]

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

[English]

That finishes our first round.

We go to the second round.

Mr. Small, you have five minutes.

Clifford Small (Central Newfoundland, CPC): Thank you, Mr. Chair.

Thank you to the witnesses.

Mr. Sproul, what would say is the biggest threat to owner-operator and fleet separation in today's fishery in Atlantic Canada? Similarly, what's the leading cause of growth in vertical integration that you're seeing right now?

Colin Sproul: Certainly, corporate takeovers/vertical integration is the biggest threat to the independent fishery. From the UFCA's perspective, we're most concerned about nominal indigenous ownership of fishing licences. Proposed changes to communal commercial fisheries and to the act would see the department begin to issue fishing licences to indigenous companies and corporations, and not just to first nations themselves. This is a very ominous thing, and we know that it's already taking place. We know that some of the vertically integrated companies that have been violating owner-operator policy have been transferring their licences to indigenous entities and, then, signing long-term lease agreements to fish the access back from the first nations. That's certainly the nexus of where we see the problem, but that's not to ignore the problem with non-indigenous vertical integration. It's certainly an issue as well, but the new frontier of violation of owner-operator policy is the indigenization of the access.

Clifford Small: Thank you.

Mr. Chapman, you mentioned the damage that could come to the fishery if subsection 6.1(1) of the act were changed in favour of submissions made by certain NGOs. Could you give us a quick example or two of how a fishery that's currently functioning well could be harmed by those changes, or a future fishery that could emerge?

• (1625)

Bruce Chapman: I actually asked a DFO official this morning about the number of fisheries that are in the cautious zone, for example, and the value of those fisheries. I'm not privy yet to the answer.

To give you an example, in the northern shrimp fishery in some areas that are designated to be in the healthy zone in one year, we have a survey and it drops below the healthy zone for that year. Then the following year, we have another survey and it goes back up to the other. There's variability in surveys and it would be absolutely disastrous to have fisheries open and fisheries close on an interannual basis. That's crazy.

In other cases, you saw recently with shrimp fishing area 6 in Newfoundland that it was in the critical zone for a number of years, but with recognition that the model needed to be adjusted. The model has now been adjusted. The reference points have now been adjusted. The stock is now designated to be in the healthy zone. It would have been closed for a handful of years if there was a requirement to close it, but there was an ability and discretion allowed to have very low exploitation rates during that period.

Clifford Small: Thank you, Mr. Chapman.

Ms. Sonnenberg, you mentioned the owner-operator and fleet separation that's supposed to be supported. These policies are supposed to be supported by the act.

Do you think that fleet separation and protecting owner-operator is best provided by the act or by the implementation of the act?

Melanie Sonnenberg: I think that it is a two-pronged approach. The act has to lay it out, but there has to be something behind it that gives it teeth. That was what we expected with the regulations, which did not pan out the way we hoped. By having it entrenched in the act with stronger wording than we have today and then having regulations that are revised—

Clifford Small: Ms. Sonnenberg, they're handing out \$1,000 fines for someone who estimates 200 pounds more codfish in their logbook than what they actually landed when they're on a weekly quota, if they land it on a Monday. Does that make sense to you?

Melanie Sonnenberg: No. That's where interpretation needs to be clear and the rules need to be set up in a way that doesn't allow the kind of variability that we've seen from some of these things, like what you're talking about.

Clifford Small: Do you think the will has been there since 2019 to implement the act or has the will not been there?

The Chair: I'm sorry. I'm going to jump in there.

Ms. Sonnenberg, if you'd like to submit a response in written form, please send that to the committee.

Next we're going to Mr. Morrissey for five minutes.

Robert Morrissey: Ms. Sonnenberg and Mr. Sproul, would you have examples of controlling agreements to provide to this committee?

It has been referenced a number of times—its verbal vagueness. If you have any documentation, could you provide it to the committee?

Melanie Sonnenberg: Some of our membership have some versions, and some of them are quite different from one area to another, that have been submitted to the department. I could probably come up with a couple of examples that I can submit to the chair.

Robert Morrissey: That would be good because clearly that is in contravention of the intent. We want to ensure the intent is not violated.

Just quickly, how would you envisage harvester supply data?

Melanie Sonnenberg: I think that we need to sit down with the department and the science and work out a framework that is applicable.

Robert Morrissey: Given the value of the lobster fishery on the east coast and the fact that those fisheries that have been successfully dockside monitored [*Inaudible—Editor*], I'm curious as to the resistance in moving. We hear everything from cash buying and all kinds of “illegal” activity that's going on. One quick way of getting control of it would be better monitoring at the dock.

To my colleague's question, I didn't really get a good answer from anybody. I know there's a cost, but there's also a cost to doing nothing in this lucrative fishery and have it challenged.

● (1630)

Melanie Sonnenberg: I'm going to suggest very boldly that we have to start with some other measures. That starts with enforcement on the water.

Robert Morrissey: Okay. I agree with that.

Our government has extensively increased enforcement. In fact, you would agree there have been charges made in Nova Scotia relating to some of the issues you raised about lobster heading to plants in New Brunswick, I believe, that were coming from sources that were not legally commercially caught. It is yet to be adjudicated in court. I've seen, from my position, a significant change in cracking down on these illegal activities.

Would you agree, Mr. Sproul?

Colin Sproul: I would say that the Unified Fisheries Conservation Alliance is very happy and appreciative of the recent change in enforcement that we've seen.

However, we would point out that if the minister had truly had the intent to solve the problem then these enforcement actions would be taken in places like St. Marys Bay, at Saulnierville harbour, or in St. Peters Bay at the St. Peters Canal. They would seize fleets of boats that are fishing without any legal licences or conditions. These boats are openly landing thousands of pounds of lobster every day under the view of DFO with nothing happening to them.

While what's taking place at the fish plants is beneficial, the safest, most effective way for this to be dealt with is at the wharves. Seize the vessels and arrest the people who are breaking the law. That has not happened as of yet.

Robert Morrissey: Thank you

Currently before the House, there's a Conservative member who introduced the private member's Bill C-237. It would change the Fisheries Act, including how we do science from a stock basis to a species basis.

I asked him if he had consulted with any fisher organization on his private member's bill. I didn't get an answer.

To any of you, are you aware of the private member's Bill C-237? Did this member consult with you on the contents of that bill?

Clifford Small: I have a point of order, Mr. Chair.

I think Mr. Morrissey should explain, instead of just giving the number of the bill.

The Chair: I'm sorry, Mr. Small, that's not a point of order.

I paused the time. Mr. Morrissey, you have another minute.

Robert Morrissey: Thank you.

I would like an answer because it could, if it ever passed, have implications on the fishery.

Have any of you been consulted?

Melanie Sonnenberg: I have reached out to a number of members within the federation. They have only recently learned of the bill.

There is concern about it. At the present time, there's been—to my knowledge and from what I've heard—no consultation, but we are seeking it.

Robert Morrissey: Okay.

Do Mr. Sproul or Mr. Mallet want to answer?

Mr. Mallet, go ahead on the private member's bill, which is before the House.

Martin Mallet: I would give an answer similar to Ms. Sonnenberg's.

