

**THE SENATE
OF CANADA**

**LE SÉNAT
DU CANADA**

**INTERIM REPORT ON CANADA'S
NEW AND EVOLVING POLICY FRAMEWORK FOR
MANAGING FISHERIES AND OCEANS**

Standing Senate Committee on Fisheries and Oceans

Chair

The Honourable Gerald Comeau

Deputy Chair

The Honourable Elizabeth Hubley

May 2005

MEMBERSHIP

The Honourable Gerald Comeau, *Chair*

The Honourable Elizabeth Hubley, *Deputy Chair*

and

The Honourable Senators:

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In addition, the Honourable Senators John G. Bryden, Joan Cook, Joseph A. Day, Pierre De Bané, P.C., Percy Downe, D. Ross Fitzpatrick, Elaine McCoy, Terry M. Mercer, Robert W. Peterson, and Fernand Robichaud, P.C., were members of the Committee at various times during this study or participated in its work on this matter.

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ORDER OF REFERENCE

Extract from the *Journals of the Senate* of Thursday, October 28, 2004:

The Honourable Senator Hubley for the Honourable Senator Comeau moved, seconded by the Honourable Senator Chaput:

That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on issues relating to the federal government's new and evolving policy framework for managing Canada's fisheries and oceans; and

That the Committee submit its final report to the Senate no later than Friday, March 31, 2006.

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

Paul C. Bélisle

Clerk of the Senate

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ACRONYMS

AFPR – Atlantic Fisheries Policy Review

AFS – Aboriginal Fisheries Strategy

AMB – West Coast Vancouver Island Aquatic Management Board

CDQ – Community Development Quota

CQ – Community Quota

DAAP – Departmental Assessment and Alignment Project

DFO – Department of Fisheries and Oceans

EA – Enterprise Allocations

GAO – United States General Accounting Office

IPAC – Independent Panel on Access Criteria

IQ – Individual quota

ITQ – Individual transferable quota

OECD – Organisation for Economic Co-operation and Development

TAC – Total Allowable Catch

WSP – Wild Salmon Policy

FOREWORD

On many occasions, I've said that I'm serious about change. Changing how our fisheries are managed across the board, and on all three coasts. ... We're calling this change process "Fisheries Management Renewal." – The Hon. Geoff Regan, Minister of Fisheries and Oceans, Address to the Eastern Fishermen's Federation, Yarmouth, N.S., 31 March 2005

DFO will seek to enter into partnerships with the fishing industry and others in the management of capacity, licensing and compliance. – Department of Finance, "Privatizing/Commercializing Government Operations," Budget 1995 Fact Sheet 9, 1995

This is bureaucratically driven, and not driven by the Minister. ... We change ministers so often in this country. In fact, there have been 20 ministers since the Davis Plan of 1968. – Garth Mirau, Vice-President, United Fishermen and Allied Workers' Union, Committee Proceedings, 7 December 2004

We are writing this letter, in part, out of our concern that you [Minister] may be receiving ... selective forms of advice. – Chief William Cranmer, Letter to the Minister of Fisheries and Oceans, 21 December 2004

This agenda is, of course, the result of the large corporations lobbying the Department. What is at stake is access to the stock. – O'Neil Cloutier, Director, Alliance des pêcheurs professionnels du Québec, Committee Proceedings, 24 February 2005

These are "interesting times" for Canada's marine commercial capture fisheries. In March 2004, the Minister of Fisheries and Oceans issued *A Policy Framework for the Management of Fisheries on Canada's Atlantic Coast* – "the first comprehensive framework to guide fisheries management on Canada's East Coast." Later, in May 2004, a federal-provincial Joint Task Group on Post-Treaty Fisheries released *Treaties and Transition: Towards a Sustainable Fishery on Canada's Pacific Coast*, a document that proposes to profoundly and irreversibly change the way in which fisheries are managed in British Columbia. On 14 April 2005, the Minister announced fundamental changes to the management of the Pacific fishery, particularly for salmon, and more permanent changes are expected to come about in 2006. "Certainty and stability," "security of access," "self-reliance," "viability," "self-sufficiency," "modern," "self-adjusting" and "best use" are words and concepts that figure ever more prominently in the Department of Fisheries and Oceans (DFO) lexicon for both the East and West Coasts. Amendments to the *Fisheries Act* may soon be introduced in Parliament.

DFO is very serious about changing the way it intends to conduct business in future. The stakes are enormous, to be sure. They include not only the long-term sustainability of Canada's fisheries resources and the viability of the fishing industry, but also the well-being of hundreds of coastal communities where fishing is the only available source of employment or where very few economic alternatives exist. Nationally, the marine capture fisheries comprise a great many small-scale fishing operations. The vast majority of fishing vessels (98%) are small boats less than 65 feet in length. On the processing side, more than 70% of fish plants employ less than 100 workers.

In October 2004, the Standing Senate Committee on Fisheries and Oceans ("the Committee") was given an order of reference from the Senate to "examine and report on issues relating to the federal government's new and evolving policy framework for managing Canada's fisheries and oceans." Our current study focuses on how the wealth generated in the fishery, one of Canada's great public resources, is distributed. Plans to "modernize" Canada's fisheries will affect the marine coastal fisheries for many years to come.

Individual catch quotas in the form of "individual quotas" (IQs) and "individual transferable quotas" (ITQs) – a form of private ownership of fish stocks – were the subject of much discussion in our meetings, as was the practice of leasing licences and the use of "trust agreements" on the Atlantic Coast. At both ends of the country, individual quotas stir up strong emotions since they undermine a value system dear to those who consider themselves to be independent fish harvesters. In the Pacific fishery, where 44% of fishing licences and quotas are reportedly held by residents in metropolitan Vancouver and Victoria, the Pearse-McRae Task Group proposed last year to place all Pacific fisheries, including those for salmon, under property rights-based management. That proposal arouses sharp opposition among both Aboriginal and non-Aboriginal stakeholders alike.

Many witnesses have yet to appear to share their views. This interim document is a thumbnail account of work in progress – our findings will be conveyed more fully in a final document. The Committee had originally planned to travel to New Zealand, considered by many to be a world leader in fisheries management. There, the economic theory of private fish quotas has been extensively put to the test for almost two decades and Maori treaty claims were settled through the ITQ management system. Due to budgetary constraints, however, this travel was not possible, and we are therefore looking at other means to evaluate the merits of IQ-managed fisheries in other jurisdictions, such as in New Zealand and Iceland.

Fishery resources are common public assets belonging to all Canadians. As such, they are our common inheritance, responsibility and legacy. Public opinion polls consistently show that the great majority of Canadians care about how the fishery is managed. We will consider this interim report worthwhile if we are able to make Canadians more aware of this important public policy issue. Taxpayers, in particular, should be wary of the claims of the more zealous proponents of privatized fisheries. In the end, it is the taxpayer who foots the bill when coastal communities lose access to the fishery and the economic benefits from the resource.

Lastly, the Committee wishes to thank those who generously made time available to meet with us in Ottawa or who provided written submissions.

Gerald J. Comeau, Chair

BACKGROUND

A. The Management of the Marine Commercial Capture Fisheries

At its core, fisheries management renewal is about asking ourselves one question: what kind of fishery do we want? It is only seven words but it is a big question. – The Hon. Geoff Regan, Minister of Fisheries and Oceans, Committee Proceedings, 8 February 2005

The problem is that the Department has no accountability. ... There is no legislative power to actually put DFO in its place. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

We are being pulled in two directions: to try to make the fisheries economically sustainable and have viable enterprises, and to maintain coastal communities. – David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, Committee Proceedings, 4 November 2004

On one side, there is a great deal of pressure to privatize the resource and allow the large processors to have access to it, while we are telling them “you are on the wrong track.” That is essentially what this debate is about. – O’Neil Cloutier, Director, Alliance des pêcheurs professionnels du Québec, Committee Proceedings, 24 February 2005

Privatization of fisheries is stealing from Canadians. There is no question about that. – Garth Mirau, Vice-President, United Fishermen and Allied Workers’ Union, Committee Proceedings, 7 December 2004

Under the *Constitution Act 1867*, the Government of Canada is vested with exclusive legislative jurisdiction over sea coast and inland fisheries in all parts of Canada. On behalf of the Crown, the federal government has legal authority to manage fisheries in the public interest, and the Parliament of Canada entrusts the federal Department of Fisheries and Oceans to administer all laws relating to fisheries.⁽¹⁾ Most controls on fishing are in the form of regulations made by Cabinet. Section 7 of the *Fisheries Act* bestows on the Minister of Fisheries and Oceans (hereafter referred to as “the Minister”) very broad discretionary powers to distribute wealth in the form of fishing licences and fish quotas.⁽²⁾ In fact, when issuing or authorizing leases and licences for

⁽¹⁾ In certain provinces, the administration of federal fisheries laws, by agreement, is delegated to provincial governments. Where land claims have been settled, the management of fisheries is delegated, for the most part, to a wildlife management board.

⁽²⁾ Section 7 of the *Fisheries Act* reads as follows: “7.(1) Subject to subsection (2), the Minister may, in his absolute discretion, wherever the exclusive right of fishing does not already exist by law, issue or authorize to be issued leases and licences for fisheries or fishing, wherever situated or carried on. (2) Except as otherwise provided in this Act, leases or licences for any term exceeding nine years shall be issued only under the authority of the Governor in Council.”

fisheries or fishing, the Minister has *absolute discretion* in providing access to wealth from the fisheries, the reason for this extraordinary discretion being that fisheries are a “common property resource.”

Stability in the fishery is maintained through DFO’s imposition of regulatory measures. In this regard, the Department manages more than 300 fish stocks and produces about 180 fisheries management plans each year. All fisheries are subject to varying degrees of catch monitoring and enforcement. Ideally, their management should be tailor-made for each unique circumstance because the fishery resource is a complex biological, economic and social system. Species of fish vary widely with respect to their behaviour, abundance, distribution and market value. The length of fishing seasons varies not only by species, but also by area and from year to year. Coastal fishers hold different types of licences, work from boats of different sizes, use different types of gear, belong to different organizations, and invest different amounts of time and money. The complexion of the operation changes notably from one area to the next, and the social circumstances vary enormously. Fish processing, too, is as diverse as the harvesting sector.

Beginning with Atlantic lobster fisheries in 1967, what were formerly “open access” commercial fisheries became regulated to the point where, by the mid-1970s, a fishing licence was required to fish commercially for all the major species in Canada. A fishing licence grants persons or enterprises permission to fish, or “access” to a fishery. What a licensee essentially acquires is a limited privilege to fish, but not a permanent or absolute right. An “allocation,” on the other hand, is the amount of fish that is distributed or assigned by the Minister to those who are permitted to fish.

Since 1977, when Canada extended its fisheries zone to 200 miles, a variety of strategies have been employed to help maintain a balance between fishing capacity and available resources: so-called “input controls” (e.g., restrictions on fishing gear, vessels, fishing season and area), and “output controls,” with Total Allowable Catches (TACs) being the most common measure. For some species, escapement targets are set instead to allow adult fish to return to the spawning grounds (e.g., Pacific salmon), or recruitment strategies are in place to increase the survival rate of the female population (e.g., prohibitions on harvesting berried lobster).⁽³⁾ “Individual quotas” (or “private quotas” as they are sometimes called) are also in place and give individual fish harvesters or fishing operations the right to catch a specified quantity and species of fish in a specific location

⁽³⁾ For an inventory of Canada’s various fisheries management regimes, see Organisation for Economic Co-operation and Development (OECD), *Country Note on Fisheries Management Systems – Canada*, <http://www.oecd.org/dataoecd/11/27/34427924.pdf>.

during a specific period of time, as a share of each year's TAC. When managed by IQs, fishing organizations representing the licence-holders have separate and specific agreements with the federal government reflecting the characteristics of each of the fisheries being managed.

In the past, when overcapacity problems have arisen, restructuring and adjustment programs were brought in, such as licence buy-back and early retirement programs, short-term income support, retraining, and economic diversification to assist affected fisheries workers and communities with their transition out of the industry. When making decisions on access and allocation, the Minister's first priority is conservation, followed by the Aboriginal right to fish for food, social and ceremonial purposes. Once the constitutional protection of Aboriginal and treaty rights is taken into account,⁽⁴⁾ the next priority is resource sharing in particular fisheries. Recreational fishing interests must also be taken into account. Besides conservation, factors that may influence ministerial decisions include international policies, any legislative obligations that the Government of Canada may have assumed, and political and socio-economic considerations. Traditionally, the criteria invoked by DFO when making decisions on access and allocations included adjacency, historic dependence, economic viability, and social equity. Under this hierarchical system of governance, the Department is responsible and accountable for the fishery's management.

Significantly, a key part of DFO's strategic plan in the last decade has been to decrease its involvement in fisheries management in favour of greater industry involvement in the form of "co-management" in many of Canada's fisheries. In the last decade, more formal approaches were gradually adopted through such activities as the development of multi-year Integrated Fisheries Management Plans and Joint Project Agreements. Initiatives related to the "professionalization" of fish harvesters were also supported by the Department. In practical terms, this has meant accrediting existing fishers, formalizing an apprenticeship regime for new entrants, and education

⁽⁴⁾ Subsection 35(1) of the *Constitution Act, 1982*, recognizes and affirms existing Aboriginal and treaty rights, including those under land claims settlements. The extent of First Nations' rights and title continues to be the subject of ongoing litigation and negotiation. In response to the *Sparrow* decision, the federal government initiated the Aboriginal Fisheries Strategy (AFS) in 1992. The AFS attempted to deal with economic access to fisheries through the Allocation Transfer Program, in which the federal government purchases commercial licences and quota and transfers them to Aboriginal communities. There have also been three Pilot Sales initiatives in the lower Fraser. Approximately two-thirds of the 125 AFS agreements signed each year with Aboriginal groups are in DFO's Pacific Region. In 2003, an Aboriginal Aquatic Resource and Oceans Management Program was added to the AFS to help Aboriginal groups participate in multi-stakeholder and other advisory planning. The AFS applies where DFO manages the fishery and where land claims settlements have not put a fisheries access and management regime in place.

and training standards, with the Canadian Council of Professional Fish Harvesters taking the lead.⁽⁵⁾

B. Individual Quota Licensing

From our perspective, ITQs have been a cheaper process for the Government of Canada to manage ... but they are not for everyone. – David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, Committee Proceedings, 4 November 2004

At the highest levels in the Department, the quest to privatize Canada's fisheries and turn them over to private investors has never stopped. – Nuu-chah-nulth First Nations, Brief Submitted to the Committee, 10 March 2005

Not everything should be bought and sold on Bay Street. Fishing rights should be viewed as a heritage of coastal people not as another commodity like futures in pork bellies or something. – Earle McCurdy, President, Canadian Council of Professional Fish Harvesters; President, Fish, Food and Allied Workers, Committee Proceedings, 24 February 2005

The economic thinking of DFO is very well established and its effects are very much negative effects on rural communities, on coastal communities. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

Privatization of fisheries resources through ITQs and EAs [Enterprise Allocations] has often been the unwritten cornerstone of fisheries policy for the last twenty years. – The Coastal Communities Network, Brief to the Atlantic Fisheries Policy Review (AFPR) Consultation, 16 May 2001

Beginning in the 1980s, a noticeable policy shift took place as DFO accepted a new, market-related, “property-based” fisheries management approach recommended by theoretical economists.⁽⁶⁾ Canadian fisheries managers (and their counterparts abroad, notably in New Zealand and Iceland) began to implement “property rights-based management” in the form of “individual quota” fisheries. Very much a bureaucratic initiative within the Department, the process of privatization took place under several fisheries ministers and involved successive governments in the last two decades. This important matter of public policy was last examined by this Committee in 1998.

⁽⁵⁾ Founded in 1995, the Canadian Council of Professional Fish Harvesters is an umbrella group (a national federation) representing the country's largest fisher organizations.

⁽⁶⁾ Parzival Copes, *Some Critical Considerations for Policy and Management in Canada's Atlantic Fisheries: A report submitted to the Department of Fisheries and Oceans in respect of the Atlantic Fisheries Policy Review*, 31 May 2001.