I think that bill in particular would have significant impacts on how we manage other resources as well. I think it might be an issue about consulting and getting some more work done around it.

Robert Morrissey: You haven't been consulted yet?

Martin Mallet: Not the organization, no.

Robert Morrissey: Okay.

Mr. Chapman, please go ahead.

Bruce Chapman: I also represent people in the Atlantic halibut fishery. To my knowledge, none of them have been consulted at this point.

Robert Morrissey: Okay, thank you.

How is my time?

The Chair: Your time has lapsed.

Thank you very much, Mr. Morrissey.

[Translation]

Mr. Deschênes, you have the floor for two and a half minutes.

Alexis Deschênes: Thank you very much, Mr. Chair.

I'd like to come back to what you said, Mr. Mallet and Mr. Sproul, as I think it's important. You talked about political pressure.

First, Mr. Mallet, you said that the decision not to intervene in the matter of illegal fishing was entirely political in nature.

Could you explain to us what you're basing that on?

Martin Mallet: I've been in the fisheries sector for about 20 years, first as a biologist and then as a director at the Maritime Fishermen's Union for the last seven or eight years.

Over the past few years, I have had to make representations on many occasions to officials in the regions, as well as at the national level, at 200 Kent Street, in Ottawa. I've presented the same issues to six or seven ministers, and we always get the same responses.

The problem is not being resolved. As I mentioned earlier, we are told that the right to food fishing is a fundamental right and that it stems from the Constitution of Canada.

That said, the agreements are renewed every year in the form of a contract or treaty. It's there in black and white. The product of those fisheries must not be sold.

All we're asking for is equal application of the law to all of our fisheries, including first nations fisheries.

● (1635)

Alexis Deschênes: Thank you, Mr. Mallet.

Mr. Sproul, you talked about a conspiracy.

What do you mean? Why do you say that?

[English]

Colin Sproul: Some people would believe this is a frontline issue or that there's animosity at the front line between DFO, C&P officers and our harvesters, but that couldn't be further from the truth. We share the communities and we're equally frustrated. I'm hesitant to speak for them, but we know them and we're in a position of trust with them. They tell us they are prevented from doing their job by their superiors because of political considerations.

This isn't an accusation on our part. It is widely understood in our communities that we view the law being broken day after day. We see fishery officers observe it taking place, yet nothing happens.

That's the bottom end of it, but the top end of it is certainly that the former national director of enforcement, Heather McCready, was influencing fishery officers and their command structure to not enforce the law against indigenous people who were violating the Fisheries Act. That's our accusation, and we firmly believe it.

[Translation]

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

[English]

Before we wrap this first panel, I do want to give two minutes each to the Conservatives and then the Liberals to ask questions, and then we're going to wrap this panel and go on to the next one.

Mr. Gunn, go ahead.

Aaron Gunn (North Island—Powell River, CPC): Thank you, Mr. Chair.

Mr. Sproul, I want to follow up on that point you were just making. Can you summarize, in your view and from your experience, how commonplace the illegal fishing, illegal selling and illegal trafficking of fish by certain groups is? Also, do you believe DFO knows 100% who is responsible and that there is a conscious decision being made not to enforce the law in certain circumstances?

Colin Sproul: Over the last 10 years—every day, 24 hours a day, year round—there is illegal fishing taking place somewhere in the Maritimes. There's been a lot of focus on places like St. Marys Bay or St. Peters Bay, but the truth is that when Minister Jordan told people in Canada that it was okay for them to break the law, it was reasonable for them to assume they could, so it exploded. It planted the seed for it, and since that time we've seen it spread all across the maritime provinces.

What we need to focus on is a resolution to it. The only way that's going to happen is by enforcing existing law. If people don't like that, then the law needs to be changed, but in the absence of any law, we have chaos, and that's what's evident in our communities right now.

Aaron Gunn: You mentioned that sometimes this is happening with certain indigenous groups. Do you think it ultimately hurts reconciliation and is unfair, maybe most of all, to those first nations who actually play by the rules and follow the rules?

Colin Sproul: I started fishing full time with my father in 1997, and the Marshall decision came down in 1999, so I've been party to this throughout my entire career. Initially there was a little bit of consternation, but over 20 years of carrying the same lunch down the same wharf and dragging your butt back up at the end of the day, that bred a lot of mutual respect, a lot of détente and a lot of water under the bridge. So much of that has been lost with the government's direction over the last decade in reconciliation. It's really terrible what has happened in our communities at a personal level.

However, let me be clear, the biggest victims of the government's direction on reconciliation in the fishery are rights-based harvesters. They hold the largest position in St. Marys Bay, so their catches in the communal commercial fishery are being hurt.

I think, most importantly, as I'll point out again, there's a new generation of animosity that's been created between indigenous and non-indigenous fishermen. To me, that's the ultimate bitter harvest of what's happened.

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

Lastly, we're going to go to Mr. Klassen for two minutes.

Ernie Klassen (South Surrey—White Rock, Lib.): Thank you very much, Chair.

Thanks to the witnesses.

My question is for Melanie Sonnenberg.

You were talking about the owner-operators and the west coast and east coast not being in the act sufficiently. You mentioned that both the west coast and the east coast should have something in the act. Could you expand on what you see as the differences and where it should be placed in the act?

• (1640)

Melanie Sonnenberg: In the current way it's written it doesn't exclude B.C., but we do know, as we've spoken with you about, that they are excluded from it in the way that we enjoy—I say "enjoy", but that's not really the right word. The owner-operator applies in the east quite differently from the B.C. Pacific region.

What we're suggesting is—and there is already a plan afoot—a modernization of the fishery out there to encompass owner-operators, but it needs to move more quickly. The Fisheries Act needs to reflect very clearly that this includes B.C. It always was intended to include B.C. Even back when this concept was first introduced to the government, B.C. was part of that, and then there was an erosion of that policy on the west coast, which did not happen on the east coast. We see real corporatization of the fishery out there in a very substantial way, and that's why we include in our recommendations that we need to have it move faster before there's nothing left out there.

Melanie Sonnenberg: I'm sorry, but I missed the last part.

Ernie Klassen: Do you see any place, in the fishing industry, for the commercialization of fishing?

Melanie Sonnenberg: I think that's for the B.C. people to work out. I can respond to that in writing if you like.

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

That completes our first panel.

I want to thank our witnesses for their testimony and for being patient while we worked through some of our committee business. Certainly, your testimonies will be very helpful as we put together our recommendations. Thank you very much.

With that, we're going to briefly suspend while we welcome our next panel.

• (1640) _____ (Pause) _____

• (1645)

The Chair: Colleagues, we're starting back up here.

I'm just going to make a few comments for the benefit of the witnesses. Please wait until I recognize you by name before speaking. For those who are participating by video conference, click on the microphone....

I'm sorry, but I'm going to have to pause here.

• (1645) _____ (Pause) _____

• (1645)

The Chair: Colleagues, we're getting started again here. I know we had a great panel earlier on, but we are moving on to our next panel here. I'll say a couple of comments for the new witnesses.

Please wait until I recognize you by name before speaking. For those participating by video conference, click on the microphone icon to activate your mic, and please mute yourself when you are not speaking.