In essence, IQs provide what has been described in the Canadian context as a “quasi-property right” to harvest annually a certain quantity of fish – a sort of swimming inventory. When IQ licences are issued by DFO, predetermined shares of the Total Allowable Catch (percentages) are assigned to either fishers or enterprises. An “individual transferable quota” is an IQ that the Department allows to be transferred, traded, sold or leased to others, like a commodity. When assigned to a boat, individual catch quotas are known as an “individual vessel quotas,” or IVQs. Over time, in Canada, individual catch quotas have been slowly introduced into one fishery after another. Their usual pattern of introduction involved successive steps: non-transferable quotas were first introduced, and over time these became transferable. As such, non-transferable quotas have been described as the start of a “slippery slope” on the way to transferability. By 2000, they were in place in over 40 different fisheries and accounted for over half of the value of landings.⁽⁷⁾ Canada’s commercial fishery may now be described as a mix of competitive and IQ-managed fisheries.⁽⁸⁾

Instead of relying on regulations to ensure compliance, IQs emphasize the outputs of fishing. Advocates of IQs, especially ITQs, view them as a means of rationalizing the industry and allowing it to operate in a more stable, orderly, and efficient manner. Under such a management regime, the incentive is the maximization of net income from a specific quantity of fish, the annual share allocated to each fisher or fishing enterprise. Quota licensing is a well-articulated model of fisheries management. Some of its most often cited economic advantages are:

⁽⁷⁾ For the Atlantic offshore groundfish fleet, an individual quota program was first introduced in the early 1980s; here, allocations of fish – “Enterprise Allocations” or EAs – are made to individual enterprises or companies. EAs apply to vessels longer than 65 feet. IQs and ITQs were implemented in various other sectors (e.g., the herring seine fishery, offshore lobster, scallop, clam and northern shrimp fisheries, the snow crab fishery, and in segments of the Atlantic inshore). On the West Coast, quota fisheries are in place in a number of fisheries (e.g., for abalone, herring, geoduck, sea urchin, sea cucumber, sablefish, and halibut). In 1997, they were implemented in the groundfish trawl fishery, in which over 77 species of fish are landed. For an inventory of fisheries management regimes in Canada’s marine fisheries, see OECD, *Country Note on Fisheries Management Systems – Canada*.

⁽⁸⁾ Standing Senate Committee on Fisheries, *Privatization and Quota Licensing in Canada’s Fisheries*, December 1998, <http://www.parl.gc.ca/36/1/parlbus/commbus/senate/com-e/fish-e/rep-e/rep03dec98-e.htm>.

- security of access to the resource;
- the elimination of the costly and often dangerous derby-style “race to the fish”;⁽⁹⁾
- greater safety in fish harvesting because of increased flexibility in choosing the rate and timing of fishing;
- longer work seasons and more effective coordination of supply with market demand;
- the potential for more effective long-term planning in terms of capital investments (e.g., boats, fishing gear) and market development programs; and
- the reduced need for government regulation.⁽¹⁰⁾

Quota licensing means that measures to control fishing effort (e.g., restrictions on boat size) are no longer essential because each operator has a specific and guaranteed allocation of fish. Those in favour of extending IQs contend that this is not only the ideal way to manage and conserve fish stocks, but also the most effective means to reduce harvesting capacity (i.e., the number of fishers) at the least cost to government and taxpayers. Because of its theoretical appeal, IQ licensing is enthusiastically embraced by classical economists, neo-conservative theorists, and certain newspaper columnists and editorial writers who view it as a means of deregulation. The Vancouver-based Fraser Institute, the Halifax-based Atlantic Institute for Market Studies, and other “think-tanks” have trumpeted property rights-based fisheries in the form of individual catch quota licences, especially ITQs, as the management device of choice. Private quotas are strongly promoted by the corporate sector of the fishing industry, and have long had committed supporters at the highest levels of DFO’s bureaucracy.⁽¹¹⁾

It is noteworthy that the notion of “property” in fisheries is very much a chameleon term. While the owners of IQs usually perceive them as “private property,” they constitute, at best, indirect property, or “quasi-property” as DFO has sometimes put it. This is because a fishing permit, whether it be an IQ licence or a traditional one, is a “privilege” that can be revoked. While licences are bought and sold, often for substantial sums, they are not a grant of property, either in the fishery or in the fish. Fish become private property only after they are caught and removed from the water, and the fishery resource belongs to all Canadians.

⁽⁹⁾ The so-called “tragedy of the commons” theory holds that an unregulated and open-access fishery results in a free-for-all race for limited stocks in an effort to maximize immediate personal economic gain. This leads to excessive capacity through investments in ever-bigger and more expensive boats, better gear and more sophisticated equipment. However, since all the fishers are behaving in the same way, no one is further ahead. The outcome is over-exploitation, stock depletion and low incomes (the so-called “fishermen’s problem”).

⁽¹⁰⁾ Standing Senate Committee on Fisheries, *Privatization and Quota Licensing in Canada’s Fisheries*, December 1998.

⁽¹¹⁾ *Ibid.*

Lastly, over the years, DFO officials have consistently maintained that if a fleet sector or fishing group voluntarily chooses to adopt an IQ system, the Department would be there to advance the process. That said, witnesses in the Committee's 1998 hearings accused the Department of manipulating the process toward IQs by dividing fisher groups and sectors and giving IQ licence-holders preferential access to the resource, thereby gradually forcing non-holders out of the industry. There were concerns that DFO had been abdicating its role as the manager of the fishery, abandoning the infrastructure of traditional common property fisheries, and working instead to broker partnership deals with special economic interests or specialist fleets.⁽¹²⁾ No consideration is being given to alternative models of fisheries management that would protect community interests.

C. Pacific Fisheries Renewal

That is a fishery that is under crisis. If we do not change how it is managed for the 2005 fishery, it will likely suffer collective bankruptcy. It is in that serious financial trouble. – David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, Committee Proceedings, 4 November 2004

Overall, most salmon stocks in Pacific Region waters appear to be healthy, although some have declined in recent years and will not support full fisheries in 2005. – DFO, "Outlook for 2005 Salmon Fishing Season," News Release, 16 March 2005

All their programs have titles like "renewal" or "revitalized" but under their management our communities are dying and all small-scale fishermen are facing extinction. – Chief Simon Lucas, Co-chair, Nuu-chah-nulth Tribal Council Fishermen's Committee, Letter to the Chair of the Senate Committee on Fisheries and Oceans, 25 March 2005

They do not talk about ITQs in their road show. They call it "Pacific Fisheries Renewal." If ever there were a misnomer, I believe that is it. – Garth Mirau, Vice-President, United Fishermen and Allied Workers' Union, Committee Proceedings, 7 December 2004

[DFO] is aggressively advancing ITQs as a solution to the many problems facing the commercial fisheries in British Columbia. – Nuu-chah-nulth Tribal Council, Brief Submitted to the Committee, 10 March 2005

In 2003, the federal government and the Government of British Columbia appointed Don McRae, a University of Ottawa law professor, and Dr. Peter H. Pearse, a high-profile resource economist and advocate of individual catch quotas, as a two-member Joint Task Group on Post-Treaty Fisheries to examine the question of what the West Coast fishery might look like after treaties have been settled. On 5 May 2004, the Task Group released *Treaties and Transition:*

⁽¹²⁾ *Ibid.*

Towards a Sustainable Fishery on Canada's Pacific Coast (Appendix 1).⁽¹³⁾ Because certainty and security for quota holders are created by long term quotas and transferability of quotas, Pearse and McRae recommended that:

- 33% of fishing licences be bought from retiring commercial fishermen and set aside to satisfy treaty fisheries settlements;
- all fisheries (not just salmon) be made into quota fisheries;
- quotas be transferable, issued to persons, corporations, or associations;
- quotas be long-term (25 years);
- the number of quota licences (IQs) be limited; and
- the fishery be managed by annual conditions of licence.⁽¹⁴⁾

Soon after the Joint Task Group's report was made public and before finalizing any decisions, DFO announced its intention to "engage First Nations and fishing stakeholders to review the report and to inform decisions about implementation." The Department stated that it would also take into account advice from a First Nations Panel on Fisheries, appointed by the First Nations Summit and the B.C. Aboriginal Fisheries Commission, that had been asked to articulate a vision for the future and identify the principles that would achieve the vision. In June 2004, that Panel released *Our Place at the Table*, which, among other things, called on the Government of Canada to immediately "allocate to First Nations as an interim measure, a minimum of 50% share of all fisheries, with an understanding that this may reach 100% in some fisheries." In addition, the Panel asked that a moratorium be placed on the further introduction of individual property rights regimes, such as IQs and ITQs, unless First Nation interests, including allocations in those fisheries, are first addressed (Appendix 2).

In response to the Joint Task Group and First Nations Panel reports, the Minister outlined a blueprint "to fundamentally change the Pacific fishery, particularly the salmon fisheries" on 14 April 2005 (Appendix 3). While there remained "disagreement over some key reforms," the Minister felt that "lack of consensus [was] not an excuse for lack of action." Over the course of 2005, considered a transitional year, demonstration projects are to be conducted "to test different

⁽¹³⁾ Peter Pearse and Donald McRae, *Treaties and Transition: Towards a Sustainable Fishery on Canada's Pacific Coast*, May 2004, http://www-comm.pac.dfo-mpo.gc.ca/publications/jtf/tint_e.htm.

⁽¹⁴⁾ DFO, "Report Urges Long-term Approach to B.C. Salmon Fishery," News Release, 5 May 2004.

options, to determine which reforms might work, and which might not.”⁽¹⁵⁾ Permanent changes are expected in 2006.

D. The Atlantic Fisheries Policy Review and Framework

The new framework was the result of years of consultations with stakeholders throughout Atlantic Canada. – The Hon. Geoff Regan, Minister of Fisheries and Oceans, Speaking Notes, Stabilization of East Coast Management Plan Sharing Arrangements, 10 March 2005

If I am going to say anything to you today, I will say this; I want you to stop this. I would very much appreciate it, speaking on behalf of a lot of people that I have worked with over the years, if you could do anything in your power to stop the implementation of the AFPR ... – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

CCN calls for a review of privatization, the recommendations of the December 1998 Senate Report titled Privatization and Quota Licensing in Canada’s Fisheries, before any new policy framework is completed. – The Coastal Communities Network, Brief to DFO’s Atlantic Fisheries Policy Review, Press Release, 16 May 2001

The [AFPR] discussion paper does not address the question of privatization, the most dominant fisheries management policy over the last twenty years. – Bay of Fundy Inshore Fishermen’s Association, Comments on the AFPR Discussion Paper, Access and Allocations, March 2001

We are puzzled and suspicious as to why this [AFPR discussion] document so clearly avoids any discussion on privatization, the very opposite of what was recommended by the Senate Committee. – Mark Butler, Marine Coordinator, Ecology Action Centre, Brief to the AFPR, 15 March 2001

In May 1999, DFO launched the Atlantic Fisheries Policy Review – the first such major review in two decades – to address criticisms from the Auditor General, parliamentary committees and others. The purpose of the AFPR was to create a more cohesive and consistent policy framework, and a broad vision of the future direction of Atlantic fisheries.

DFO considers the many consultations that have taken place in the last six years to be key in furthering its agenda. In June 1999, public meetings were held with the Atlantic provinces, Nunavut and industry stakeholders to inform them of the review and to solicit their early views on the process. This led to the establishment of an External Advisory Board in January 2000 to act as an advisory body to DFO during the AFPR process. Following the February 2001 release of a

⁽¹⁵⁾ The Hon. Geoff Regan, Minister of Fisheries and Oceans, DFO, “Pacific Fisheries Reform,” Speech, 14 April 2005.

discussion document,⁽¹⁶⁾ public consultations took place in 19 communities in the Atlantic provinces, Quebec and Nunavut in 2001. In June 2001, an Independent Panel on Access Criteria (IPAC) was established to review and make recommendations on decision-making criteria and processes for providing new or additional access to increasing Atlantic commercial fisheries. The IPAC released its report in April 2002, and the Minister responded to it in November 2002. A discussion paper, *Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries*, was issued in December 2003.⁽¹⁷⁾

On 25 March 2004, the Minister released *A Policy Framework for the Management of Fisheries on Canada's Atlantic Coast*.⁽¹⁸⁾ Billed by DFO as the culmination of “the most extensive citizen engagement process ever undertaken by DFO,” the Policy Framework is a blueprint for achieving the following four objectives or outcomes: conservation and sustainable use of fisheries resources; self-reliant fisheries; a stable and predictable access and allocation approach; and shared stewardship with resource users. The overall objective “is to modernize Government policies to match changing conditions in the fisheries,” and a number of principles are listed to guide fisheries management in the long term. These include the following elements:

- more transparent and rules-based decision-making processes;
- an independent and viable fleet of inshore fishers;
- longer-term, more stable resource-sharing arrangements;
- multi-year fisheries management plans focused on conservation and risk management; and
- policies to promote the viability and self-reliance of the industry.⁽¹⁹⁾

DFO proposes to fundamentally transform its role in fisheries management, “from one largely taken up with day-to-day management of fleets and fishing activities to one concerned primarily with developing policy, setting strategic direction and evaluating performance.” This is said to imply an evolution in the Department’s role, that is to say a move away from top-down management toward shared stewardship. In achieving this end, certain management

⁽¹⁶⁾ DFO, *The Management of Fisheries on Canada's Atlantic Coast – A Discussion Document on Policy Direction and Principles*, 2001, http://www.dfo-mpo.gc.ca/afpr-rppa/Doc_Doc/discodoc_e.htm.

⁽¹⁷⁾ DFO, *Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries*, December 2003, http://www.dfo-mpo.gc.ca/afpr-rppa/Doc_Doc/discodoc2003_e.htm.

⁽¹⁸⁾ DFO, *A Policy Framework for the Management of Fisheries on Canada's Atlantic Coast*, March 2004, http://www.dfo-mpo.gc.ca/afpr-rppa/Doc_Doc/policy_framework/policy_framework_e.htm.

⁽¹⁹⁾ DFO, “Regan Releases Atlantic Fisheries Policy Framework and Stabilizes Arrangements for 2004,” News Release, 25 March 2004, http://www.dfo-mpo.gc.ca/media/newsrel/2004/hq-ac27_e.htm.

responsibilities are to be delegated to resource users. Also announced in March 2005 was the Minister's decision to "stabilize" resource-sharing arrangements, where stable, for a period of up to five years.⁽²⁰⁾ According to DFO, this was a crucial first step in creating a more stable approach to access and allocation, and giving stakeholders a greater say in decision-making. Past disputes over access to fisheries and fish allocations were considered to be too much of a drain on energy, resources and time. In his March 2005 announcement, the Minister also reserved the option of "setting aside small amounts of the resource for public purposes, such as fleet rationalization (reduction) and to support co-management arrangements."

The AFPR is being completed in two phases. The first phase produced a long-term policy framework. The second phase will establish priorities and implement elements of the new policy framework.

E. Modernizing the *Fisheries Act*

Obviously, we are talking about working towards proposed legislation. Clearly, nothing prevents you from debating these issues in advance of that proposed legislation. – The Hon. Geoff Regan, Minister of Fisheries and Oceans, Committee Proceedings, 8 February 2005

... We are using right now a 19th century instrument in the 21st century ... It is the Fisheries Act that has restricted our ability to find different ways to construct our relationship with fishermen. – David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, Committee Proceedings, 4 November 2004

I read that DFO feels that 136 years of the Fisheries Act [is] out of date and must be modernized. It is not the fisheries policies that must be modernized; rather, DFO must be modernized. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

In addition, the agenda for 2005 includes the adoption of the new vision and principles. Other building blocks for the future will be assessed such as what amendments to the Fisheries Act are required to move forward on this agenda. – DFO, "Regan Announces Plan of Action to Reform Pacific Fisheries," News Release, 14 April 2005

The work your Committee did in 1998 and the report that resulted from those consultations is even more relevant today than it was in 1998. – Garth Mirau, Vice-President, United Fishermen and Allied Workers' Union, Letter to the Chair of the Senate Committee on Fisheries and Oceans, 20 December 2004

⁽²⁰⁾ In March 2004, the Minister had stabilized sharing arrangements for most Atlantic fishing fleets for the remainder of that year. Among the fisheries that had outstanding issues and where arrangements needed to be resolved was 0A turbot off the coast of Nunavut – a fishery on which the Committee reported in 2004. Senate Committee on Fisheries and Oceans, *Nunavut Fisheries: Quota Allocations and Benefits*, April 2004, <http://www.parl.gc.ca/37/3/parlbus/commbus/senate/com-e/fish-e/rep-e/rep04apr04-e.htm>.

In future, DFO intends to “stay the course in the reform of fisheries management policies,” “increase Aboriginal participation in the fisheries,” and “modernize Canada’s fisheries.”⁽²¹⁾ In February 2005, the Minister indicated to the Committee that the Department had been looking at possible changes to the *Fisheries Act* to formalize sharing arrangements and give effect “once and for all” to the new management frameworks being finalized. The new Policy Framework for Atlantic fisheries frequently mentions the need to possibly amend the *Fisheries Act*, and so does the Department’s April 2005 Plan of Action for the Pacific fishery concerning permanent reforms anticipated in 2006.