• (1650)

[Translation]

For interpretation, for those on Zoom, you have the choice at the bottom of your screen of floor, English or French. Those in the room can use their earpiece and select the desired channel.

[English]

All comments should be addressed through the chair.

With that, I would like to welcome our witnesses for our second panel.

I would like welcome Professor Stewart Elgie, Jarislowsky chair in clean economy, University of Ottawa. He is participating in person.

[Translation]

We are hearing from Denis St-Pierre, a chartered professional accountant. He is participating in the meeting by video conference.

[English]

We have Regional Chief Terry Teegee and James MacDonald from the Assembly of First Nations, and we have Jim McIsaac, executive director, BC Shrimp Trawlers' Association.

We are going to start with the opening statements of the witnesses for five minutes. We'll start in person here with Professor Elgie.

[Translation]

Stewart Elgie (Jarislowsky Chair in Clean Economy, University of Ottawa, As an Individual): Thank you, Mr. Chair.

I'll speak in English today, but I can answer questions in French, if you like.

[English]

I'm a professor at the University of Ottawa and the founder and chair of the Smart Prosperity Institute, Canada's largest sustainable economy research institute. I'm going to speak today about strengthening habitat protection and growing fish populations by moving to a policy of net gain under the Fisheries Act. This is also going to support projects of national economic interest.

We've sent in speaking notes that have more detail. They are supported by a number of other organizations, which are set out in our brief.

Needless to say, fish are very important to Canada—economically, recreationally and for indigenous nations across Canada—and we're currently not doing enough to sustain this vital natural resource. Fish numbers and habitat have been declining across Canada for decades. According to the best numbers from the federal government, there's been a 40% decline in fish populations in Canada since 1980. Habitat loss is a major cause of that decline.

What's causing this problem? What can we do about it under the Fisheries Act? Start with the policy. From 1986 to 2012, DFO implemented the Fisheries Act with a stated policy goal of achieving net gain of both fish and fish habitat. They abandoned that policy in 2012. Since 2012, the rate of decline in fish populations has accelerated.

Turning to the act, the Fisheries Act itself prohibits habitat alteration and disruption without an authorization. To get an authorization, proponents have to follow the mitigation hierarchy, but in particular, they can use offsets. I'm going to focus on that today. You probably know a bit about offsets. Essentially, it's restoring or conserving another area of habitat in order to offset damage you've done.

Since 1986, DFO's policy goal requires offsets to achieve what's called "no net loss". That's an important term that I will come back to. To achieve that, an offset must restore more habitat than is damaged. DFO's policy recognizes that. There are a number of reasons. Basically, replacement habitat is rarely as good as natural habitat. There are often delays between a project starting and habitat being restored. There are also risks that it won't work.

There's a lot of research on how much extra habitat is needed. It's known as what ratio is needed. Research by DFO scientists consistently concludes that you normally need a replacement ratio of at least 2:1 to achieve no net loss, and normally more in the 3:1 or 4:1 range. All of the evidence shows that DFO's offsets are not achieving that no net loss goal. There have been four major studies in the last 20 years on this, two by DFO scientists. All of them show that the offsets DFO is requiring are well below that 2:1 replacement goal to achieve no net loss, and it's getting worse. The two studies since 2017 actually found that the latest offsets are all below a 1:1 ratio. In other words, we're requiring less replacement habitat than the habitat being damaged, and that habitat is generally of poorer quality.

It's worse on the ground. There have been two audits, one by the commissioner of the environment and sustainable development. They found that on the ground, the majority of offsets aren't even doing what's required on paper.

What do we do about it? Well, to fix the problem, we recommend moving from no net loss back to net gain, the policy that was abandoned in 2012, but this time implementing that policy properly. Achieving net gain will not only sustain fisheries; it will also meet our commitments under the biodiversity convention, the latest version of which was signed in Montreal, which requires us to halt and reverse biodiversity loss by 2030. It's actually in the Liberal platform, that commitment, and I know that most parties have committed to it.

Other leading countries are doing this. The U.K. passed a net gain act in 2023. Australia has a similar law, which is now at second reading before its Parliament, requiring a net gain of habitat. Many hundreds of leading businesses around the world, including Canadian resource companies and sectors, have endorsed this goal of net gain of habitat.

Our brief recommends a two-stage approach to get to net gain. First of all, revise the offset policy to require net gain, with a minimum ratio of 2:1, but 3:1 on average, consistent with DFO's own science. Second, revise the act to require net gain in law. This will result in increasing private investment in habitat restorations by community organizations and first nations across Canada. We can do it while lowering costs and delays for proponents.

I have one quick note on this. Our brief sets out two methods that you can use to lower costs and delays while achieving net gain. One is third party banking. The other is called “fees in lieu” of offsets. I'll let you read the brief, but very briefly, in a fee in lieu, instead of proponents themselves having to go out and do an offset...which they're not an expert in. They're a development company. They're not an expert in fish habitat. Instead, they can pay a fee equivalent to what that would cost. The offset will get done by a third party restoration organization that knows how to do this. It results in better offsets, lower costs and less delay.

One benefit of this is that it's consistent with these projects of national economic interest. Allowing fees in lieu will let these projects go forward more quickly with less red tape, which will result in better environmental outcomes, less costs and faster projects, which is what we all want for Canada right now.

I'll leave it for other questions.

• (1655)

Thank you.

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

[Translation]

Mr. St-Pierre, you have the floor for five minutes or less.

Denis St-Pierre (Fellow, Chartered Professional Accountant, As an Individual): Thank you, Mr. Chair.

My name is Denis St-Pierre. I live in Bathurst, New Brunswick. I'm an accountant. I'm a partner on the tax team at MNP's offices.

A good portion of my clients are owners of an inshore fishing company. I regularly set up family organizational structures for these fishers, with the help of lawyers.

Since April 1, 2021, structures related to fishers are now regulated quite strictly with the addition of section 17.2 of the Atlantic fishery regulations, 1985, and its parallel section 29.01 of the maritime provinces fishery regulations.

[English]

I will refer to both regulations as “the regulations”.

In both regulations, there are drafting errors. I appreciate the occasion to be on the record to explain them to you.

In the French regulations, non-voting shareholders and beneficiaries of a family trust can only be a “*membre de la famille*”. The regulations, instead of defining what a “*membre de la famille*” is, invite the reader to look at the definition in the Income Tax Act—“*personnes liées*”—or, in English, “related persons”.

The problem under this particular provision of the Income Tax Act is that individuals are not related to themselves. As a result,

fishers are not allowed to have non-voting shares in their corporations, even if the fisher is the sole shareholder, nor can they benefit from their own family trust. When I pointed this out to the DFO in 2021, everyone that I spoke to seemed to be surprised, and it appeared to be a drafting error.

However, the regulations are completely ignored by the DFO, which allows non-voting shares to be issued to the fisher and for fishers to be beneficiaries of their family trust. This is because the English version reads differently. In that version, the definition restricts ownership and beneficial interests to a specific group, “a member of that individual's family”. These regulations do not define what a member of that individual's family is; instead, they define “family member”. “Family member” is defined, but it is then never used anywhere in the regulations. Absent a definition, what is meant by “a member of that individual's family” is not clear.

The DFO has taken the approach that it believes it knows what Parliament meant, and possibly it does. The DFO allows the fisher and their parents, children, grandchildren, brothers and sisters to own non-voting shares, and the same group can be beneficiaries of the family trust. To include the fisher in that group is in complete contravention of the French regulations, but based on the drafting errors, the DFO allows it in the English version, and thank God they do.

I have it in writing that the DFO agrees that the errors are real and that the department is relying on the flaws in the English version to allow what is otherwise contrary to the act in the French version. To my knowledge, the DFO does not allow uncles, aunts, nieces and nephews to own shares, or non-voting shares, or any shares. However, it would seem that the DFO could if it wanted to, because the DFO has decided internally what is meant by “a member of that individual's family”, ignoring the French regulations. That is error number one.

The other one could be called a flaw. The regulation does not force “the” licence-holder to be the key controlling person, only “a” licence-holder. For example, to meet the definition of an inshore family fishing corporation, 100% of its voting shares must be held by “a” licence-holder, not “the” licence-holder. Nothing in the regulation stops a licence-holder from controlling multiple licences through multiple corporations. The regulations should read “the” licence-holder and not “a” licence-holder.

Improvements to the regulations should permit the introduction of nephews, nieces, uncles and aunts. This would improve estate planning and business succession. In-law relations like son-in-law, daughter-in-law, brother-in-law and sister-in-law should continue after death. Now they don't, because of the reference to the Income Tax Act.

Finally, no more than one trustee is allowed in the regulations. In Quebec, section 1275 of the Civil Code of Quebec requires an additional trustee when the fisher is also a beneficiary. Because the law in Quebec requires a second trustee and the regulations force only one, in practice it is impossible for Quebec fishers to use family trusts. This is a nightmare from a tax and estate planning perspective, and it is also a prejudice to fishers in Quebec, who are treated differently from the fishers in the rest of Canada.

Thank you for your time. I'm ready for questions.

- (1700)

The Chair: Thank you very much, Monsieur St-Pierre.

Next, we are going to go to Regional Chief Terry Teegee for five minutes.

Terry Teegee (Regional Chief, Assembly of First Nations): Thank you to the committee.

[*Witness spoke in Dakelh*]

[*English*]

I'm calling from the territory of the Lheidli T'enneh, the Dakelh people of central British Columbia. As the regional chief of the British Columbia Assembly of First Nations, I'm also the co-chair for the national fisheries committee.

This submission is on behalf of the Assembly of First Nations and was mandated by the AFN resolution 22 entitled "2024 Fisheries Act 5-Year Review to Ensure Alignment with the United Nations Declaration on the Rights of Indigenous Peoples".

We "urge the Government of Canada to properly fund the engagements needed for First Nations' full engagement, collaboration and consultation in the statutory 5-year review of the Fisheries Act in alignment with [what is known as UNDA] Action Plan Measure 38."

We "advocate that the...review...be undertaken in full cooperation and consultation with First Nations, including appropriate timelines, and with the purpose of implementing amendments to achieve the objectives of the United Nations Declaration on the Rights of Indigenous Peoples."

Also, "engage with...Fisheries and Oceans [Canada], (DFO), and propose amendments to enable the Fisheries Act to be a legal instrument for the proper recognition and affirmation of Inherent and Treaty-protected rights-based fisheries, in addition to the protection and conservation of marine and coastal waters."

Lastly, we "advocate to the federal government to provide adequate funding for First Nations rights and title holders in the Lower Fraser River for addressing [the issues of] major developments."

In terms of the UN declaration framework, we have proposed preamble amendment options.

The first preamble option is as follows:

Whereas the Government of Canada has "adopted, without qualification" the *United Nations Declaration on the Rights of Indigenous Peoples*.

The second preamble is as follows:

Whereas the Government of Canada is committed to achieving reconciliation with Indigenous peoples through a framework that recognizes their...[inherent rights] and legal traditions consistent with universal declarations of human rights and the core international human rights instruments adopted by Canada...[which is known as the] *Declaration on the Rights of Indigenous Peoples Act*....

Where there is any inconsistency or conflict between the provisions of the *Fisheries Act* and the *United Nations Declaration on the Rights of Indigenous Peoples Act*, the provisions of the *United Nations Declaration on the Rights of Indigenous Peoples Act* shall prevail to the extent of the inconsistency or conflict.

We also propose an amendment establishing co-jurisdictional authority, a dual governance framework, and we recommend this amendment, a proposed subsection 2.4(1):

In the administration of this Act, the Minister shall exercise all powers and duties, in partnership with Indigenous Governing Bodies, ensuring that decision-making, regulation, and management of fisheries and fish habitat are consistent with co-jurisdictional authorities established under sections 4.1 and 4.2.

And also:

Consideration of priority in rebuilding fisheries stock and habitat restoration.

In terms of management, our recommendation is:

In the management of fisheries, where the Minister implements measures with respect to fish stocks or fish habitat restoration, the Minister shall give priority to measures aimed at stocks or habitat relied on by the Indigenous peoples of Canada for food, social, ceremonial, economic uses and those related to the exercise of their rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

Furthermore, we do have more recommendations, but the point is that we are recommending full alignment, as proposed and committed to by the national action plan and the 11 recommendations with-in that relate to DFO, including the full alignment with the declaration, and also observing that there are provisions for free, prior and informed consent.

- (1705)

I'll leave it at that. We do have a formal submission, and we'll submit it later on today.

Thank you.

The Chair: Thank you very much, Regional Chief.

Of course, as you mentioned, if there's anything you would like to submit afterwards in writing, it would be very helpful for the committee as we look forward to putting together our recommendations.

Next we're going to go to Mr. McIsaac for five minutes or less.

Jim McIsaac (Executive Director, BC Shrimp Trawlers' Association): Thank you, Chair and members of the committee, for the invitation to speak here today.

The BC Shrimp Trawlers' Association is a member of the Canadian Independent Fish Harvesters Federation and fully supports the four recommendations that Melanie raised earlier today.

I first fished commercially when Roméo LeBlanc was minister. Canada had just claimed a 200-nautical mile exclusive economic zone, the UN Convention on the Law of the Sea had been drafted but not yet ratified, and our Oceans Act was 20 years away.

Fishing paid my way through university. When I graduated, I chose to stay in fishing. I love the people. I love the communities. I love the purpose. I love how present it is. If you don't pay attention, you can die. It is an old and honourable profession. The fish hook predates the plough.

The development and implementation of our modern Fisheries Act has been overseen by six ministers over seven years. If we really wanted to modernize the Fisheries Act, we should have started with absolute discretion. This throwback to absolute monarchy has no place in a modern act. It is not the minister who exercises absolute discretion. Few are there long enough to understand what they could be doing. It is senior staff who exercise this discretion. Some take direction from above, but most take direction from corporations, processors and investors that profit from our fishery. Few take direction from this committee, and even fewer take direction from fishermen in our coastal communities.