“Modernization” is a word often employed by DFO in connection with the *Fisheries Act*. If all goes according to plan, the Department will in future continue to be responsible and accountable for setting conservation standards and ensuring compliance, but stakeholders will assume a greater shared sense of responsibility and be willing participants in conservation. Under the current legislative regime, DFO is responsible and accountable for all fisheries management decisions (e.g., assessing stocks, establishing the TACs, developing and implementing fishing plans, and evaluating results), a situation of command-and-control regulation which the Department considers to be inconsistent with self-management of regulated groups. Over time, DFO wishes to remove itself from having to make decisions concerning access and fish allocations. The reason given is to ensure that lobbying and political considerations no longer play a role in decision-making because, Committee members were told, this results in “a fishery that does not have the optimum performance or the best conservation outcomes.”⁽²²⁾ In the Minister’s view, shifting decision-making to independent bodies closer to industry and fishers might result in “a more sensible and rational approach to the management of the modern fishery.”⁽²³⁾

The previous attempt to amend the *Fisheries Act* was in the mid-to-late 1990s, when new powers were proposed to allow the Minister to enter into long-term, legally binding “partnering” or “partnership agreements” with unspecified industry groups in order to formalize their role in decision-making for the management of their particular fishery and to provide greater security of tenure for licence holders. Legislation was introduced, but later died on the *Order Paper* when Parliament was dissolved in 1997. In September 1998, the Minister appointed an independent three-member Panel on Partnering which was to advise on an appropriate legislative framework

⁽²¹⁾ DFO, *Report on Plans and Priorities 2004-2005*, Treasury Board Secretariat, http://www.tbs-sct.gc.ca/est-pre/20042005/FO-PO/FO-POr4501_e.asp#s1.

⁽²²⁾ David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, *Committee Proceedings*, 4 November 2004.

⁽²³⁾ The Hon. Geoff Regan, Minister of Fisheries and Oceans, *Committee Proceedings*, 8 February 2005.

for such agreements, but which, however, recommended in December 1998 that the Minister not go forward with legislation because of widespread opposition to the concept.⁽²⁴⁾

At the time, there was much confusion amongst industry participants about DFO's notion of "partnering" or "partnerships" in fisheries, and whether such arrangements differed from "co-management." Equally unclear was whether amendments to the *Fisheries Act* were needed to institute such agreements, and whether current arrangements between the federal government and certain fisher groups (e.g., those engaged in Aboriginal pilot sales in British Columbia) were even legal. As well, DFO's motives and agenda were frequently questioned; independent owner/operators in competitive fisheries perceived the proposed new agreements as part of a deliberate and continuing plan by DFO to increase the corporate sector's influence over, control of, and access to the fisheries. Critics maintained that, although not stated explicitly, the real objective of the proposed legislative changes was to extend private fish quotas and the process of "privatization," and to supplant and extinguish the centuries-old (common law) "public right to fish" that exists in Canada's tidal waters,⁽²⁵⁾ where "exclusive fishing rights" can be created only by the explicit sanction of Parliament (by statute).⁽²⁶⁾

WHAT WE HEARD: MAJOR RECURRING ISSUES AND THEMES

A. DFO's Budget

We definitely have a serious [budget] problem in DFO ... If we could provide a different set of legal instruments, we probably would have a lot less of our fiscal and financial headaches. – David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, Committee Proceedings, 4 November 2004

Crustaceans bring back the whole inshore. ... Is this a happy story? No. What does DFO want to do? It now wants to move in on these people and reorganize them. Why? Because ... no money for monitoring, no money for anything – and the

⁽²⁴⁾ Donald J. Savoie, Gabriel Filteau, and Patricia Gallagher, *Partnering the Fishery: Report of the Panel Studying Partnering*, 10 December 1998, http://www.dfo-mpo.gc.ca/media/backgrou/1998/hq-ac90_e.htm.

⁽²⁵⁾ The *Constitution Act, 1867* incorporated English constitutional practices and common law, including the Magna Carta, into Canadian law. In Canada, this public right and developments in the interpretation of the Constitution established the principle that, in tidal waters, an exclusive right to fish can be created only by the federal legislature. There exists a "public right to fish" which can be abrogated only by the enactment of competent legislation passed by Parliament.

⁽²⁶⁾ Standing Senate Committee on Fisheries, *Privatization and Quota Licensing in Canada's Fisheries*, December 1998. In November 1991, DFO proposed to reform licensing and allocation in Canada's commercial fisheries by establishing, through legislation, two independent Fisheries Boards – one for the Atlantic fisheries and one for the Pacific. Legislation was introduced in the House of Commons in May 1993, but later died on the *Order Paper*.

allegation that people want it. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

We have never heard anyone outside of government call for reductions in DFO budgets – in fact the opposite is true. – United Fishermen and Allied Workers' Union, Brief Submitted to the Committee, November 2004

Once again, the federal government's cost-cutting measures in fishery management will penalize the regions. There will be a mass exodus from most of the communities towards the larger urban centres, since, in Gaspé, after tourism, the fishery is the only economic engine. – O'Neil Cloutier, Director, Alliance des pêcheurs professionnels du Québec, Committee Proceedings, 24 February 2005

Since the Atlantic cod collapse, ... the Canadian public has raised its expectations for successful management, while at the same time, persistent budgetary constraints are making it increasingly difficult for DFO to maintain even the catch monitoring standards of yesteryear. – The Hon. Bryan Williams, Chair, 2004 Southern Salmon Fishery Post-Season Review, March 2005

It became obvious early on in our hearings that years of budgetary restraints had had a pervasive effect on DFO. Witnesses doubted the Department had sufficient financial resources and staff, let alone the capability, to fulfill its core mandate of “developing and implementing policies and programs in support of Canada’s scientific, ecological, social and economic interests in oceans and fresh waters.” We heard that, because of declining budgets, DFO staff did not have the resources to properly perform their jobs. For example, one witness noted that, in many cases, staff in the Pacific Region did not even have “gas to put in their boats ... to go out to do the work.” It was said that, because the Department is stretched so thin, it has no vision beyond “getting through this meeting or getting through the end of the day without the stockade falling down.”⁽²⁷⁾

In 1995, the federal budget made a commitment to privatize many of DFO’s responsibilities and services by entering “into partnerships with the fishing industry and others in the management of capacity, licensing and compliance.”⁽²⁸⁾ Also announced was the Department’s divestiture of recreational harbours to municipalities or other interested parties, and the rationalization of commercial fishing harbours. The Department has been subjected to large reductions in operational budgets ever since, and more are expected.

As a result of Program Review, DFO began to redefine core services, with departmental programs becoming more “client-focused” and “demand-driven.” In December 1998, the Savoie

⁽²⁷⁾ Garth Mirau, Vice-President, United Fishermen and Allied Workers’ Union, *Committee Proceedings*, 7 December 2004.

⁽²⁸⁾ Department of Finance, “Privatizing/Commercializing Government Operations,” Budget 1995 Fact Sheet 9, http://www.fin.gc.ca/budget95/fact/Fact_9e.html; Department of Finance, “Getting Government Right: Program Review Overview,” Budget 1995 Fact Sheet 6,

Panel on Partnering commented: “It is not simply a coincidence that discussions around co-management and partnering took on a sense of urgency at the time the government of Canada launched its program review exercise.”⁽²⁹⁾ More recently, in our meetings, the Committee learned that DFO completed a Departmental Assessment and Alignment Project (DAAP) in order to better align available resources with priorities, and identify possible options for improving the efficiency and effectiveness of programs and services. This exercise was said to have resulted in a reduction of personnel through attrition, including a significant reduction of staff in Ottawa.⁽³⁰⁾

Another message that emerged loud and clear is that DFO lacks the scientific information it needs to carry out its mandate effectively.⁽³¹⁾ Science is key to stability, predictability and the development of sustainable fisheries, and witnesses spoke about cutbacks in DFO-funded science taking place at a time when public expectations and demands for sound scientific information on complex marine issues are growing. On doing more with less, the Minister informed the Committee that the Department had been undergoing a review process, and that science could be strengthened by developing new strategies for funding and partnering with industry stakeholders, supported by fundamental reforms in how fisheries are governed. Witnesses mentioned that the Department had already been shifting the cost and responsibilities for scientific activity onto the industry, which raised questions about the transparency of fisheries management and science, that is to say, having corporations pay for science and research while at the same time acting as co-managers of the resource. In the Atlantic region, spokespersons for the inshore fishery feared that corporate funding of scientific research could possibly lead to the demise of the owner/operator policy (designed to keep corporations out of the coastal, small vessel inshore sector).

Evidence on DFO’s budgetary problems was not limited to science; enforcement issues were brought up as well. Departmental officials were very much aware of the problem and considered enforcement to be “a real concern.” While there are more fisheries officers today than there were five years ago, we learned that their number is being reduced through attrition because of insufficient operating funds. We also heard that DFO wishes to move toward what was described as a modernized, more efficient compliance regime of administrative sanctions, a system

http://www.fin.gc.ca/budget95/fact/FACT_6e.html.

⁽²⁹⁾ Donald J. Savoie, Gabriel Filteau, and Patricia Gallaughier, *Partnering the Fishery: Report of the Panel Studying Partnering*, 10 December 1998.

⁽³⁰⁾ Larry Murray, DFO, Deputy Minister, *Committee Proceedings*, 8 February 2005.

⁽³¹⁾ On fish habitat, the Committee’s November 2003 interim report concluded that DFO did not have adequate resources to meet current challenges, let alone future ones, and urgently needed additional new funding, especially with respect to scientific research.

that would be less costly than having the Department rely on criminal law to enforce fisheries regulations. The Committee notes that the recent post-season review on the management of Fraser River salmon stocks in 2004 clearly pointed to inadequate enforcement as a very significant factor with respect to the 1.3 million sockeye that went missing in 2004.⁽³²⁾

Faced with severe budget restrictions, the notion of “co-management” in self-regulating IQ and ITQ fisheries is one that undoubtedly appeals to DFO. Not only does this approach allow the Department to shift (or “download”) management responsibilities to industry, it also affords the possibility of cost-recovery. DFO charges the industry for issuing fishing licences, permits and other privileges – the guiding principle being that those who benefit from access to the resource should pay a fee that reflects the value of the privilege. The following statements encapsulate much of the testimony about DFO’s budget crunch:

If we had a more collaborative relationship with fishermen, if we had a situation where we had the opportunity to enter into agreements with them and share stewardship of the resource, that ... would help us stretch the dollars considerably...
– David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, *Committee Proceedings*, 4 November 2004

Resource monitoring is currently the responsibility of what is called the “protection” branch of the Department of Fisheries and Oceans. They have also experienced budget cuts. [DFO’s] other mandate is to reduce spending. There has been downsizing in the protection branch. That is one of the reasons why the fishers are finding new ways to become involved in protecting the resource through various projects. There must be some way to take over the minister’s responsibilities since his budget is constantly being cut by the government. The private sector will not be able to do that. It is up to the communities to become disciplined, to manage and control their behavior. This is not something that we see in the privatization model which relies on turning a quick profit. – O’Neil Cloutier, Director, Alliance des pêcheurs professionnels du Québec, *Committee Proceedings*, 24 February 2005

I believe that most of the problems in DFO are the result of budget cuts, including the need for cost recovery, which is all-pervasive at DFO. Quotas are the natural way for cost recovery; I believe they are absolutely linked. – Garth Mirau, Vice-President, United Fishermen and Allied Workers’ Union, *Committee Proceedings*, 7 December 2004

It has been a popular sport in Canada for a number of years for people to talk about and advocate shrinking and reducing the size of government. It has become like a mantra. Initially, there was no doubt there was fat to be trimmed, but eventually, the rubber hits the road and there are always consequences in terms of real services. ... To a fair extent, the level of interest in the department over the years in partnership or co-management had a lot to do with the matter I referred to earlier, that is, stripping down the department’s resources to do things. Usually when you look for a

⁽³²⁾ The Hon. Bryan Williams, Chair, 2004 Southern Salmon Fishery Post-Season Review, March 2005, http://www-comm.pac.dfo-mpo.gc.ca/publications/2004psr/williams_e.pdf.

partner in business, you are looking for someone to bring dollars to the table. That was certainly part of the equation. There is genuine cooperation that can take place between the department and the people who use the resource in a way that would improve the lives of both and improve on the level of management. Historically, it was what we sometimes refer to as a father-knows-best approach – that is, the people in Ottawa really knew what was best and said “run along” to the fishermen, when they had their own views. – Earle McCurdy, President, Canadian Council of Professional Fish Harvesters; President, Fish, Food and Allied Workers, President of the Canadian Council of Professional Fish Harvesters, *Committee Proceedings*, 24 February 2005

B. “Rationalizing” Fisheries

The message from DFO at the time of Mifflin was too many boats chasing too few fish. This was not true in 1996 and it is even less true today. – United Fishermen and Allied Workers’ Union, Brief Submitted to the Committee, November 2004

In the past, the problem was “too many fishermen chasing too few fish.” Today, with market values for quota and licences at unprecedented levels, the problem could become “too much money chasing too few fish.” – Ecotrust Canada and Ecotrust, Catch-22: Conservation, Communities and the Privatization of B.C. Fisheries, November 2004

Continually, DFO scriptwriters frame their arguments around good “economics” for fishermen and “conservation” when facilitating the forced removal of small-scale fishermen. – Nuu-chah-nulth First Nations, Brief Submitted to the Committee, 10 March 2005

The issue of rationalization is on the agenda. ... There are a number of solutions on this table about how to proceed with community approaches to viability. It is real for us. – Sandy Siegel, Executive-Secretary, Maritime Fishermen’s Union, Committee Proceedings, 24 February 2005

Sure, there are people who want a reorganization — the fat cats that were created on the way up. The fat cats, in my estimation, are the people who got the licences, stacked them up under DFO policy, and are now in a position that they want to keep other fishers out. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

On both coasts, the last opportunity fishers had to leave the industry with government assistance was the Canadian Fisheries Adjustment and Restructuring program of 1998. In future, the federal government does not plan to offer any new licence retirement programs (“buyouts”). As far as DFO is concerned, past licence retirement programs were ineffective in reducing excess fishing capacity; the licence holders removed from the fishery were those with relatively little capacity. DFO’s current approach to fisheries is working towards promoting an industry that is self-reliant, sustainable and economically viable, without special government assistance.⁽³³⁾

⁽³³⁾ DFO, Government Response to the 7th Report of the House of Commons Standing Committee on Fisheries and Oceans, April 2004.

Between 1990 and 2000, the number of fishers on both coasts declined from 81,473 to 56,427; over the same period, the number of fishing vessels was reduced from 35,135 to 23,819.⁽³⁴⁾

With respect to the Pacific fisheries, the Minister indicated in February 2005 that, although most fisheries were performing very well, the salmon sector was experiencing a continuing decline in both numbers of returning fish and value.⁽³⁵⁾ The Pearse-McRae Joint Task Group similarly concluded that most fisheries were performing well, but that the salmon fishery was in a precarious state. New management strategies were therefore required to provide an environment in which the industry could develop to its potential. Pearse and McRae detected “a pervasive sense of apprehension and anxiety out on the fishing grounds.” They felt the time was right for bold action, that is to say, the introduction of property rights to reinvigorate not only the salmon fishery, but all fisheries in the province, and recommended a limited number of long-term (25-year) ITQs.

The Minister also informed the Committee in February 2005 that Atlantic cod remained at historic low levels, and there were signs of decline in key fisheries. With regard to possible future licence buy-backs or other large-scale interventions in the fishery, the Policy Framework for Atlantic fisheries clearly states that those measures are completed. Given that “a number of fleets are still too large given the available resource,” these fleets will “need to be able to develop mechanisms to adapt their overall harvesting capacity to maintain sustainable resource levels over the long term.” What is suggested is that fleets can now “propose voluntary self-adjustment mechanisms, such as ITQs, allowing enterprises to combine/partner by pooling their quota share (or licences or gear), or the issuance of licences and quotas through a fleet planning board.”

The Minister also indicated that ITQs might be appropriate for some species and sectors, but not for others; the DFO therefore had to consider them “on a case-by-case basis.”⁽³⁶⁾ Given the socio-economic diversity of Canada’s fisheries, officials told us that: the Department was looking at ways to enable groups of fishers to make their own choices; they did not necessarily “want a cookie-cutter approach, a one-size-fits-all approach”; and it was “not for the Government of Canada to dictate to a group of people, whether it is a First Nations group or commercial fishermen, how they should proceed.”⁽³⁷⁾

⁽³⁴⁾ OECD, *Country Note on Fisheries Management Systems – Canada*.

⁽³⁵⁾ The Hon. Geoff Regan, Minister of Fisheries and Oceans, *Committee Proceedings*, 8 February 2005. Overall, according to DFO’s “Salmon Outlook for 2005” (March 2005), most Pacific salmon stocks “appear to be healthy, although some have declined in recent years and will not support full fisheries in 2005.”

⁽³⁶⁾ *Ibid.*

⁽³⁷⁾ David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, *Committee Proceedings*, 4 November 2004.