In 2019, this body unanimously passed recommendations on licensing reform in the Pacific. The recommendations were great if they were implemented. One of the few positive items completed out of those recommendations was the east-west comparative analysis. This report observes that DFO generally turns a blind eye to social objectives. These are the objectives that many ministers speak to and are called for—sometimes begged for—by harvesters in coastal communities. For the last 35 years, the well-being of B.C.'s remote coastal communities has been in decline. This coincides with DFO dropping the social objectives protecting harvesters. Again in 2021, this body passed recommendations on licensing reform. The first recommendation was to implement FOPO's 2019 recommendations. We are still waiting.

For fishermen and coastal communities, these social objectives are imperative for our existence. Without them, fishermen and fishing communities perish. Witness the west coast: Since 1990, we have lost some 80 fishing communities and over 16,000 fishermen. Another 800 fishermen have been lost since 2019. It is obvious that our social objectives are too easily ignored in policy and FOPO reports. We must enshrine them in the Fisheries Act.

When Minister LeBlanc was drafting the modernized act, he told us that in section 2.5(h)—preservation or promotion—the promotion was for the west coast. It has been more like assault and demotion. The department tells us that 2.5(h) is for the east coast as the west coast has no inshore fisheries. I'd say our fisheries are inshore with maybe one exception: offshore hake. DFO clearly needs this spelled out in law.

A few weeks ago, the minister told this committee our fisheries are a common property resource. This public right to fish dates to the Magna Carta of 1215. The department, the minister, the PMO and the King do not own this. We the people do. Our fisheries are to be managed for the benefit of all Canadians. Ensuring licences and quota are in the hands of harvesters in our coastal communities will ensure this.

Thank you for your attention, and I hope this has been useful.

I look forward to your questions.

• (1710)

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

With that, we're going to go into the six-minute round of questioning, starting with Mr. Small.

Clifford Small: Thank you, Mr. Chair.

I'd like to welcome the witnesses.

Mr. Elgie mentioned economics, and I have some economics here. I have the GDP of Canada's fishery in 2010, which was \$3.9 billion, and in 2023 it was \$3.5 billion. Norway's was \$12.8 billion U.S. in 2010 and \$12.8 billion last year, so Norway has had a 4.5% factor of growth since 2010 while we've shrunk.

What do you think the reason is? Do you think it's the act not managing an outcome that we want in our fishery, which is growth? Is it fisheries management? Could it be pinniped predation?

Stewart Elgie: Those are good questions. I'm not necessarily the right person to answer them, but I can tell you this, since I'm here to talk about habitat: When you strengthen habitat, you grow fish populations. It's like growing the pie. Instead of talking about dividing it up or shrinking it, investing in fish habitat grows the pie, which supports the economic growth of fisheries. It supports increased recreational use of fish by fishers across the country, as well as indigenous use.

Having strong, protected fish habitat and improving it is the base of all successful fisheries.

Clifford Small: I heard you mention the degradation of habitat as a major factor in your submission. Are you talking salt water or fresh water, Mr. Elgie?

Stewart Elgie: Well, they're both. The statistics mix the two together. Generally, the research shows that harvest volumes are probably the biggest threat in salt water, and that habitat is a bigger threat on fresh water, but habitat is a significant problem for both.

Clifford Small: How do you measure the destruction of habitat in the ocean? How do you quantify it?

Stewart Elgie: First of all, I'm not a deep expert on that. If you want to get into the details, I have a colleague here with me, Nick Lapointe, from the Canadian Wildlife Federation.

Mr. Chair, is it okay if I bring him up to join me on that? Okay.

Nick, do you want to come up and help out on that?

Clifford Small: Mr. Lapointe, I'm looking at the open standards for conservation, otherwise known as the conservation standards. I'm sure you're aware of those standards. I have something that comes right off their page, under "Support conservation standards". It is:

The biodiversity conservation community is tackling large, complex, and urgent environmental problems where the stakes are high. However, we don't have a fully functional system to assess the effectiveness of our actions. Without more rigorous measurement of effectiveness and disciplined recording of our efforts, we cannot know or demonstrate that we are achieving desired results.

This is what marine protected and conservation areas are based on. I discovered them when I was checking out CPAWS. If you can't measure where you are or an outcome...the statements that you're making, I have some problems with it.

• (1715)

Nicolas Lapointe (As an Individual): I think there's a challenge across the board of a lack of investment in measuring that baseline, the condition of our habitat and the status of our fish populations, and then that doesn't set us up to measure the effectiveness of any type of management action.

Clifford Small: A habitat is something that organisms live in. Are you lumping the fish population in with the physical characteristics or whatnot of the habitat?

Nicolas Lapointe: I'm not sure I understand the question.

Clifford Small: If you're protecting habitat, how would you protect habitat on the shelf off Newfoundland and Labrador? What would you be protecting it from?

Nicolas Lapointe: My expertise is in fresh water as well, but I would say you'd be looking at protecting the actual ocean floor and water quality around that. Those would be the habitat parameters you'd be concerned about in that environment.

Clifford Small: Thank you.

Monsieur St-Pierre, was there a time when fish harvesters with corporations were allowed to form family trusts, that you know of?

Denis St-Pierre: I've been involved in fishing for over 20 years and no, unless they were grandfathered in 1979. In the crab fleet, for example, there were 12 enterprises grandfathered out of 122. However, no, it's against the fleet separation and the owner-operator policies.

Clifford Small: Thank you.

To Mr. McIsaac, do you agree with the NGO submissions that want to change subsection 6.1(1) to basically modify the precautionary approach, whereby fisheries would be conducted only if they're in a healthy zone?

Jim McIsaac: No, the act is already too prescriptive on the science side. It's great that we should be led by science—there's no doubt—but science takes time and, quite often, it's five or 10 years behind what's going on in the ecosystem. The ecosystem changes in a heartbeat.

If you look at the west coast, we have atmospheric rivers coming in and changing the ecosystem. We have blobs, heat waves and, then, on top of that, we have the usual variability—the Pacific decadal oscillation, El Niño, La Niña. Those are happening all the time and, to keep up with that, science needs to be tempered with harvester knowledge from those who are on the water.

The Chair: I'm sorry. We're over time here.

Mr. Small, thank you very much.

With that, we're going to go to Monsieur Cormier for six minutes.

[*Translation*]

Serge Cormier: Thank you, Mr. Chair.

I thank the witnesses for being with us today.

Mr. St-Pierre, your testimony was rather technical in nature. When we are reviewing certain provisions of an act, it's good to have the technical aspect, especially on the financial side. Some people may think you're trying to dilute, so to speak, the owner-operator provision.

Having said that, I see it in a different way. Let me give you some context. We know that the value of fishing licences, such as for lobster or crab, has increased considerably in recent years. In some regions, a lobster licence is worth over \$1 million, and it can even be as high as \$2 million. The value of a crab licence can vary from \$15 million to \$20 million.

Furthermore, we see that fishing licences are moving to other regions. Just recently, I heard that transfers could be made to the detriment of certain regions.

Considering that the value of fishing licences has increased considerably, it is becoming very difficult for the next generation of young people to obtain financing to acquire them. Witnesses who have appeared today and in previous meetings have been clear on that. Different groups are controlling things, and that can sometimes involve plants. Recently, we even heard about organized crime.