In this regard, DFO policy on the Atlantic Coast requires support by a clear majority (two-thirds) of licence holders before a fishery is allowed to switch over to IQ management;⁽³⁸⁾ but no such official policy exists for the Pacific fishery. In that region, the Committee heard evidence that: senior DFO staff who had designed IQ programs were now working for and lobbying on behalf of the beneficiaries; DFO had employed consultants who had in the past produced the reports or studies the Department needed to justify particular policies; and, since the 1990s, DFO had largely abandoned its policy of taking into account the socio-economic consequences of its decisions. On these and other matters, the United Fishermen and Allied Workers' Union called for a judicial inquiry into commercial licensing and management policies in the region, with power to compel testimony under oath. Anything less would result in "the same old thing" – "lots of stories but very few facts."⁽³⁹⁾

According to economic theory, the most important justification of individual catch quotas is the increase in economic efficiency they afford to individual fishing operations. Barring market imperfections, profit orientation and cost-consciousness result in the most efficient way of harvesting fish. Under an IQ system, capital investment to purchase more equipment in order to increase fishing power is largely unnecessary, since vessel owners have a guaranteed share of the catch and may fish throughout the entire season in the most economical way. When quotas are made transferable (as in the case of ITQs), they become very powerful management devices for reducing fishing effort and capacity in a given fleet.⁽⁴⁰⁾ Operators who believe their quota is too small to make a profit may buy or lease quotas from others, or sell their shares and leave the fishery rather than continue fishing. Those who find it uneconomic and leave, and those who retire, receive a financial return for their investment, at no cost to government (or the taxpayer), in terms of government licence retirement or buy-back programs. The inevitable outcome of

⁽³⁸⁾ At a March 1995 Round Table on the Future of the Atlantic Fishery, it was agreed that: any further introduction of IQs/ITQs/EAs would not confer or take away access to the fishery; support by a clear majority (two-thirds) of licence holders in the fishery in question would be a precondition; an intervener process would be available to any group of fishers who believed they would be adversely affected; and there would be restrictions on the transferability of licences in order to prevent undue accumulation of quota.

⁽³⁹⁾ United Fishermen and Allied Workers' Union, Brief Submitted to the Committee, November 2004.

⁽⁴⁰⁾ Where there is much excess harvesting capacity in a fleet, this may be a very desirable objective. However, a pivotal issue that DFO has never addressed to the Committee's satisfaction is whether fish depletions in Canada's commercial fisheries were caused by "overcapacity," defined in simple terms as "too many fishers chasing too few fish," or by too much fishing effort – two very different concepts. Overcapacity in fish harvesting has much more to do with technology, catching capacity, and overall fishing effort than with the number of fishers. Reducing the number of fishers may have very little effect in terms of reducing harvesting capacity.

rationalization is the consolidation of fleets (i.e., fewer fishers and fishing boats) at no cost to government. Some witnesses raised the spectre of large corporations eventually controlling much of the fishery through this process (unless government intervenes).

Proponents of IQs suggest that people fish more responsibly when they “own” the resource; when a renewable resource belongs to all, there is no incentive to preserve it. The belief is that the “common property” nature of fishery resources is the major impediment to proper management, and the assignment of property rights in the form of IQs, especially ITQs, is the only solution. That assumption was, however, challenged by Dr. Parzival Copes, who explained to the Committee that, because marine fish stocks and their ecosystems are by their very nature indivisible common property,⁽⁴¹⁾ ITQs may have many negative impacts on fishing productivity and fisheries conservation (Exhibit 1). Although ITQs offer a significant short-term advantage in fishing capacity rationalization, from an economic standpoint they “are vulnerable to collective harvesting inefficiencies that may constrain overall industry productivity.”⁽⁴²⁾ Many things can go wrong with ITQs. Indeed, witnesses noted that in order for ITQs to function effectively, they require high-quality, scientific stock assessments and a complete and accurate census of landings (i.e., monitoring and recording of catches at ports).

Exhibit 1

Negative Impacts of ITQs on Fishing Productivity and Conservation of Fish Stocks

Sources of the Impacts (see Appendix 5):

A. Management Requirements

- Relatively inflexible TACs
- Near-irreversible system commitments
- Bycatch dumping or bycatch enlargement
- Single-species incompatibility with ecosystem management

⁽⁴¹⁾ Marine fisheries have remained common property longer than other sectors or resources for a very good reason. Boundaries can be drawn in agriculture, or around mining and forestry resources, for purposes of assigning private property rights. Fish, on the other hand, are hidden from view, often migrate (sometimes over long distances) and intermingle with other stocks, making it difficult to isolate specific populations and assign specific property rights to them. One might say that the major problem with individual quota management is the plain and simple fact that fish in the wild are not (and cannot be) enclosed or “fenced in.”

⁽⁴²⁾ Parzival Copes, Emeritus Professor of Economics, Simon Fraser University, Brief Submitted to the Committee, 17 February 2005. Dr. Copes is a nationally and internationally recognized authority on fisheries economics and management.

B. System-Induced Behaviour

- Quota busting
- High-grading
- Price dumping
- Ratcheting of quotas
- Discount-driven stock depletion
- Data fouling

Source: Parzival Copes, Brief Submitted to the Standing Senate Committee on Fisheries and Oceans, 17 February 2005.

A particularly damaging feature of quota licences is the powerful incentive they offer to fishers to discard low-value and undersized fish (which count against the individual quota) for higher-valued fish, especially if individual quotas are too small to be economically viable for individual operators. The practice is known as “highgrading” and is especially likely where fishers have gone into debt to buy expensive quotas from other fishers in the expectation of a reasonable return on their investment. In the Atlantic fisheries, highgrading – a kind of strip-mining of the ocean – became entrenched and tacitly accepted as the way of doing business. The Committee was first made aware of this destructive and wasteful practice in the Atlantic groundfish fisheries during the mid-1980s.⁽⁴³⁾ Although the highgrading of fish also takes place in competitive fisheries, the “personalized benefit” of discarding is considered to be less because the incentive is for fishers to land as much as they can catch.

Others serious shortcomings of individual catch quotas stem from the fact that there is no argument in their favour in terms of improving “social equity.” A purely economic analysis of IQs does not take into account their effects on the distribution of incomes. In this regard, fairly apportioning initial individual allocations within a fleet can be very problematic because, in Canada and elsewhere, they are usually based on fishers’ “catch histories” – the amount of fish caught in previous years. The aim is to reward those who have been active and demonstrated an attachment to the fishery. However, historical catch records may be unjust, flawed or inaccurate for a number of reasons.⁽⁴⁴⁾

⁽⁴³⁾ Companies sometimes gave fishing operations specific instructions as to what species to land and in what quantities (known as a “shopping list”), and the only way to stay within the required species mix was to highgrade, dump and discard. See, for example, *Committee Proceedings*, 12 June 1990.

⁽⁴⁴⁾ For example, fishers may have fished longer and harder, may have over-reported their catches in anticipation of an IQ program, or may also have fished even if it was not to their advantage to do so. Catch history may also reward inappropriate behaviour (e.g., highgrading and dumping). Standing Senate Committee on Fisheries, *Privatization and Quota Licensing in Canada’s Fisheries*, December 1998.

Initial allocations of quota bestow considerable wealth to the select few first-generation quota-holders since the allocations are “gifted” out freely at the outset, which amounts to a giveaway or “windfall.” ITQ systems transform fishing licences into tradeable ownership of specific quantities of fish (quotas). Predictably, quota recipients are usually staunch supporters of their fishing “rights,” once in place. For subsequent generations of aspiring small-scale fishers who could have previously expected to save enough to buy a boat and become an owner-operator, the high prices for quota become a financial barrier to entering the fishery. New entrants who do buy quota go into debt, which must then be paid for from the harvest. Some may be able to lease quota from “armchair fishermen” or “slipper skippers,” individuals who profit from the fishery without working themselves. In theory, ITQs are supposed to reduce overall fishing costs and overcapacity in a fishing fleet; in practice, the total amount of financial capital invested in a fleet increases because of rising prices for quotas.

The passing out of ITQs invariably provides a mechanism whereby those who are able to afford it, such as corporations and wealthy investors, can buy up ever-larger shares of a fishery. Quota holders may sell to others who then move their base of operations to other locations (e.g., concentrate their operations in larger centres). Such geographic redistributions displace fishery workers, creating havoc in communities whose economy had relied on commercial fishing and fishery-related spin-offs. Quota windfalls may also cause divisions within communities between quota “haves” and “have-nots.”⁽⁴⁵⁾ With fewer private individuals able to afford access to the fishery, “privatization” becomes in effect “corporatization.” While restrictions may be placed on the maximum amount of quota holdings to prevent “undue accumulation,” who really controls a given quota is an entirely different matter.⁽⁴⁶⁾

Other policy issues arise. For instance, should the considerable wealth often created by quota licences be somehow limited? Should it be shared in some way with other fishers? Should it be returned to the federal government as “resource rent” in exchange for the granting of the exclusive harvesting privilege?

⁽⁴⁵⁾ Parzival Copes, *Some Critical Considerations for Policy and Management in Canada’s Atlantic Fisheries: A report submitted to the Department of Fisheries and Oceans in respect of the Atlantic Fisheries Policy Review*, 31 May 2001.

⁽⁴⁶⁾ In 1995, the Senate Committee recommended in *The Atlantic Groundfish Fishery: Its Future* that “the Department of Fisheries and Oceans review and assess the effectiveness of its regulations for restricting the ownership or control of ITQs to certain limits.” The Deputy Minister’s response at the time was that long-term experience with many of these restrictions was that “they become increasingly ineffective as industry adjusts (either legally and/or by bending the rules),” and that “these type of rules are rarely applied in other industries and hinder the evolution of an efficient self-supporting industry.” Letter to the Chair of the Standing Senate Committee on Fisheries, February 1996.

C. Trends in the Atlantic Inshore Sector

They told us they wanted a more open and transparent system, and a greater role in the decisions being made about their industry. – The Hon. Geoff Regan, Minister of Fisheries and Oceans, Speaking Notes, Stabilization of East Coast Management Plan Sharing Arrangements, 10 March 2005

The inshore had been parceled out in the previous policy, yet it rises again from the ashes. Why? Because no longer are the finfish eating the little baby lobsters and the crabs and the shrimp ... – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

We are appearing before you and we hope that you will understand the importance of these issues for our regions, not only for the Gaspé, but for all of the communities that border on the Gulf of the St. Lawrence. That represents five provinces. That is all we have left. Please save a little for us. – O’Neil Cloutier, Director, Alliance des pêcheurs professionnels du Québec, Committee Proceedings, 24 February 2005

We just finished a sector study ..., an analysis of the fishing industry as up to date as you will get in Canada. One of the main points it puts forward is that our inshore coastal communities are in desperate trouble. – Sandy Siegel, Executive-Secretary, Maritime Fishermen’s Union, Committee Proceedings, 24 February 2005

As might be anticipated, an economic policy focussed exclusively on market solutions, resulted in substantial costs from damage to the conservation and social dimensions of Canadian fisheries. Consider the results in the Atlantic fisheries. – Parzival Copes, Some Critical Considerations for Policy and Management in Canada’s Atlantic Fisheries, 31 May 2001

After 1977, when Canada extended fisheries jurisdiction to 200 nautical miles (from the previous 12 miles), a boom was anticipated. Banks provided loans to fishers and processors to expand their operations. Government subsidies were handed out for the purchase of new vessels, the expansion of existing fish plants and the building of new ones. The planned gradual displacement of the foreign industrial fishing fleet was seen to provide a particularly good opportunity to expand Canada’s own offshore (trawler) fleet for groundfish, then the major species that was fished on the Atlantic Coast.⁽⁴⁷⁾ Prior to the imposition of moratoria on fishing, three vertically integrated offshore companies were allocated more than half of the available groundfish; the remainder was reserved for the inshore sector, which was also given almost exclusive access to lobster, crab, and scallops – species much less valuable then than they are today. In order to

⁽⁴⁷⁾ For northern cod, the 1982 Task Force on Atlantic Fisheries: projected a Canadian quota of 400,000 tonnes by 1987; predicted that the offshore groundfish trawler fleet would play an important part in the future fishery; and recommended that the allowance to inshore vessels (the small boat sector) not be increased proportionally to the growth of the Total Allowable Catch. The TAC for northern cod never exceeded 266,000 tonnes, however.

promote “economic efficiency” and allow “more orderly” harvesting, the system of IQs called “Enterprise Allocations” for offshore groundfish had been put in place in the early 1980s.⁽⁴⁸⁾

In less than a decade of extensive use of EAs, Canada’s Atlantic groundfish stocks experienced a massive and multiple collapse, one of worst environmental disasters of the modern era – referred to at the time as a disaster of biblical proportions. No one knows for sure the reason(s) why they collapsed; there has never been an official inquiry into the matter.⁽⁴⁹⁾ When moratoria on fishing were first announced, people believed them to be temporary – 5 to 10 years – after which time they thought they would go back to fishing as they had for the previous 500 years. For some 1,300 communities in the Atlantic region,⁽⁵⁰⁾ the social and economic impacts of the resource calamity were disastrous: over 40,000 people lost their jobs in what was the country’s largest single layoff. Between 1992 and 2001, the federal government spent \$3.9 billion in adjustment and development assistance, including licence retirement programs to reduce the number of fishers in the industry. Approximately 3,700 Atlantic groundfish licences were purchased under three separate programs.⁽⁵¹⁾

Thousands of Atlantic Canadians in hundreds of communities still feel the impact. In Newfoundland and Labrador, the population has decreased by 8% (about 46,000 people) since 1992-1993, with many young people from rural areas having to leave home to seek work elsewhere in Canada.⁽⁵²⁾ Unlike most of the country, the majority of the population in the Atlantic

⁽⁴⁸⁾ In 1981, the Atlantic groundfish industry experienced an acute financial crisis that centred on the offshore (large vessel) sector. In January 1982, the federal government appointed a Task Force on Atlantic Fisheries that submitted a report entitled *Navigating Troubled Waters: A New Policy for the Atlantic Fisheries* in November 1982. A “restructuring” process followed to refinance and amalgamate a number of major processing firms operating offshore trawler fleets. This involved the infusion of public money. Two giant, vertically integrated companies emerged, one based in Newfoundland and the other in Nova Scotia. Although subsequent market strength allowed the large offshore companies to return to private hands, virtually nothing was done at the time to assist independent fishers, processors and cooperatives.

⁽⁴⁹⁾ In 1993, the Senate Committee called for a royal commission to advise on how the groundfish should be managed. It has never been established that the severe depletion of Atlantic groundfish was unrelated to certain offshore activities, fishing technologies and destructive fishing practices.

⁽⁵⁰⁾ The Task Force on Atlantic Fisheries estimated in 1982 that commercial fishing in Newfoundland, the Maritimes and the coastal areas of Quebec were the lifeblood of more than 1,300 small communities, about half of which were single-sector economies.

⁽⁵¹⁾ These were the Northern Cod Adjustment and Restructuring Program (NCARP), the Atlantic Groundfish Strategy (TAGS), and the Canadian Fisheries and Adjustment Restructuring (CFAR) program.

⁽⁵²⁾ Government of Newfoundland and Labrador, Newfoundland and Labrador Statistics Agency, *2001 Census Data and Information*.

region is rural, and approximately 25% of Atlantic Canadians live in small fishing communities. In Newfoundland and Labrador, the percentage is even higher (54%).⁽⁵³⁾

The March 2004 Policy Framework states that its intent is to provide “the foundation for more self-reliant Atlantic fisheries that are able to contribute to the well-being of coastal communities and to survive downturns without government assistance and with only a normal business failure rate.” Those were the objectives the Task Force on Atlantic Fisheries had identified as priorities over two decades ago, in 1982, and that have influenced policy in the region ever since. The Framework also envisions the creation of “circumstances for resource users to be more self-reliant, economically viable and self-sustaining on a long-term basis.” In creating such conditions, in future, DFO “will clarify what its role should be in supporting viable coastal communities” and “provide resource users with a greater role in shaping social and economic objectives.” With regard to the well-being of coastal communities, this is said to be “a collective responsibility which cannot rest exclusively on the actions” of the Department. Whereas in the past “many people in coastal communities looked to fisheries to solve wider social and economic problems,” the Framework affirms that “it is generally accepted that there are simply not enough resources to fill ever-increasing needs for jobs, incomes and new allocations of fish.”

In the course of our meetings, DFO indicated that it did not have a clear policy with respect to fisheries employment, nor was it seeking to develop such a policy. The Department also stated that Fishermen’s Employment Insurance had resulted in more participation in the fishery than would otherwise be the case,⁽⁵⁴⁾ a statement that a later witness vigorously challenged:

The economic thinking in DFO is out of date. For a long time, those of us who live in Atlantic Canada have been insulted by the idea put forward repeatedly by DFO that we have a social welfare fishery. I was shocked the other day to hear [one official] say to this Committee that UIC is still a major issue in the fishery. Does he know what is going on? Lobster fishermen make \$50,000 in a few weeks. Crab fishermen can make \$100,000 in ten days. They are not worried about their UIC. That is not what the issues are all about. You cannot go through the old social issues any more. That argument is dead. We have a new fishery in Atlantic Canada.
- Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University,
Committee Proceedings, 10 February 2005

⁽⁵³⁾ Canadian Council of Professional Fish Harvesters, Response of the Canadian Council of Professional Fish Harvesters to the AFPR, 31 May 2001.

⁽⁵⁴⁾ The Atlantic inshore sector is frequently portrayed as a “social fishery” – over-subsidized and too overcapitalized and inefficient to operate profitably even when resources are abundant – the “employer of last resort” in a region that has high rates of unemployment. History, on the other hand, has proven coastal fishers’ and small fish plant operators’ ability to adapt, adjust and remain competitive in the face of changing circumstances.

Contrary to popular belief, the 1990s were a period of growth in the economic value of Atlantic fisheries. The ecological irony of the collapse is that groundfish, such as cod, are natural predators of shellfish, such as crab and lobster, so that commercial fishing for shellfish expanded rapidly to become the dominant fisheries in the region. New records were set in terms of the total landed value of catches, and production patterns in processing changed accordingly. In 2003, four major Atlantic shellfish species (lobster, snow crab, shrimp and sea scallop) accounted for over 83% of the total value of total catches. Inshore, small vessel fleets, which represent 98% of the harvesting employment, landed approximately 75% of the total Atlantic harvest (worth approximately \$1.8 billion in 2003, or almost 84% of the Canadian total of \$2.2 billion).

That said, the testimony painted an uncertain future for Atlantic Canadians in fishery-dependent coastal areas. For example, preliminary results of a recent study conducted by the Canadian Council of Professional Fish Harvesters show that, even if fish stocks remain stable or even improve, the economic and demographic trends in the Atlantic region seriously threaten the survival of community-based fisheries in the region. As well, the study indicates that: DFO budget cuts and downloading are altering fleet viability thresholds and creating mistrust of the Department; prices of fishing licences have dramatically increased; the labour force is rapidly aging; recruitment of new entrants to the industry is slow; and shortages of skilled and committed workers will increasingly become a constraint for fishing enterprises. The loss of young people from rural areas is another major worry.⁽⁵⁵⁾

D. Trust Agreements in the Atlantic Fishery

Stabilizing access and allocation is a crucial first step. I would argue that this is what industry wants done first. – The Hon. Geoff Regan, Minister of Fisheries and Oceans, Committee Proceedings, 8 February 2005

There is total undermining of public policy and we have been tilting at this windmill for five years now. It is starting to get on our nerves. ... We need changes and we need them now. – Earle McCurdy, President, Canadian Council of Professional Fish Harvesters; President, Fish, Food and Allied Workers, Committee Proceedings, 24 February 2005

You must understand that fishing is a way of life for us. It has a cultural dimension. ... We are extremely attached to our regions. If the government does not ensure that

⁽⁵⁵⁾ Conducted in partnership with Human Resources Development Canada, the study is an in-depth analysis of the fishing industry involving surveys of 1,500 enterprise owners, 600 crew, focus groups, interviews, and a literature review. Its purpose is “to provide the information needed to support a national strategy to meet current and future needs for skilled workers in the industry.” Canadian Council of Professional Fish Harvesters, “Summary of Main Findings and Recommendations From National Fish Harvester Sector Survey,” 2005.

these two principles are maintained ... we will witness an unraveling of our regions' social fabric. – O'Neil Cloutier, Director, Alliance des pêcheurs professionnels du Québec, Committee Proceedings, 24 February 2005

This is a serious problem, how we are going to get the next generation into the fishery. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

The time frame for solutions is now, and the window of opportunity is closing. - Sandy Siegel, Executive-Secretary, Maritime Fishermen's Union, Committee Proceedings, 24 February 2005

In 1979, the federal government put in place a policy framework that contained two elements. The first element, the “fleet separation policy,” prevented the issuance of new fishing licences to corporations, including processing companies, for vessels of less than 65 feet.⁽⁵⁶⁾ This “protective wall” between the offshore and inshore sectors was erected in response to concerns in Atlantic Canada about corporate concentration of fishing licences and to foster greater competition amongst fish buyers for inshore fishery products. The second element, the “owner-operator policy,” established that inshore licences could be fished only by their owners, personally, to ensure that the economic benefits derived from fishing stayed in the hands of those who fished (i.e., captains, crew members).

Not surprisingly, the growth in the value of the inshore's catch (worth about \$1.4 billion, with lobster and snow crab representing three-quarters of that total)⁽⁵⁷⁾ did not go unnoticed by fish processors, successful inshore coastal fishers, and investors from outside the fishery. The Committee heard that inshore licences have become increasingly subject to what are referred to as “trust agreements” – private contracts that bind the parties that sign them and often direct the use of the licence (“the beneficial interest”) by corporations or other third parties in contravention of the owner-operator and fleet separation policies. As such, these “legal subterfuges” or “under-the-table” arrangements allow the control of licences and quotas by the back door and undermine public policy. They siphon income out of the pockets of working fishers, while non-fishers profit from fishing activity but bear no risk of injury from fishing. Because trust agreements are private contracts, the Committee was informed by DFO that the Department does not monitor or register them.

⁽⁵⁶⁾ The fleet separation policy does not prevent licensed fishers from becoming plant owners.

⁽⁵⁷⁾ Marc Allain, “Inshore fisheries: A Case to Follow,” *Current Issues Bulletin*, Canadian Council of Professional Fish Harvesters, 13 January 2005 update, <http://www.ccpfh-ccpp.org/cgi%2Dbin%5Cfiles%5C050117%2CCurrent%2DIssues%2DBulletin%2CE%2Epdf>.

Access to capital was said to be what drives trust agreements: because fishing licences are, in legal terms, temporary and non-transferable, financial institutions will not lend money on their value.⁽⁵⁸⁾ In response to widespread concerns, DFO released in December 2003 a discussion paper entitled *Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries* to form the basis of a separate AFPR public consultation, which involved seven public meetings in January 2004.⁽⁵⁹⁾ Spokespersons of harvester organizations strongly opposed trust agreements and wanted to do away with them. They drew our attention to the fact that: DFO's 2001 discussion paper was silent on such agreements; the December 2003 discussion document recognized that they clearly violate public policy, but it included a list of questions asking how to allow for more "flexibility"; and the new Policy Framework now states that the Department is intent on preventing their use.⁽⁶⁰⁾ The Committee heard there was near-unanimous support amongst fish harvesters for strengthening the owner-operator and fleet separation policies. The Minister, for his part, also voiced his strong support for such measures to the Committee, but he added that views on the matter were mixed. The Department has yet to announce how it intends to follow through on its commitment.

The issue has been a major concern of the Canadian Council of Professional Fish Harvesters and its member organizations since its Second General Assembly held in January 2000. Council members believe its resolution will be a turning point for inshore fisheries and the coastal communities they support: the result will either be a strengthening of the inshore, or the beginning of the end. The following statement sums up much of the underlying theme:

What is happening is that the Department is signaling there is a problem here, but they are not doing anything about [it]. Trust agreements are being written as fast as possible because they know what is coming. Larger and larger parts of the resource are being centralized and concentrated. Even as we move to some kind of action from the Department of Fisheries and Oceans, which is not happening yet, the ground is disappearing under our feet. – Sandy Siegel, Maritime Fishermen's Union, *Committee Proceedings*, 24 February 2005

⁽⁵⁸⁾ David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, *Committee Proceedings*, 8 February 2005. The policy of limiting entry in commercial fisheries restricts access to fisheries, thereby creating a market value in fishing licences. In fisheries where licence transfers are permitted, the government in practice has agreed to reissue the licence to a fisher buying the assets of another fisher (e.g., a retiring fisher, who could be a family member). In this sense, traditional fishing licences have been "sold," although in legal terms, no actual "sale" takes place.

⁽⁵⁹⁾ A summary of these public consultations, *What We Heard on Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries*, was released in March 2004.

⁽⁶⁰⁾ According to DFO, trust agreements "that propose to transfer the beneficial use of a licence, although they have not been considered as illegal by courts, contravene the owner-operator and fleet separation policies and the "Core" fisher designation since they allow a corporation, third party or entity other than the licence holder to control a licence in the inshore fleet." DFO, *Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries*, December 2003.

While regulations could be amended to specifically state that the “legal interest” of the holder of a fishing licence and the related “beneficial interest” of the licence are inseparable, this would not help solve the financial problems faced by new entrants, especially young people interested in a fishing career. The issue was said to have urgency: a great intergenerational transfer is expected to take place over the next 10 years as the majority of licence holders retire (the average age of enterprise heads is 48). In many if not most fisheries, licences are worth in the hundreds of thousands of dollars; in some cases, millions. Trust agreements are believed to have become more prevalent in the lobster sector because of the dramatic increases in prices. In Zone 34, for example, licences reportedly sell for as much as \$850,000, up from about \$300,000 in 1999.⁽⁶¹⁾

E. Urbanization of the Fishery Resource in British Columbia

The Pearse and McRae response was to create ITQs ... You would have fewer vessels, therefore, you would have more fishing opportunities. – David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, Committee Proceedings, 4 November 2004

DFO’s solutions created as many economic, social and ecological problems as they solved. – Ecotrust and Ecotrust Canada, Catch-22: Conservation, Communities and the Privatization of B.C. Fisheries, November 2004

“Catch-22” ... is a brilliant report that responds in kind and in detail to the positions advanced by Professor Pearse. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

The resource privatization model that the Canadian government is seeking to implement comes from New Zealand where a number of communities have suffered from this privatization. In fact, we have the same model in western Canada, and the people there can tell you how this has affected their communities. – O’Neil Cloutier, Director, Alliance des pêcheurs professionnels du Québec, Committee Proceedings, 24 February 2005

DFO is moving forward with its agenda to privatize fisheries with little thought to the impact this will have on those who rely on fishing and related industries for a living. – Garth Mirau, Vice-President, United Fishermen and Allied Workers’ Union, Letter to the Committee, 15 March 2005

⁽⁶¹⁾ Stephen Maher, “Lobster: An Issue of Trust; Ottawa Faced With Decision on Control of Fishing Licences,” *The Chronicle-Herald* [Halifax], 30 December 2004, p. B2.

In the Pacific fishery, where 16% of Canada's fisheries production originates (\$368 million) and where many communities are substantially involved in fishing,⁽⁶²⁾ there are no owner-operator or fleet separation policies protecting the status of independent small boat fishers and their communities.

With regard to the wild salmon fishery, a number of factors contribute to threaten its viability, including habitat losses and ocean conditions, depressed prices due to increased farmed production, and stock depletions due to overharvesting. In 1986, the Auditor General of Canada found that catching capability had increased dramatically through the upgrading of vessels and technological improvements, even though the number of fishing boats had declined to 4,400 from 6,600 over the previous 15-year period.⁽⁶³⁾ A decade later, in 1996, the federal Pacific Salmon Revitalization Strategy, known as the Mifflin Plan, brought in various major licensing policy reforms to restructure and rationalize the sector.⁽⁶⁴⁾ By 1997, some 6,500 jobs had been lost; by 2000, the fleet had been cut by 54%. Witnesses stressed that, instead of increasing the economic viability of coastal communities, the Mifflin Plan had the opposite effect – whether intended or not – of further marginalizing them.

The Committee heard testimony that years of federal policies had shifted fishing licences out of rural and Aboriginal coastal communities, the result being that few now see economic benefits from the fishery resources adjacent to their shores. Witnesses spoke about frustration, despair and the depopulation of communities. On the West Coast of Vancouver Island, where once there had been a number of community fishers involved in commercial fishing, this is no longer the case. Committee members learned that whereas there had been well over 200 licensed vessels operated by Nuu-chah-nulth in the 1950s, there are now 16 vessels remaining in communities where unemployment rates vary from 70% to 90%.⁽⁶⁵⁾

⁽⁶²⁾ In 1991, there were 100 such communities. Don Cruickshank, Commissioner, A Commission of Inquiry Into Licensing and Related Policies of the Department of Fisheries and Oceans, *The Fishermen's Report*, November 1991.

⁽⁶³⁾ Standing Senate Committee on Fisheries, *The Marketing of Fish in Canada: Interim Report on the West Coast Fisheries*, December 1987, p. 57.

⁽⁶⁴⁾ The Mifflin Plan involved three elements: an \$80-million licence retirement or "buy-back" program; single gear licensing, which restricted fishers to one kind of gear only; and area licensing, which further restricted fishers to one of two seine areas, or one of three gillnet or troll areas. If fishers wished to fish in another area or with different gear, they had to buy out other fishers and "stack" the licence on their vessel.

⁽⁶⁵⁾ Nuu-chah-nulth First Nations, Brief Submitted to the Committee, 10 March 2005.

Table 1**B.C. Rural Communities With the Largest Loss of Commercial Fishing Licences, 1994-2002**

	Licences in 1994	Licences in 2002	% Change
Kyuquot	25	5	-80
Kitwanga	29	6	-79
Port Simpson	59	13	-78
Kitkatla	17	5	-71
Chemainus	42	12	-71
Kitimat	13	4	-69
Bamfield	26	8	-69
Mansons Landing	13	4	-69
Gibsons	56	18	-68
Port Clements	3	1	-67
Quatsino	15	5	-67
Skidegate	18	6	-67
Tofino	66	23	-65
Hagensborg	24	9	-63
Lund	16	6	-63
Ucluelet	80	32	-60
Bella Bella	17	7	-59
Port Edward	23	10	-57
Port Hardy	185	80	-57
Zeballos	9	4	-56

Source: Ecotrust Canada and Ecotrust, *Catch-22: Conservation, Communities and the Privatization of B.C. Fisheries*, November 2004, <http://www.ecotrustcan.org/catch-22.shtml>

Witnesses from the Pacific Region also frequently mentioned that soaring market values for licences and quotas had been squeezing out rural and Aboriginal fishers, communities, and younger prospective fishers from the industry. On this phenomenon, *Catch-22: Conservation, Communities and the Privatization of B.C. Fisheries*, a report by Ecotrust Canada and Ecotrust released in November 2004, speaks powerfully about the economic, social and ecological impacts of past and current licensing policies in the region. Among other things, the report found that the decrease in the overall capital value of vessels and equipment in the fishery was more than offset by a soaring capital value for licences and quota.

In 1988, DFO estimated the capital investment in vessels and equipment for the salmon fleet was about \$777 million (in 2003 dollars). By 2003, the capital investment in the entire B.C. fishing fleet for all species was estimated to be \$286 million. ... By 2003, the capital value of licences and quotas reached \$1.8 billion ... Vessels and equipment now make up only 14% of the capitalization in the B.C. fishing industry.⁽⁶⁶⁾

⁽⁶⁶⁾ Ecotrust Canada and Ecotrust, *Catch-22: Conservation, Communities and the Privatization of B.C. Fisheries*, November 2004, <http://www.ecotrustcan.org/catch-22.shtml>.

Whereas “too many fishermen chasing too few fish” may have been the problem in the past, *Catch-22* concludes that “today it has become too much money chasing too few fish,” and that in British Columbia “a fisherman now needs to be a millionaire to enter into most fisheries.”⁽⁶⁷⁾ Because licences and fish quotas are being bought up by those with greater access to capital, rural coastal regions are losing their access to commercial fishing opportunities. The ensuing increasing “urbanization of the resource” can be seen by a steep decline in rural and Aboriginal individual ownership of commercial fishing licences and quotas: between 1994 and 2002, communities with a population of less than 10,000 lost 540 licences in major fisheries, such as groundfish, salmon and shellfish – or almost half (45%) of all licences for major fisheries owned by rural people.⁽⁶⁸⁾

According to the Ecotrust report, more than 40% of B.C. fishing licences and quotas are now owned by Vancouverites. People in metropolitan Vancouver and Victoria own 44% of all individual quota licences, compared to 2% for local residents on the West Coast of Vancouver Island, 3% on the North Island, and 9% on the North Coast. In urban areas, many of those licences are owned by companies or individuals who lease their fish quotas or licences to fishers. In the next decade, as increasingly more fishers retire, leasing, fishing licence consolidation and the loss of licences in rural communities are expected to worsen the situation.

As on the East Coast, no data are available on the extent of the practice of leasing in the Pacific fishery. Some witnesses who testified before the Committee asked that an owner-operator policy be put in place in British Columbia, such as exists for the Atlantic inshore sector.