How do we ensure that the act continues to protect owner-operators?

How could we promote in the act a type of family agreement with people who want to acquire licences in order to keep those licences in our communities?

[English]

Denis St-Pierre: I'll answer in English, if that's okay with you.

First and foremost, the points I did make were technical, but they were meant to close loopholes, not the opposite.

My clients are mainly crab fishermen. I have a few lobster fishermen, but mostly they are crab fishers. These people want to have a long-term sustainable fishery. They do not want to have loopholes. They do not want to have anything that is grey. That's because, as with any loophole, the loophole will be closed.

As for the price, the issue is that we have inflated prices. The people who are buying cannot afford it. They probably know they can't, but the test is made by the DFO at the purchasing stage only. There's no follow-up afterward.

In the past, we used to have fishermen who would go bankrupt. Have you seen anyone going bankrupt recently? Since the Saulnier decision, which stated that you can seize the licence, no one is going bankrupt. They're being highly leveraged, and they don't go bankrupt. Why? It's because then the plant goes in. Maybe organized crime goes in—hopefully not with any of my clients—but there are some people backing up these transactions who are outside parties. It has to happen because the price is way too high.

The issue also is that the regulations right now, by not including nieces and nephews and a large family, are too restrictive as to who is a family member. With smaller families now, with one child or no children, maybe you want to transfer to your nephew, but it's so restrictive. You can't, so you have to sell to somebody else, and that's usually the highest bidder.

• (1720)

Serge Cormier: Thank you, Mr. St-Pierre.

I will go now to Mr. Teegee. I know you're part of the Assembly of First Nations. I think your director of fisheries is with you today.

I'm not sure if you saw the news report last week from Radio-Canada. It was in French. There's supposed to be another one coming regarding the sale of fish, social and ceremonial lobster, which under the Fisheries Act is not permitted. I'm not sure if you saw that news report and if you can maybe comment on that and what you think of it.

Terry Teegee: Well, this is a problem with the Department of Fisheries and Oceans. It's not fully implementing the Supreme Court of Canada ruling that set the right for first nations to fish commercially. We also have the Marshall decisions, which set first nations' right to a moderate livelihood.

As first nations, we're allowed to involve much more than just food, social, and ceremonial uses. Perhaps part of that is our economic development—

Serge Cormier: I don't want to cut you off, but just on the food, social and ceremonial part, under the act it is not permitted to sell the catch.

Terry Teegee: Yes. Certainly—

Serge Cormier: The news report was about fishing for food, social and ceremonial use. Those goods are supposed to go to the community to help community members, but they're being sold on

the black market or whatever, and other people are taking advantage of this, and it's not allowed.

I totally understand that there is an agreement with first nations that they can fish commercially. This is okay, but I'm talking strictly about the food, social and ceremonial aspect. Shouldn't the resources go strictly to the community, and why are we still seeing the first nations community selling those catches that they're not supposed to sell?

Terry Teegee: I think it comes down to management and how management decisions are made in terms of food, social and ceremonial uses. If there's an allotment, certainly it should be up to the discretion of those first nations. This is the whole purpose of—

Serge Cormier: Do you mean the discretion of first nations to sell food, social and ceremonial catches?

Terry Teegee: If that's their purview, I suppose it is.

Serge Cormier: Under the law, it's not permitted to do so.

Terry Teegee: Okay, we can get into this argument, then.

The whole point of the United Nations declaration act is the recognition that first nations are governing bodies and they can govern their own affairs. The problem we have with the Government of Canada and DFO is there is no space for co-jurisdiction or co-management or an ability to agree upon the utilization of any fish species. That's a real problem, and henceforth the management of fisheries and fish species in this country is where we get into trouble. Therefore, you see what's going on on the east coast as well as on the west coast, where it's very similar.

It comes down to jurisdiction and how management occurs and how we govern our ability and desire to have not only the food, social and ceremonial uses but also the ability to sell the fish. That was the purpose of many court cases, such as Ahousaht and what have you.

• (1725)

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

I'm afraid we're well over time.

Mr. Deschênes, you have six minutes, please.

[Translation]

Alexis Deschênes: Thank you, Mr. Chair.

Chief Teegee, thank you very much for being with us.

I'll continue the discussion started by my colleague.

Over the past few weeks, a lot of witnesses have raised an issue. When they report problems, fishery officers don't intervene.

Have you also had a similar issue with fishery officers?

[English]

Terry Teegee: It has only been anecdotally, not personally. It's happening not only on the east coast but also on the west coast, where there are disputes on the water. We've seen it on the rivers, especially here with the many species of salmon that come back inland from the oceans, and it certainly is an issue.

We need jurisdiction and co-management so we can manage our own affairs, too. Quite simply, there are many first nations that have watchmen and guardians who can also implement first nations and indigenous laws that prohibit illegal fishing. That's a real problem, because we have many fish species that go very far north. I'm from Takla Nation, and we have—

[Translation]

Alexis Deschênes: Thank you very much, Mr. Teegee.

I just want to go back to the beginning of your answer before continuing on with other aspects of what you said. I want to clarify something.

You said that you were aware of certain situations where first nations members asked fishery officers to intervene and they refused to do so.

Is that correct?

[English]

Terry Teegee: I'm confused by the question.

Are you talking about interventions from fisheries agents who are impeding first nations fisheries? Is that the question?

[Translation]

Alexis Deschênes: Are you aware of situations, as mentioned by other witnesses, where fishery officers have been asked to intervene in illegal fishing and where there has been no response from them?

[English]

Terry Teegee: I haven't heard of any out here on the west coast from the first nations perspective. Are you asking if there was a request from the first nations? Is that what you're getting at? Certainly, we know there have been non-first nations requests for intervention, which have been very similar. There have been interactions in the past between first nations and agents, to be clear, but I don't know about this here.

[Translation]

Alexis Deschênes: In your community, is illegal fishing a problem?

[English]

Terry Teegee: On some level, according to DFO law, there has been illegal fishing, especially in some of the remote areas where it's very difficult to monitor.

[Translation]

Alexis Deschênes: What would you like to see happen when it comes to that illegal fishing?

[English]

Terry Teegee: I think the problem is that we have a lot of first nations here. We have 204 first nations, many jurisdictions and over

150 first nations fisheries organizations. I think the reason that there are many of these jurisdictions is to assert our rights and to have an interest, especially with court cases like Sparrow, Guerin and Ahousaht. There are many court cases that set precedents.

I think the problem is that there isn't enough room for co-management and co-jurisdiction to address some of these issues. Implementing first nations law is really important in addressing some of these issues in regard to what is known as "illegal fishing". Perhaps there's a different way to address those issues. This comes back to the United Nations declaration act. If there are no treaty agreements or constructive arrangements, then we need to fully address this issue. This has been an ongoing issue for, literally, decades. Many first nations out here and, perhaps, elsewhere in this country, are seeking co-management jurisdiction where we can come to some sort of agreement.

• (1730)

[Translation]

Alexis Deschênes: Chief Teegee, you touched on a lot of things. The bottom line is that it is important to protect the resource. It would be a matter of ensuring that there is no overfishing. The rules should also be enforced as to which species can be fished and when they can be fished.