F. The Pearse-McRae Report

The lack of consensus on specific reforms shown during the consultations cannot be used as an excuse for lack of action. It is very clear that no one is satisfied with the status quo. Neither am I ... – The Hon. Geoff Regan, Minister of Fisheries and Oceans, quoted in DFO, “Regan Announces Plan of Action to Reform Pacific Fisheries,” News Release, 14 April 2005

We’ve seen some interesting proposals coming out of the Pearse-McRae report, the Joint Task Force Report in British Columbia. – David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, House of Commons Standing Committee on Fisheries and Oceans, Proceedings, 6 May 2004

⁽⁶⁷⁾ *Ibid.*

⁽⁶⁸⁾ *Ibid.*

People in the Pacific Region's coastal communities were shocked when they heard Pearce and McCrae had announced they did not need to visit coastal fishing villages or speak to real, working fishermen in the field. – Nuu-chah-nulth First Nations, Brief Submitted to the Committee, 10 March 2005

It has taken the proponents of ITQs a longer time to find a way to force the ITQ system on the salmon fishery ... than on the other fisheries. – Dr. Parzival Copes, Emeritus Professor of Economics, Simon Fraser University, Committee Proceedings, 17 February 2005

[DFO is] using aggressive tactics to force ITQs on the small-scale fishermen. They are fully aware the working fleet will not survive in an ITQ system. – Chief Simon Lucas, Co-chair, Nuu-chah-nulth Tribal Council Fishermen's Committee, Letter to the Chair of the Senate Committee on Fisheries and Oceans, 25 March 2005

In May 2004, the Joint Task Group on Post-Treaty Fisheries proposed the immediate application of property rights in all Pacific fisheries in the form of a limited number of long-term (25-year) ITQs replaceable after 15 years on an “evergreen” renewal basis. As a practical means to implementation, the Task Group suggested that legislation be enacted to deal specifically with the Pacific fisheries and that, in the interim, ITQs be issued for 5 years. The Task Group described the *Fisheries Act* as antiquated, thoroughly inadequate for managing modern fisheries, and in need of an immediate and thorough overhaul. DFO informed the Committee that what Pearce and McCrae suggested was changing “licences into property by having them issued for a longer period of time.”⁽⁶⁹⁾ The United Fishermen and Allied Workers’ Union (UFAWU)⁽⁷⁰⁾ advised the Committee that, if implemented as proposed, the Task Group’s suggestion of long-term ITQs would spell the end of fish as a common property that is owned by all the people of Canada.⁽⁷¹⁾

DFO’s response to *Treaties and Transition* when first released was that it: provided “a vision of post-treaty fisheries to ensure access and a sustainable and profitable resource for all participants”; endorsed “the current approach to negotiating fisheries components in treaties”;

⁽⁶⁹⁾ David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, *Committee Proceedings*, 4 November 2004.

⁽⁷⁰⁾ The UFAWU is a local of the Canadian Auto Workers Union and represents fishers, fish packer crews, and fish plant workers in British Columbia. UFAWU members own vessels as independent owner-operators, work on vessels as skippers or deckhands, or work on shore in fish off-loading or processing plants. They are engaged in all types of fishing and fish processing.

⁽⁷¹⁾ On the issue of “property,” the Committee asked the following in its 1998 study: “If [individual catch quotas] are ever construed as such in the courts, jurisdictional questions may arise; for example, if they are in fact private entitlements, should they not be subject to the provincial law relating to property and civil rights in the province? Would it then be constitutional for the federal government to regulate a fishery (e.g., cancel a quota) once access to it had been transferred from common property to private property?” The Committee also wondered whether, with the globalization of trade, the federal government would be able to protect Canada’s fishery resource from being owned by foreign interests.

represented “fundamental change”; and emphasized “the need for industry to assume more responsibility.” Important outcomes were said to flow from the report:

- a fully integrated commercial fishery with all participants operating on an equal footing;
- a more responsive management system;
- adoption of co-management with meaningful stakeholder participation;
- enhanced security of tenure (long-term licences);
- transitional arrangements with First Nations; and
- enhanced certainty of harvest shares (individual quotas).⁽⁷²⁾

It was frequently pointed out in our meetings and in written submissions that *Treaties and Transition* is entirely consistent with the views of British Columbia appointee, Dr. Peter Pearse, who also happens to be a world-renowned and long-time advocate of ITQs. In this sense, “the medium” became very much “the message.” Witnesses from the West Coast believed that ITQs would not only hasten the trend of migration from rural to urban areas, but that they would also result in increased costs for surveillance and enforcement, thereby further jeopardizing the viability of small-scale fishers. The Pearse-McRae report was roundly criticized for having emphasized and endorsed ITQs, instead of providing a broad vision of post-treaty fisheries as it had been asked to do. Many opposed the notion of ITQs for salmon, including the Native Brotherhood of British Columbia, the BC Aboriginal Fisheries Commission, various other First Nations organizations, and the United Fishermen and Allied Workers’ Union. Committee members learned that in an industry-sponsored survey conducted in July 2003, an overwhelming 95% of fishers along the North Coast of British Columbia had rejected the idea of ITQs for salmon.⁽⁷³⁾

The Department’s Sustainable Development Strategy for 2005-2006 affirms that “meaningful engagement promotes a better understanding of the issues and shared ownership of the future direction among all interested parties.” In 1998, DFO’s New Directions policy statement had been adopted to clarify policy; eight Area Harvest Committees were created in 2004 to make the commercial salmon consultation process more transparent; and in December 2004, a revised and much-awaited Wild Salmon Policy (WSP) was released for public review and comment. The WSP proposes a more open, inclusive, proactive, forward-looking approach for the

⁽⁷²⁾ DFO, “Report Urges Long-term Approach to B.C. Salmon Fishery,” News Release, 5 May 2004.

⁽⁷³⁾ United Fishermen and Allied Workers’ Union, Brief Submitted to the Committee, November 2004.

conservation of Pacific salmon that balances social, economic, and biological benefits and costs. The policy is to be informed by the Pearse-McRae and First Nations Panel reports.

DFO supposedly considers consultation key in addressing the challenges facing the salmon fishery. The Committee heard, however, that the Pearse-McRae process had: been appointed by the two levels of government without consultation; virtually ignored the people and communities most affected by any changes in policies; held no public debates or open meetings in coastal towns or villages; and conducted selective consultations often involving interests favouring IQs. It was brought to our attention that, in the context of the Atlantic Fisheries Policy Review, everyone had the opportunity to be heard on the East Coast, but this had not been the case in the Pacific Region. According to First Nations representatives, the Pearse-McRae process did not meet the legal requirement that they be consulted on such vital matters that concern them. The following excerpt from the testimony is fairly representative of what First Nations said to the Committee in meetings and in written submissions:

I am going to read to you part of a letter in response to the Pearse-McRae Report from Chief Bill Cranmer of the Namgis First Nation in Alert Bay. He said: *“The [Pearse-McRae] report also recommends that the changes be implemented immediately. This recommendation is very troubling. It implies that the report had an adequate public consultation process. This was not at all the case. The consultation process used by professors Pearse and McRae were exceptionally selective. The current limited touring round by DFO officials is equally exceptional. Although we were invited to a meeting in Campbell River, we did not have adequate notice and because of the significance of this issue to our community and to our fishing heritage, we requested that a meeting be held in Alert Bay. We were told that this was not possible due to the short term nature of the current consultation process. This is very far from an adequate form of consultation for an issue that is so important to rural coastal communities and especially to First Nations. Given Canadian standards of public consultation on important policy issues and of course the Supreme Court’s Haida rulings about Aboriginal consultation and accommodation, we are surprised to the point of being shocked.”* – Christine Hunt, Vice-President, Native Brotherhood of British Columbia, *Committee Proceedings*, 24 February 2005

The First Nations representatives we heard strongly opposed *Treaties and Transition* because of their concern for the resource and to avoid further job losses, as well as the loss of knowledge and skills from their communities. They saw ITQs as exacerbating the consolidation of ownership of licences that occurred under the Mifflin Plan, which stripped away many licences and crew jobs.⁽⁷⁴⁾ In the view of the BC Aboriginal Fisheries Commission, the introduction of

⁽⁷⁴⁾ Christine Hunt, Vice-President, Native Brotherhood of British Columbia, *Committee Proceedings*, 24 February 2005.

ITQs “will only serve to further impoverish Aboriginal people and threatens the B.C. Treaty process”⁽⁷⁵⁾ which involves 44 sets of negotiations and 55 First Nations. When Chief Simon Lucas of the Hesquiaht Tribe (West Coast of Vancouver Island) appeared before the Committee, he spoke about the steady loss of aquatic resources that Nuu-chah-nulth people had depended on for their health and economy for thousands of years: “If we sign a treaty forever, what does that mean for our people? We are the fastest rising group of people in Canada, and what is it going to look like 50 years from now?”⁽⁷⁶⁾

Significantly, the First Nations Panel’s vision for fisheries differs greatly from that in the Pearse-McRae report; it views ITQs as only one of many possible options. *Our Place at the Table* called on government to immediately allocate to First Nations a minimum 50% share of all fisheries, as an interim measure, with an understanding that this could reach 100% in some fisheries. This would signal “a serious attempt” to reconcile Aboriginal and Crown title and recognize the rights First Nations have in the Pacific fisheries. Because ITQs would increase the cost of fisheries settlements in land claims treaties, the panel asked that a moratorium be placed on the further introduction of property rights-based fisheries, unless First Nation interests in those fisheries, including allocations, are first addressed.⁽⁷⁷⁾ Witnesses at our meetings and others who sent written submissions frequently made the point that ITQs had in fact created barriers to treaty negotiations and stood in the way of settlements.

The price of halibut was \$8 a pound when we first started the treaty discussion at our level. Now it is \$45 a pound. The black cod was going for \$11 a pound. Now it is out of reach at \$85. For us to stay in and compete in the commercial industry, where it cost us nothing to survive on aquatic resources, ... it will cost us \$25 million. The treaty table is saying they will loan you \$1 million to enter into commercial activity.
– Chief Simon Lucas, Hesquiaht Tribe, member of the West Coast Vancouver Island Aquatic Management Board, *Committee Proceedings*, 10 March 2005

Not only are ITQs for salmon untried anywhere else in the world, but also witnesses confirmed that, for salmon, they are very risky from a conservation standpoint because of the fishery’s complexity and unique characteristics.⁽⁷⁸⁾ Witnesses felt that monitoring and

⁽⁷⁵⁾ B.C. Aboriginal Fisheries Commission, “Leader Says Mis-Guided Salmon Quota Scheme Threatens Treaty Making,” Press Release, 5 April 2005.

⁽⁷⁶⁾ Chief Simon Lucas, Co-chair, Nuu-chah-nulth Tribal Council Fishermen’s Committee, Hesquiaht Tribe, *Committee Proceedings*, 10 March 2005.

⁽⁷⁷⁾ First Nations Panel on Fisheries, *Our Place At the Table: First Nations in the B.C. Fishery*, June 2004.

⁽⁷⁸⁾ Christine Hunt, Native Brotherhood of British Columbia, Vice-President, Canadian Council of Professional Fish Harvesters, *Committee Proceedings*, 24 February 2005. Several user groups harvest the fish in many different locations. If not strictly controlled, fishing can eliminate entire stocks in one

enforcement would be considerably more difficult with ITQs, if not impossible, and that DFO had trouble monitoring and enforcing the current system without making matters even more complicated. On the Fraser River alone, where inadequate enforcement was a very significant factor in the disappearance of 1.3 million sockeye in 2004, there are more than 30 separate populations of sockeye salmon, some of which have stream-specific sub-populations.

In 1998, the overwhelming consensus in the Committee's hearings on privatization and quota licensing was that individual catch quotas would be problematic in highly uncertain fisheries, such as those for migratory Pacific salmon. DFO's April 1999 response to our 1998 report was that the Department "acknowledged that individual quotas may not be suitable for all fisheries, such as species of a highly migratory nature such as salmon."⁽⁷⁹⁾ Committee members heard that an industry-initiated inquiry in the early 1990s had found general opposition to salmon quotas and had produced a report that had been accepted by virtually every industry organization.⁽⁸⁰⁾ In fact, the Committee was informed that DFO itself had consistently maintained that ITQs were not feasible for salmon until the publication of *Treaties and Transition* in May 2004.⁽⁸¹⁾ Even one of the Task Group report co-authors had ruled out IQs for salmon when he headed the Royal Commission on Pacific Fisheries Policy in 1982.⁽⁸²⁾

season. For salmon, the management system is based on "escapement" – allowing a target or optimum number of salmon up river to spawn. Each year, fisheries managers must forecast accurately the size and timing of salmon runs, which involves "real-time" in-season management (e.g., closing a fishery on short notice). Stock levels are highly variable from year to year, so that flexibility is a requirement. Ideally, each spawning stock functions as a genetically distinct population and needs to be managed separately to ensure conservation. However, this is a problem when stocks mingle, as they often do, and migrate together on the fishing grounds. Each of the species of salmon (chum, coho, chinook, pink, sockeye and steelhead) has a distinctive life cycle. Some stocks are relatively small, while others are massive.

⁽⁷⁹⁾ DFO, Response to the Report of the Standing Senate Committee on Fisheries entitled *Privatization and Quota Licensing in Canada's Fisheries*, 14 April 1999, <http://www.parl.gc.ca/38/1/parlbus/commbus/senate/com-e/fish-e/rep-e/AppendixJun99-e.htm>.

⁽⁸⁰⁾ Don Cruickshank, Commissioner, A Commission of Inquiry Into Licensing and Related Policies of the Department of Fisheries and Oceans, *The Fishermen's Report*, November 1991. The report was subsequently ignored by government. According to the report, individual quotas converted into private property that which had been a public or common property resource. Among its recommendations were: "if more quota fisheries are announced for implementation, legal challenge on a constitutional basis should be considered to halt implementation pending a Supreme Court decision"; and that "all fishing licences issued by Fisheries and Oceans – vessel licences, personal licences and individual quotas – be subject to the provision that they will be owner-operated."

⁽⁸¹⁾ Nuu-chah-nulth First Nations, Brief Submitted to the Committee, 10 March 2005.

⁽⁸²⁾ The Royal Commission report stated: "At the present time, any system of individual catch quotas would, in my judgment, be difficult for these fleets to adjust to and probably beyond the capability of the Department to administer. The stocks and available catch of these species are notorious for their wide and unpredictable year-to-year fluctuations, making it impossible to allocate individual quotas in advance with any degree of certainty." Peter H. Pearse, Royal Commission on Pacific Fisheries Policy,

In November 2004, DFO officials indicated to Committee members that DFO wanted to find a way to manage the 2005 salmon fishery “on an urgent basis,” but that it was “not looking at having people sell out or go to ITQs necessarily.” The Committee subsequently heard testimony that a “closed door process” was being used to implement the Pearse-McRae recommendations.⁽⁸³⁾ On 14 April 2005, the Minister made public DFO’s Action Plan for the Pacific Fisheries, which focuses “on building the foundation for permanent reforms in 2006, particularly in the Pacific salmon fishery,” and which includes commercial fishery demonstration projects that are to be developed in 2005 with interested commercial fishing fleets, through Area Harvest Committees. The objective of these projects is “to test different options, to determine which reforms might work, and which might not.” According to the Minister, “creative and innovative solutions” had already been discussed with several fishing groups before the announcement, and the approaches recently examined included pooling arrangements (where fishers select a limited number of vessels to harvest allocations), and “individual quota arrangements where fishing time can be extended.”⁽⁸⁴⁾

G. Communities

I would say, Senator, that our prime responsibility is to ensure conservation and make sure that we have a fisheries management system that provides sustainable fishing for those communities. – The Hon. Geoff Regan, Minister of Fisheries and Oceans, Committee Proceedings, 8 February 2005

What we are looking at doing is saying to groups of licence holders, “Let’s try to have you make [a] choice; if you want to move toward economic efficiency very quickly, that should be a choice that you and the communities make – the communities that you live in and that rely on the employment.” – David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, Committee Proceedings, 4 November 2004

There is a real need for the country to take a look at the crisis of coastal communities and find a way to solve it. ... Otherwise, social havoc will be created; it will happen slowly and then increase, and then we will deal with it as a crisis. – Sandy Siegel, Executive-Secretary, Maritime Fishermen’s Union, Committee Proceedings, 24 February 2005

Turning the Tide: A New Policy for Canada’s Pacific Fisheries, 1982, p. 105. The report recommended reducing the salmon fleet by half and charging royalties. An auction system for licences was also proposed, which fishers rejected. ITQs for certain fisheries were proposed, which were later implemented.

⁽⁸³⁾ Garth Mirau, Vice-President, United Fishermen and Allied Workers’ Union, Letter to the Chair of the Senate Committee on Fisheries and Oceans, 20 December 2004.

⁽⁸⁴⁾ The Hon. Geoff Regan, Minister of Fisheries and Oceans, “Pacific Fisheries Reform,” Speech, 14 April 2005; DFO, “2005 Action Plan,” Backgrounder, 14 April 2005.

We want a different kind of wealth; we want community wealth. – Simon Lucas, Chief, Hesquiaht Tribe, member of the West Coast Vancouver Island Aquatic Management Board, Committee Proceedings, 10 March 2005

I think that rural life is exceptionally important for Canadians. I think that for too long we have accepted the idea that economic dictates will empty the rural areas. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

The “co-management” concept was brought up in our discussions in connection with both IQ managed fisheries and community-based management.⁽⁸⁵⁾ Although everyone viewed greater collaboration and shared decision-making between government and fishery stakeholders as desirable, it was pointed out to the Committee that DFO’s approach to co-management focuses exclusively on fishing licence and quota holders, whom the Department considers to be the stakeholders.