In your view, is there an opportunity for collaboration among first nations, the department and fishery officers to ensure that what is being fished does indeed meet the requirements set out?

I think so, but I'll let you answer this question.

[English]

Terry Teegee: I think it really comes down to many of our first nations—just as examples, the Fraser, Skeena or many of these areas that have many nations along these rivers. We have asserted it ourselves too. We have southern first nations that don't fish early or late in the Stewart because, quite simply, they know how imperilled the salmon are—literally, it's into the hundreds of fish. If we could do that and if we kept the declarations and treaties amongst ourselves, I think there is a real ability.... That clearly demonstrates that first nations in the south know the issues for some of our salmon species that are in peril and at risk.

This year was an anomaly. Just for example, we expected about 100,000 going back into the upper reaches of the Stewart; 700,000 came back. We haven't seen these numbers in, literally, 30 years—into the millions of pink and sockeye this year. I think this year is an anomaly, and much of it has to be better understood about why increased numbers came back, whether it's habitat, as stated by colleagues and witnesses.

There are things that happened five, six years ago: the Big Bar and Chilcotin slides, mass slides, atmospheric rivers and the many fires that we experienced over the last 20 years, siltation.... My background is forestry. I used to be an RPF. Certainly, those issues have an effect on many of the fish species—in particular, salmon.

The Chair: Thank you so much.

I'm afraid we're going to have to cut it off there. That completes our first round.

We're going to the second round here. I want to welcome Ms. Kronis to the committee.

You have the floor for five minutes.

Tamara Kronis (Nanaimo—Ladysmith, CPC): Thank you very much, Mr. Chair.

Mr. McIsaac, you talked about the importance of harvester knowledge. I'm actually just going back to when I was knocking on doors during the last election. One thing I was being told, over and over again, was they felt as though the government was this entity that was very far away, that it wasn't listening to them, that people found out about things after they were done and that, if it only listened to the people who are having the actual experiences, they would hope for different outcomes.

As we do this review of the Fisheries Act, do you have any suggestions as to how we can make it so that harvester knowledge is something that DFO is required to not just listen to but also to weight in their decision-making?

Jim McIsaac: Embedded in the act is a requirement, "Thou shall engage with harvesters and collaboratively make decisions." Right now the department is making decisions by itself, for the most part. It's taking in and listening to everybody, but not doing it collaboratively, and that's what needs to change. The department is averse to collaborative decision-making. It uses absolute discretion, which the minister is granted, to make the decisions about the allocation and protection of the resource.

Tamara Kronis: What does this committee need to know about what harvesters know about the current status of B.C. shrimp stocks?

Jim McIsaac: That's a good question.

What the committee should know is that in our fishery last year, we harvested less than 400,000 pounds of shrimp on this coast. Our neighbours to the south harvested 75 million pounds of shrimp. We have way more shrimp fish habitat on our coast than they do, so we should be harvesting that much or more on our coast.

What is the issue? We're managing our shrimp by weak stock management, which is what we're doing with salmon, which we're doing with a bunch of other stocks, and it's an absolute disaster. The United States is managing theirs by portfolio management, which means taking a swath across all of the stocks rather than focusing on harvesting only when the weak stocks are up at a high level.

We're waiting and waiting and waiting. It's like managing your portfolio of investments and taking your profits only when all of them are up. That's the kind of approach that we are taking to fisheries management on this coast.

• (1735)

Tamara Kronis: You talked about the viability of our fishing communities on the B.C. west coast. Obviously, as a member of

Parliament for some of those communities, this concern alarms me greatly.

How would you describe the current economic state of the B.C. shrimp trawl fleet?

Jim McIsaac: It's a disaster.

When I got involved with the shrimp association seven years ago, the members wanted to call for absolute closure of the shrimp fishery until the fisheries management was rectified, and it continues.

Six years ago, we put forward to them the need to figure out the shrimp management areas. They have 36 different shrimp management areas. They have been managing them as independent biomasses. We thought that was insane for this coast.

It's taken five years for a CSAS advisory to come back and say that yes, we have actually one biomass across the coast, but they're going to continue to try to manage it as 36 shrimp management areas. It's going to take another 10 years to get to a point where we're going to have decent management of the shrimp fishery, and all of our harvesters are going to be gone.

Tamara Kronis: I presume you've communicated this to the minister, and the minister has exercised her discretion. Do you see any of the evidence that you've submitted reflected in the decisions that are made, or do you feel that those decisions are motivated more by political considerations than by the data that's been provided?

The Chair: I'm afraid we are over time.

It's a very important question. If you could submit the answer in writing for the committee's consideration, it would be much appreciated.

With that, I'm going to go into the next round. I'm going to start this round of questioning and then pass it to my colleague, Mr. Klassen.

Mr. Elgie, I want to thank you for submitting a brief in advance. In your opening remarks, you spoke to the idea of net gain. I want to ask about a couple of the recommendations you made, including fees in lieu of offset and third party banking of habitat.

One of the things that I hear about frequently in my riding is the amount of time that the different proponents are waiting to get a Fisheries Act authorization and have their habitat compensation approved. I was hoping you might be able to speak to the advantages of the ideas that you put forward for delivering better habitat restoration outcomes, as well as for efficiency in the application and administration of the act.

Stewart Elgie: I'd be happy to say a bit about that. With the net gain idea, it's important to talk about how we divide up and manage fishing rights, but it's even more important to make sure that we sustain and grow fisheries, and that comes down to habitat. When we grow the pie, everybody wins.

We've talked about third party habitat banking and fees in lieu, and those are both tools that allow us to get to habitat conservation restoration with less cost and less delay, which is exactly what you're getting at, particularly at a time when we want to move major economic projects forward with more speed, less delay and less red tape. Fees in lieu are pretty simple.

Right now, if you have to get an authorization, the proponent himself has to do the offset. They have to arrange it, they have to find it, they have to manage it and they have to make sure it lasts. That's not their business. Their business is being a project developer. A fee in lieu allows that to go into a fund that's then spent on habitat restoration, habitat conservation and specialist organizations. The proponent doesn't have to go through consultation, it doesn't have to go through regulatory red tape, it doesn't have to manage a whole offset project that it doesn't know how to do. That's done by someone who knows how to do it, and the proponent gets on with the business of building their project.

Better habitat outcomes, better economic outcomes and quicker projects make it a win-win. The U.S. has been doing it for decades. Other countries do it. Several Canadian provinces do it for wetlands. We know it works when it's done right.

Third party banking is the same thing. The last round of the act allowed proponent-led banking, which is a start, but it's not that practical. You're telling a development company you can get into the business of fish habitat banking. It's not what it does. It has been used very little. What's worked in other countries, in the U.S. is, just like that fee in lieu model, having businesses that are in the business of fish habitat restoration set up these large banks. They're better habitat because they're large, connected areas that deliberately select the habitat priorities that we need, not a last-minute, site-by-site offset based on when your project's going forward.