Left out of the decision-making process are the views, concerns or suggestions of other stakeholders, including community interests.⁽⁸⁶⁾ DFO’s new Policy Framework for Atlantic fisheries defines “co-management” as “the sharing of responsibility and accountability for results between Fisheries and Oceans Canada and resource users,” which “will eventually also encompass the sharing of authority for fisheries management.” The view was expressed to the Committee that DFO’s new Policy Framework is a smokescreen to advance a hidden agenda in favour of greater corporate control of the fishery. Witnesses pointed to top-down departmental decision-making on issues such as fleet reduction, licence fees, and the downloading of surveillance and enforcement costs.

“Economic viability” in our hearings meant either the economic viability of fishing enterprises or the viability of coastal communities, depending on who spoke. DFO informed this Committee that the Department views conservation as its core business, and that giving resource users a greater role in decision-making, would improve the viability and profitability of their operations, as well as the economic benefits to communities. In other words, the well-being of

⁽⁸⁵⁾ In 1995, DFO’s Fishery of the Future strategy called for the “devolution to fish harvesters of a greater decision-making role and more responsibility for costs of resource conservation and management.” When proposed amendments to the *Fisheries Act* that promoted “partnering” died on the *Order Paper* in 1997, the Department decided to move forward with the concept of “co-management.” Auditor General of Canada, Report, Chapter 4, *Managing Atlantic Shellfish in a Sustainable Manner*, April 1999.

⁽⁸⁶⁾ The Policy Framework for Atlantic fisheries talks about “resource users” and “others with an interest in the fishery,” that is to say “organizations or individuals interested in the outcomes of decision-making in the management of fisheries” (e.g., fish processors, crew members, plant workers, fish buyers, academics, environmental groups, and community organizations).

coastal communities will depend in future on the decisions of individual fishing fleets. The Department described the Pacific fisheries in very favourable terms, as being more focused on market-driven fisheries, maximizing values, and efficiencies (except those for salmon) – unlike fisheries in the Atlantic region, where the Department said that it was “being pulled in two directions”: trying to make the fisheries economically sustainable (having viable enterprises) and at the same time maintaining coastal communities. According to DFO, people there need opportunities to make decisions on whether “to move quickly toward economic efficiency, or more slowly due to the social concerns that might exist.”⁽⁸⁷⁾

The prospect of further extending individual quotas generated substantial concerns in our meetings and in written submissions. While employment in IQ-managed fisheries may be less seasonal and more stable than in competitive fisheries,⁽⁸⁸⁾ this approach invariably leads to a smaller fleet and workforce. In the case of ITQs, there are potentially serious adverse effects on local economies when holders of quotas sell them to interests outside of fishing communities. Past shifts in fish quotas (caught in both inshore and offshore areas), and the jobs that go along with them, have already had disastrous effects on fishery-dependent communities. In this respect, the Committee heard that “there is probably a point at which communities begin to self-destruct before they go off into the night”; Canso, Nova Scotia, is perhaps the most graphic example, but not the only one.⁽⁸⁹⁾ The result is that the taxpayer has to foot the bill to pay for the social consequences (e.g., Employment Insurance, social assistance, costly economic diversification initiatives).

In Canada, commercial fishing has been the economic and social foundation of hundreds of mostly small, often isolated rural communities. In the case of small-scale fisheries, fishing is not only an economic activity, but also the base of local societies. With regard to the social dimension, the Committee heard that: DFO had never conducted studies on the social or economic impacts of ITQs on rural communities; the Department had abandoned its previous policy of taking into account the socio-economic impacts of its decisions;⁽⁹⁰⁾ and coastal communities were losing their historical connection to their adjacent fishery resources.

⁽⁸⁷⁾ David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, *Committee Proceedings*, 4 November 2004.

⁽⁸⁸⁾ The Pacific halibut and sablefish fisheries are usually held up as very successful examples of how fisheries can be transformed once property rights are put in place.

⁽⁸⁹⁾ Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, *Committee Proceedings*, 10 February 2005.

⁽⁹⁰⁾ The Committee was recently informed that “in response to a lack of socio-economic information on the marine fisheries,” DFO is conducting a survey of costs and earnings for the 2004 fishing season – the first such survey of fleet viability since 1988. DFO, Government Response to the Standing Senate

The point was also frequently made that, unlike corporations or absentee owners whose focus is the bottom line and who are responsible to shareholders, coastal people have a longer-term and abiding interest in stewardship and conservation, the very ethic that DFO wishes to promote in fisheries. The Committee was advised that if fishery resources are to be managed to benefit present and future generations, then local people in coastal communities adjacent to them need to have a say when decisions are made. The management regime for the inshore Atlantic lobster fishery was given as an example of successful community level-type management.⁽⁹¹⁾ We were further advised that maintaining viable small-vessel, owner-operator fleets was crucial in sustaining the economies of coastal communities.

With regard to the need to take into account the broader socio-economic interests of rural communities in the management of aquatic resources, the Committee heard spokespersons from the West Coast Vancouver Island Aquatic Management Board (AMB). Launched officially in February 2002 as a three-year pilot,⁽⁹²⁾ this regionally-based initiative involves several communities on the West Coast of the Island which came together and have a formal place at the table in regard to fisheries policy. The first board of its kind in Canada, the AMB has taken an integrated, ecosystem approach to aquatic resource management and provided advice to the appropriate statutory authorities on aquatic resource policy.⁽⁹³⁾ When DFO approved the Board's terms of reference in February 2001, the Department considered the AMB to be a "trend-setter" – an important step in establishing community-based, co-management regimes in the Pacific region.⁽⁹⁴⁾ The AMB has included diverse representation, both governmental and non-governmental (e.g., commercial, recreational, and Aboriginal harvesters; fish processors; and the environmental, tourism, labour and aquaculture sectors). The Board was described to us as very much a success story, in that it is a cost-effective vehicle for implementing Canada's *Oceans Act*, which, we were told, is "fairly specific about the resources of Canada benefiting Canadians and

Committee on Fisheries and Oceans report, *Nunavut Fisheries: Quota Allocations and Benefits*, April 2004.

⁽⁹¹⁾ Interestingly, Atlantic inshore lobster has never been subjected to an overall catch quota or TAC.

⁽⁹²⁾ DFO, "Governments Launch a New Aquatic Management Board on the West Coast of Vancouver Island," News Release, 21 February 2002, http://www.pac.dfo-mpo.gc.ca/comm/pages/release/p-releas/2002/nr014_e.htm.

⁽⁹³⁾ The sponsoring governments have been the federal government (DFO), the Province of British Columbia, the Regional Districts of Alberni-Clayoquot and Comox-Strathcona, and the Nuu-chah-nulth Tribal Council.

⁽⁹⁴⁾ DFO, "Pilot West Coast of Vancouver Island Aquatic Management Board to Proceed," News Release, 26 February 2001, http://www-comm.pac.dfo-mpo.gc.ca/pages/release/p-releas/2001/nr021_e.htm.

especially coastal communities.”⁽⁹⁵⁾ The AMB is perhaps best known for having fostered a working relationship among the Aboriginal and non-Aboriginal fishing communities in the region.

The concept of “community quotas,” or CQs – fish quotas assigned to geographically defined communities who decide how to use them to protect their economic viability – was proposed as a better way to manage fish stocks and protect community interests. Although less well-known or promoted than the individual catch quota model, successful examples of CQ management regimes were said to exist.

CONCLUDING REMARKS

Even the great protagonists of ITQs for a long time said: “No, you cannot really do it with salmon.” They are so keen on one-size-fits-all with the ITQ system ... that they are trying very hard to find a way to force the ITQ system on to salmon as well. ... We are not looking at the alternatives. – Dr. Parzival Copes, Emeritus Professor of Economics, Simon Fraser University, Committee Proceedings, 17 February 2005

Our people are totally opposed to the quota fisheries. We saw an example of how quota was handled in other parts of the world. In some areas it destroyed the environment. – Chief Simon Lucas, Hesquiaht Tribe, member of the West Coast Vancouver Island Aquatic Management Board, Committee Proceedings, 10 March 2005

Why would communities and others continue to participate in habitat renewal, stream protection and education? Why would anyone have any interest in fish if all the fish belonged to someone, somewhere whose only interest was monetary and brought no benefit to anyone else? – United Fish and Allied Workers Union, Brief Submitted to the Committee, November 2004

We were here a few years ago speaking to you about owner-operator. We are still speaking to you about it, unfortunately, because we still have not gotten any satisfaction from the Department of Fisheries or the Minister on the issue. – Sandy Siegel, Executive-Secretary, Maritime Fishermen’s Union, Committee Proceedings, 24 February 2005

Ultimately, somebody in Canada has to say that we think that people living in rural communities should have a say – a big say, not an engineered say. ... To broaden this debate and to introduce true democracy will be tough. – Dr. Daniel MacInnes, Department of Sociology, St. Francis Xavier University, Committee Proceedings, 10 February 2005

The evidence placed before the Committee strongly suggests that DFO needs additional new funding in order for it to fulfil its fisheries conservation mandate. The Committee is very concerned that what is driving fisheries management policies is the Department’s ever-shrinking

⁽⁹⁵⁾ Dr. Andrew Day, Executive Director, West Coast Vancouver Island Aquatic Management Board, *Committee Proceedings*, 10 March 2005.

budget. In this respect, “co-management” in self-regulating individual quota fisheries shifts management responsibilities and costs onto the industry. ITQs are also powerful devices for rationalizing fleets (i.e., reducing the number of fishers and fishing boats) at no cost to government.

In 1998, the Committee reported that: ITQs would likely simplify DFO’s task of managing the fisheries in the longer term because the result would be fewer fishing operations, landing sites, and processing plants; co-management and ITQs were viewed by many harvesters as part of a continuing push by DFO for privatization of fish resources and of the management system; and inshore fishers feared that with comprehensive property-based management regimes they would lose control over resources and their communities would lose economic viability.⁽⁹⁶⁾ In 1998, the Committee noted that, while individual catch quotas appeared to have been DFO’s preferred management option, there was no national policy (or guidelines) on their design or implementation, nor had there ever been a public or parliamentary debate on the matter. Those arguments were made again in our discussions and in written briefs, and many witnesses have yet to appear to share their views.

In its May 2004 response to the report of the Joint Task Group on Post-Treaty Fisheries, DFO viewed individual quotas as one of the “key outcomes” of the report.⁽⁹⁷⁾ *Treaties and Transition* proposed, among other things, the application of long-term ITQs in all Pacific fisheries and, as a practical means to implementation, the enactment of legislation to deal specifically with the Pacific fisheries. In November 2004, DFO assured the Committee that the Department did not necessarily “want a cookie-cutter approach, a one-size-fits-all approach” to fisheries. We also learned that what the Joint Task Group suggested was changing fishing licences “into property by having them issued for a longer period of time.”⁽⁹⁸⁾ In April 2005, the Department unveiled “a blueprint to move forward with fundamental changes to the Pacific fishery, particularly the salmon fisheries,” with permanent changes to come about in 2006. With respect to individual quotas for

⁽⁹⁶⁾ The Canadian Council of Professional Fish Harvesters (*Discussion Paper: Co-Management in the Multi-License Inshore Fishery*, 10 June 1998), cited in Standing Senate Committee on Fisheries, *Privatization and Quota Licensing in Canada’s Fisheries*, December 1998.

⁽⁹⁷⁾ DFO, “Report Urges Long-term Approach to B.C. Salmon Fishery,” News Release, 5 May 2004.

⁽⁹⁸⁾ David Bevan, DFO, Assistant Deputy Minister, Fisheries and Aquaculture Management, *Committee Proceedings*, 4 November 2004. DFO indicated in its response to the Committee’s 1998 report that the Department did “not propose to privatize the resource or its management,” and that “privatization [was] not an option.” See Appendix 4, Recommendation 3.

migratory Pacific salmon, it is the Committee's understanding that "demonstration projects" are to be conducted in 2005 ("where fishing time can be extended").⁽⁹⁹⁾

In our recent discussions, the Committee was advised that: no one management tool is appropriate for all species and fisheries; individual quotas may be appropriate in some industrial offshore fisheries;⁽¹⁰⁰⁾ and they are not a panacea for all the problems of the fishing industry. In fact, the testimony suggested they may have potentially very serious shortcomings and can create new, if not more serious, types of biological, economic and social problems (Appendix 5). For example, individual quotas may reduce local residents' incentive to protect and restore fish habitats for salmon, a fish that depends greatly on habitat for its survival. The Committee was made aware that a 1997 global study by the OECD found that 24 of 37 individual quota-managed fisheries surveyed were experiencing varying degrees of stock decline, the species worst off being migratory, fast-moving, short-lived fish.⁽¹⁰¹⁾ Because of the possible adverse impacts of ITQs on salmon conservation, their introduction would appear to us to be contrary to the precautionary approach called for in Canada's *Oceans Act*, and defined as "erring on the side of caution."

What is wrong with the ITQ? It is an invention of theoretical economics that substitutes a simplistic theoretical model for the real world. The model is narrowly focused on achieving short-term market-measured accounting profitability. It ignores many of the actual costs and benefits of the real world of fisheries. ... The gifting of ITQs to first recipients and further speculative increases in their values has created large windfall gains for a privileged group, who have been very happy with the system. But new entrants to the fishing industry who have to buy or lease quotas at exorbitant prices often face meagre net returns or bankruptcy. Governments, including those that have introduced ITQs, typically proclaim marine fish resources to be common property resources to be used for the benefit of all of the country's people. *The spectacular maldistribution of benefits from ITQ systems demonstrates the utter incompatibility of ITQs with a socially responsible use of a national common property resource.* – Dr. Parzival Copes, Brief Submitted to the Standing Senate Committee on Fisheries and Oceans, 17 February 2005

The Committee heard that the Joint Task Group had not consulted communities affected by possible changes in policies. While everyone in the Atlantic Region had the opportunity to be heard in the context of the AFPR, this was apparently not the case in the Pacific Region. In our

⁽⁹⁹⁾ DFO, "Regan Announces Plan of Action to Reform Pacific Fisheries," News Release, 14 April 2005.

⁽¹⁰⁰⁾ In 1998, the Committee concluded that individual catch quotas "should be restricted to sectors with relatively few participants, relatively stable stocks, and relatively little in the way of community dependence," and that "the more highly industrial fisheries would seem to be the better candidates."

⁽¹⁰¹⁾ OECD, *Towards Sustainable Fisheries: Economic Aspects of the Management of Living Marine Resources*, Paris, 1997. See Chris Newton, Otto Langer, Martin Weinstein and Parzival Copes, "Privatizing Salmon Fishing Won't Help B.C. Communities or The Fish," *The Vancouver Sun*, 19 July 2004, p. A7.

view, the introduction of individual catch quotas for salmon, never tried anywhere else in the world for this species as far as we know – against the wishes of coastal communities which see them as possibly a death knell for local fisheries⁽¹⁰²⁾ – would be ill-advised. The Joint Task Group, which was to provide “independent advice on how to ensure an integrated, economically viable marine fisheries sector in B.C. consistent with treaties,”⁽¹⁰³⁾ recommended that all fisheries be made into quota fisheries. The First Nations representatives who appeared before us opposed such quotas. Moreover, the First Nations Panel on Fisheries asked, in its report entitled *Our Place at the Table*, that a *moratorium* be placed on the further introduction of individual property rights regimes, such as individual fishing quotas, unless First Nation interests, including allocations in those fisheries, are first addressed. “Lack of consensus” on individual quotas for salmon is not a reason for the Department to move forward on this initiative.

With regard to catch quotas and communities, it was brought to our attention that a 2004 study by the United States General Accounting Office (GAO) had stated that IQ programs raise “concerns about the fairness of initial quota allocations, the increased costs for fishermen to gain entry, and the loss of employment and revenues in communities that have historically depended on fishing,” and outlined measures that could protect community interests and facilitate new entrants in individual quota-managed fisheries. The GAO concluded that the “easiest and most direct way to help protect communities under an [individual fishing quota] program is to allow the communities themselves to hold quota.”⁽¹⁰⁴⁾ That study had been conducted to assist U.S. legislators in their deliberations on IQ programs, examine the methods available for protecting the economic viability of fishing communities, and consider ways of facilitating new entry into IQ fisheries. The Committee is unaware of any similar study or analysis for commercial fisheries in Canada, or of DFO’s ever having studied the social impacts of individual quotas on Canada’s coastal communities.

The Committee was reminded that the *Oceans Act* sets out the importance of communities. The Act’s preamble stipulates that oceans must be managed as a collaborative effort among stakeholders, and states that “Canada recognizes that the oceans and their resources offer significant opportunities for economic diversification and the generation of wealth for the benefit

⁽¹⁰²⁾ Christine Hunt, Vice-President, Native Brotherhood of British Columbia, *Committee Proceedings*, 24 February 2005.