It's one-stop shopping in terms of consultation and regulation, not a number of different individual one-off regulatory consultations. Again, it's way easier for the proponent. They simply go to this bank, which is already established, and say, I'd like to buy 100 credits of fish habitat. I can go forward with my project now, and they don't spend all their time and energy and money worrying about building a fish offset bank. The person who knows how to do it does it. These work, and there are decades of experience in the U.S. and other countries. We just need to implement them here, they're good for the environment and good for the economy.

• (1740)

The Chair: Thank you very much.

I will pass the remainder of my time to Mr. Klassen.

Ernie Klassen: Thank you.

I'll just follow up on that same explanation. One of the projects that the government is looking at is expanding the Port of Montreal. There was an article that I read today about the copper redhorse fish being on the endangered species list. Is there a place for offsets to work when you've got a fish that is in the critical zone?

Stewart Elgie: It's a good question.

I'm not an expert in the specifics of that particular fish and its habitat needs. I will say there are some cases, particularly for en-

dangered species, where they need a particular kind of habitat in a particular place, and it's hard to replace it. I don't know. You don't want me speaking to that particular species and its needs, but I can tell you that in most cases, 95% or more, habitat offsets are the last stage of this mitigation hierarchy. Everyone agrees the first thing you should do is avoid damage or mitigate damage. That's universally agreed. Habitats are for the stuff you can't mitigate, and most of the time offsets work when they're done right, when they have these 2:1 ratios.

The core problem here is that all of the evidence indicates DFO is not achieving the level of offset ratios that its own policy and its own science say are needed to keep habitat intact and to sustain it, let alone improve it as we've committed to do. Requiring offsets to do what their own science and their own policy says, which is ensure no net loss and actually move to net gain, would be good not just for the copper redhorse, but for economic development projects that we want to prioritize as a nation all across the country.

The Chair: Thanks very much, Mr. Klassen.

[*Translation*]

I now give the floor to Mr. Deschênes for two and a half minutes.

Alexis Deschênes: Thank you very much, Mr. Chair.

I'd like to put a question to Jim McIsaac from the BC Shrimp Trawlers' Association.

Mr. McIsaac, there have been some discussions about the need to limit the minister's discretionary power. I think you touched on that, but I'd like you to expand on it.

Among other things, it is suggested that section 2.5 of the act be amended so that the factors listed therein would be taken into account on an imperative basis by the minister when making decisions.

What are your comments on that?

[*English*]

Jim McIsaac: In subsection 7(1), it refers to the minister's "absolute discretion". We would have that replaced by "with independent harvesters' and coastal communities' support", and, after the word "law", add "or is not authorized to independent harvesters or coastal communities". That's specifically to the question about how to change that.

That's the only place in the act where ministerial discretion is referenced. That's going right to the heart of it, and so we're pushing to change how decisions are made in the Department of Fisheries and Oceans, and changing the frame of what the department is, from being a decision-making body, by itself, to making decisions with harvesters and our coastal communities about how the resource is allocated.

• (1745)

[Translation]

Alexis Deschênes: I understand. However, what do you think of the proposal to amend section 2.5? The provision reads as follows:

2.5 Except as otherwise provided in this Act, when making a decision under this Act, the Minister may consider, among other things,

- (a) the application of precautionary approach and an ecosystem approach;
- (b) the sustainability of fisheries;
- (c) scientific information;
- (d) Indigenous knowledge of the Indigenous peoples of Canada that has been provided to the Minister;
- (e) community knowledge;
- (f) cooperation with any government of a province, any Indigenous governing body and any body — including a co-management body — established under a land claims agreement;
- (g) social, economic and cultural factors in the management of fisheries;
- (h) the preservation or promotion of the independence of licence holders in commercial inshore fisheries; and....

The proposal is to change the word “may” to the word “shall” so that the minister would be required to take the listed factors into consideration. Therefore, the minister's discretionary power would be somewhat limited.

What do you think?

[English]

The Chair: You have only enough time for a very brief answer.

Jim McIsaac: Yes, we agree that it should be “shall”, and that paragraph 2.5(h) should be changed to protect and promote, and “inshore” should be taken out.

[Translation]

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

[English]

We're going to give two minutes for the last two questioners here, starting with Mr. Doherty for two minutes.

Todd Doherty (Cariboo—Prince George, CPC): Thank you to our colleagues.

I am sitting in on this committee. I sat on the committee for a number of years. Previously, when we first went through the Fisheries Act review and changes to it, we had some incredible testimony. I'm glad to see that we've kept up some of the non-partisan part of this committee here today as well, with Mr. Cormier's questions.

This is a general question for all of our witnesses here. The inconsistencies in this department, from the west coast to the east coast, are absolutely killing our fisheries. We have 154 critical fishery stocks. In the last go at this, we found that over 21 of the 24 most critical stocks were at species-at-risk classifications. This de-

partment has failed to actually look after the fisheries management plans, which means engaging with our stakeholders—first nations, those who make a living and depend on the fishery stocks.

To the guests who are here today, are our fishery stocks and how our fisheries industry is struggling clear indications that DFO, in its entirety, needs to be restructured and focused on stakeholders and on managing fish so that we have fish for today and for the future? I open it up to whoever wants to jump in.

Mr. McIsaac, you go first.

Jim McIsaac: Yes, DFO definitely needs to be restructured. How it makes decisions is opaque, and that needs to change. We should be making collaborative decisions about our ecosystem, how we fish and our understanding there. Yes, we want to have science-based decisions, but science is too slow. It doesn't recognize what's going on in the ecosystem now. It recognizes this five years down the road, and that's too late. We have to have those eyes on and hands in the water, making that information available to make decisions, and that has to be in real time.

The Chair: Thank you very much. If the other witnesses would like to respond to that as well, it's going to have to be in writing because we are over time.

Our last speaker is Mr. Klassen for two minutes.

Ernie Klassen: Thank you.

Mr. Teegee, we talked about co-management quite a bit here today. Based on the fact that we're looking at indigenous and harvesters' knowledge being used whenever decisions are being made, are there inconsistencies in how those decisions are being made, looking at everybody's knowledge base?

Terry Teegee: No, I don't think so. I think the point is what historically has been an issue with DFO: the mismanagement of how decisions are made. Some of it doesn't make sense to some of the fisheries people, especially indigenous people, and especially when there's a test fishery that is poorly understood in regard to how many fish are out there. For example, as I shared earlier on, there was an estimate of 100,000, and 700,000 came back.

Certainly, science should be utilized in regard to how decisions are being made, but there's also first nations knowledge out there, and first nations knowledge systems. I think co-management would better serve those who don't have a voice, in particular the fishers who are out there. I think that's really important. We have more and more people, I suppose, who are out fishing and who are out on the land and who are out on the water. We have fish monitors.

I think it's really important to have that type of knowledge out there on how decisions are made.

• (1750)

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

That completes our second panel.

Thank you to all our witnesses, those here in person and those on video conference, for your testimony. I'll remind you that if you have anything additional you'd like to submit for consideration as part of this study, please do so in writing and it will be looked into.

Our next meeting will again be a review of the Fisheries Act. The clerk is going to reach out about additional witnesses based on the motion by Monsieur Deschênes, which passed.

With that, the committee is adjourned.

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