⁽¹⁰³⁾ DFO, “Governments Set Up Task Group to Provide Advice on the Integrated Management of Post Treaty Fisheries,” News Release, 29 July 2003.

⁽¹⁰⁴⁾ U.S. General Accounting Office, *Individual Fishing Quotas: Methods for Community Protection and New Entry Require Periodic Evaluation*, Washington, D.C., February 2004.

of all Canadians, and in particular for coastal communities.” The Act calls for the development of an oceans management approach based on the principle of ecosystem management, while individual quota management systems are typically focused on single species. With respect to individual quotas and their effects on communities, the Committee intends to gain an international perspective by learning more about experience in other jurisdictions, such as New Zealand and Iceland – countries that have been fully committed to ITQs since the 1980s and have made them the centrepiece of their fisheries management systems.

On the East Coast, the March 2004 Policy Framework for Atlantic fisheries states that “more flexibility for resource users to define economic and social objectives must take place within the limits of sustainable use and certain constraints,” and that “procedures will be adopted to ensure that communities, citizens and other groups are informed of new initiatives or proposed changes to existing policies that may affect their interests and to ensure that they have an opportunity to participate in the decision-making process.” Accordingly, “such procedures will promote full, informed and open participation and debate in the decision-making process,” and “ministerial approval will be necessary for some proposed changes.” As well:

The department’s policy objective is to create the circumstances for resource users to be more self-reliant, economically viable and self-sustaining on a long-term basis. To achieve this objective, the department will adopt two complementary strategies. It will:

- clarify what its role should be in supporting viable coastal communities; and
- provide resource users with a greater role in shaping social and economic objectives.⁽¹⁰⁵⁾

According to DFO, giving resource users a greater role in decision-making will improve the viability and profitability of their operations, and thereby increase the economic benefits to communities. In 1999, DFO similarly indicated that “by definition, all marine commercial fishing activities are linked to coastal communities and the benefits generated by fishermen participating in the fishery flow to these communities.”⁽¹⁰⁶⁾ In our opinion, a central objective of DFO’s national mandate should be the economic well-being of communities that have an historical attachment to the fishery.

For both the Atlantic and Pacific coasts, we were advised by witnesses that a major policy goal of DFO should be the promotion of owner-operator fishing fleets, which fish closer to shore

⁽¹⁰⁵⁾ DFO, *A Policy Framework for the Management of Fisheries on Canada’s Atlantic Coast*, March 2004.

⁽¹⁰⁶⁾ DFO, Fisheries and Oceans Response to the Report of the Standing Senate Committee on Fisheries entitled *Privatization and Quota Licensing in Canada’s Fisheries*, Recommendation 5, 14 April 1999.

and “promote values of local stewardship and local economic development.”⁽¹⁰⁷⁾ By contributing to the economic base of small communities, the sector helps maintain the “critical mass needed to safeguard their viability and prevent the loss of their private and social infrastructure investments.”⁽¹⁰⁸⁾ From what we heard, the need for an owner-operator policy is all the more compelling in British Columbia because of the loss of ownership of fisheries licences and quota by local coastal residents. On the East Coast, “legal subterfuges” in the form of “trust agreements” continue to subvert the owner-operator and fleet separation policies in the inshore fishery; loopholes in those policies make it possible to separate the “beneficial use” of inshore fishing licences from the ownership of those licences. Spokespersons from harvester organizations believe the ongoing erosion of those policies is threatening the social and economic stability of Atlantic coastal communities. DFO needs to give urgent priority to this important matter of public policy, as well as to the issue of intergenerational transfers of fishing licences.

Fisheries management includes, at opposite ends of the spectrum, individual (or corporate) rights and community-based access rights. We were advised that there are alternative models that frame “co-management” in terms of community-based co-management (and access to the resource as a communal right), which merit further investigation by the Committee. For example, community quotas (CQs) have been allocated to inshore fleets in the Bay of Fundy, where local fishermen in the communities were given the responsibility of jointly managing the quotas. The West Coast Vancouver Island Aquatic Management Board proposed the establishment of an “Aquatic Trust,” a mechanism whereby a community board would hold licences or fish allocations and distribute fishing opportunities to community members. This approach appears similar to the system of Community Development Quotas (CDQs) in Alaska. Under the CDQ system, community-type fish quotas are allocated to geographically defined communities; management thus devolves to the local level, which we view as beneficial from an economic, social and conservation standpoint. The Committee plans to examine this possibility in greater depth in the future.

⁽¹⁰⁷⁾ DFO’s 2002 framework for new or additional access in Atlantic fisheries recognizes that the adjacency criterion “is based on the implicit assumption that access based on adjacency will promote values of local stewardship and local economic development,” and that adjacency is most compelling in the case of small-vessel fisheries. DFO’s framework applies to fisheries that have seen substantial increases in stock levels or landed value. As a fishery moves away from shore, adjacency as the only criterion for decisions becomes harder to justify, and other criteria must also be considered, such as historic dependence. DFO, *New Access Framework*, November 2002, http://www.dfo-mpo.gc.ca/communic/fish_man/frame-cadre/access_framework_e.htm.

⁽¹⁰⁸⁾ Parzival Copes, Brief Submitted to the Standing Senate Committee on Fisheries and Oceans, 17 February 2005.

In the United Kingdom, where the introduction of ITQs is being contemplated for the first time, the Committee notes that a 2004 report by the Prime Minister's Strategy Unit recognized that special steps were needed in some of that country's remote and vulnerable fishery-dependent communities. The following excerpt from that report (under the heading "Setting clear social objectives in fisheries policy") could very well sum up what we recently heard with respect to coastal Canada:

The fishing industry provides valuable income and employment to remote communities which would otherwise make higher calls upon public funds. The primary way to ensure healthy fishing communities is to ensure a safe, well-managed and profitable industry, but it is also important to help smaller and vulnerable communities continue to have access to fishing opportunities which with increased competition may flow to larger ports and operators.⁽¹⁰⁹⁾

Interestingly, CQs are being considered in the United Kingdom in order to protect vulnerable and dependent fishing communities.⁽¹¹⁰⁾ In addition, several local or regional community quota initiatives have been launched in recent years by local authorities (e.g., the Shetland and Orkney Island Councils). In Canada, unfortunately, it appears that such alternative management systems are not being considered.

The United Nations Convention on the Law of the Sea calls upon states to take the economic needs of coastal fishing communities into consideration. The UN Food and Agriculture Organization's Code of Conduct for Responsible Fisheries recognizes the link between local fishing communities and the stewardship of adjacent fishery resources, and expressly calls for states to protect the rights of "fishers and fish workers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction" (Article 6.18). As a signatory to this convention and other agreements, the Government of Canada has a duty to safeguard the interests of its fishery-dependent communities, and put into practice and make good on those commitments.

⁽¹⁰⁹⁾ Prime Minister's Strategy Unit, *Net Benefits: A Sustainable and Profitable Future for UK Fishing*, April 2004, <http://www.strategy.gov.uk/>. In January 2003 the Prime Minister requested the Cabinet Strategy Unit to carry out a review of the options for a sustainable U.K. fishery in the medium to long term.

⁽¹¹⁰⁾ United Kingdom, House of Commons, Environment, Food and Rural Affairs Committee, Sixth Report, Session 2004-05, <http://www.publications.parliament.uk/pa/cm/cmpublicns.htm>.

INTERIM RECOMMENDATIONS

- 1. The Committee recommends that the Government of Canada provide the Department of Fisheries and Oceans with adequate funding in order for it to fulfil its fisheries mandate.**
- 2. The Committee recommends that the Department of Fisheries and Oceans take into consideration the socio-economic impacts of its major decisions.**
- 3. The Committee recommends that the Department of Fisheries and Oceans put on hold any plans it may have with respect to the introduction of individual quotas for Pacific salmon until an open and transparent, province-wide consultation has taken place with all stakeholders, including representatives of coastal communities, both Aboriginal and other.**
- 4. The Committee recommends that the Department of Fisheries and Oceans respond to recommendations made by the Joint Task Group on Post-Treaty Fisheries in *Treaties and Transition: Towards A Sustainable Fishery on Canada's Pacific Coast*.**
- 5. The Committee recommends that the Department of Fisheries and Oceans explain and elaborate on the procedures mentioned in *A Policy Framework for the Management of Fisheries on Canada's Atlantic Coast* which will “ensure that communities, citizens and other groups are informed of new initiatives or proposed changes to existing policies that may affect their interests” and “ensure that they have an opportunity to participate in the decision-making process.”**
- 6. The Committee recommends that the Department of Fisheries and Oceans commission an arm's length socio-economic impact study wherever and whenever individual quota fisheries are in future instituted in Canada.**
- 7. On the matter of “trust agreements” in the Atlantic inshore sector, the Committee recommends that the Department of Fisheries and Oceans work closely and collaboratively with fish harvester organizations and the provincial governments, and announce publicly how it intends to follow through on the Department's stated commitment to prevent the use of such agreements, and what measures are being contemplated by the Department to facilitate the financing of licence transfers to a new generation of small-vessel fishers.**
- 8. The Committee recommends that the Department of Fisheries and Oceans commission an independent study on the feasibility of instituting an owner-operator policy in the Pacific commercial fishing industry.**
- 9. The Committee recommends that the Department of Fisheries and Oceans make a firm commitment to fund the West Coast Vancouver Island Aquatic Management Board over the next five years.**

APPENDIX 1

Pearse-McCrae Joint Task Group Recommendations, May 2004

Fisheries Management

1. The same rules of fishing and the same standards for reporting catches should apply to all commercial fishers.
2. The Department of Fisheries and Oceans (DFO) should have authority to specify the maximum number of vessels that may participate in any opening of the salmon fishery.
3. Area Harvest Committees should have authority to determine how the number of vessels in any fishery opening is to be selected.
4. Failure to comply with DFO's limit on the number of vessels should result in closure of the fishery.

Coordination of Fishing

1. DFO should engage the Integrated Harvest Planning Committee without delay about how best to implement new fisheries coordination arrangements.
2. Commercial fishing should take place only according to fishing plans developed in consultation with the Commercial Salmon Advisory Board and approved by DFO as part of an integrated management plan.
3. Membership on the Commercial Salmon Advisory Board and Area Harvest Committees should be adjusted over time to include representation of new participants, such as the Nisga'a and other First Nations that engage in commercial fishing.

Co-Management

1. The Minister of Fisheries and Oceans should issue a policy statement declaring that the government supports co-management as a means of improving the management of fisheries.
2. DFO should issue clear instructions about procedures for establishing Fisheries Associations, minimal requirements for recognition, and arrangements for entering into co-management agreements.
3. Fisheries Association should be permitted to organize themselves within these minimal requirements as non-profit societies, co-operatives or corporations as they see fit, under laws governing these structures that ensure democratic procedures and accountability.
4. Membership in a Fisheries Association should be required for anyone participating in a particular commercial fishery.
5. Fisheries Associations should be able to levy fees on their members to cover the cost of their work.
6. DFO should assist the Commercial Salmon Advisory Board in establishing itself as a legally constituted, representative body that can raise funds from its members and enter into co-management arrangements.

Licencing and Quota Systems

1. Licences and quotas should be merged into a single "quota licence": each licence authorizing its holder to take a specific percentage of the total allowable commercial catch for the relevant fishery for the duration of the licence.
2. Quota licences should be issued to persons, companies or associations – not vessels.

3. The Minister should seek the legislative change necessary to give quota licences terms of 25 years, replaceable after 15 years on an “evergreen” renewal basis.
4. In the interim, the Minister should grant quota licences for five years and announce his intention to seek legislative change.
5. The Minister should announce that if legislative change is not in place within five years, he will re-issue licences for another five-year term.
6. Restrictions on the transferability and divisibility of licences and quotas, their attachment to vessels and other impediments to their flexibility should be eliminated.
7. The provisions for quota licences should be set out in the Regulations pursuant to the *Fisheries Act*, thus eliminating their discretionary elements.
8. Additional quota licences should not be issued without the consent of the holders of fishing rights in the relevant fishery.
9. Annual conditions of licences should be used to authorize and manage fishing activities consistent with integrated fishery management plans.

Licence Registry

DFO should initiate consultations with the fishing industry and the B.C. government about the structure and establishment of a suitable licence registry.

Reform of the Salmon Fishery

1. DFO should reaffirm its coastwide allocation policy, including the allocation of salmon among the three commercial sectors, to ensure its consistency with the new management regime for salmon.
2. Each salmon fisher’s share of the area allowable catch should be fixed once and for all by a method chosen by each Area Harvest Committee and incorporated into new long-term quota licences.
3. Commercial fishing licences should be converted to new quota licences, giving each licensee a specific share of the allowable catch under secure, long-term licences.
4. Salmon fishers should be free to transfer and combine their shares to reduce costs and improve the efficiency of fishing operations.
5. The new arrangements for the salmon fleet should be adopted for all sectors at the same time, and in time for the 2005 fishing season.
6. DFO should begin immediately to engage the Commercial Salmon Advisory Board in consultations about how catch shares can be introduced most effectively, equitably and quickly.
7. The Minister should announce a date by which the new regime is to be in place.
8. DFO should engage the salmon fishery’s new Area Harvesting Committees in the management of their fishing.
9. The recreational sector’s priority for chinook and coho and allocations of other species of special value for sportfishers should be confirmed for five years and then reviewed by the Minister.
10. Surplus spawners not allocated to First Nations under Harvest Agreements should be included as part of the commercial catch available to holders of quota licences.
11. Other fisheries still managed under unquantified vessel licences should also convert to quota licences as soon as practicable.

Transition

1. DFO should announce formally that it will offset adverse impacts on established fishers arising from reallocation of rights to fish under treaty settlements.
2. Whenever new commercial fishing rights that will adversely impact established fishers are created, or allocations of fish for the aboriginal food fishery (for food, social and ceremonial purposes) are

significantly increased, equivalent rights should be purchased from the established commercial sector.

3. Pending the appeal of the Kapp decision, DFO should consult with First Nations representatives to identify possible interim arrangements for First Nations fishing, in order to facilitate an orderly transition both to treaties and to an integrated commercial fishery.
4. There should be an expanded effort to purchase commercial salmon licences and licences for other species in anticipation of Harvest Agreements in the future.
5. There should be close consultation between DFO and First Nations licence holders about the nature of the restrictions to be included in the new quota licences for First Nations commercial fishers.
6. The *Fisheries Act* should be amended where necessary to implement the recommendations of this report and thoroughly revised to meet the needs of modern fisheries management.
7. Action should be taken across the range of recommendations. Reform should be complete, not partial.

Source: DFO, "Joint Task Group Recommendations Summary," Backgrounder, 14 April 2005

APPENDIX 2

First Nations Panel Report Recommendations, June 2004

Summary of Recommendations:

Recommendation 1: Canada immediately take steps to ensure First Nations have access to adequate quantities of fisheries resources for food, social and ceremonial purposes.

Recommendation 2: As a starting point and an interim measure, Canada should take immediate steps to allocate to First Nations a minimum 50 per cent share of all fisheries, with the understanding that this may eventually reach 100 per cent in some fisheries.

Recommendation 3: First Nations themselves must address intertribal allocations.

Recommendation 4: Canada immediately increase treaty settlement funds, or funds through other negotiating processes, to enable purchase or buy-back of licences and allow for the reallocation recommended above.

Recommendation 5: Canada immediately recognize in policy, and implement through negotiated agreements, the aboriginal right to manage fisheries.

Recommendation 6: Canada clearly articulate how it will provide fisheries resources for First Nations commercial benefit, in light of the uncertainty created by the Kapp decision and the loss of pilot sales.

Recommendation 7: A moratorium be placed on the further introduction of individual property rights regimes, such as Individual Fishing Quotas, unless First Nation interests including allocations in those fisheries are first addressed.

Source: DFO, "First Nations Panel Report Recommendations – Our Place at the Table," Backgrounder, 14 April 2005

APPENDIX 3

DFO's Vision and Principles For Pacific Fishery Reform, April 2005

In response to the Joint Task Group report on Post-Treaty Fisheries, and the First Nations Panel Report, *Our Place at the Table*, DFO has developed the following vision from which changes to the fishery will stem, and a list of principles that will provide an overall framework for change.

Long-term vision of Pacific fishery reform:

- Full economic and social potential of the resource is achieved.
- First Nations fishing interests are defined and reconciled with the interests of all Canadians.
- There is public, market and participant confidence that the fishery is sustainable.
- Participants are self-reliant and able to self-adjust.
- Participants are treated fairly and equitably and are involved in decision-making and share accountability for the conduct of the fishery.
- Costs of management are shared by those who benefit from the harvest.
- All fishery participants enjoy certainty and stability necessary for business planning.
- Equitable treaty-based fisheries are achieved.

Principles – The introduction of changes to the management of Pacific fisheries will be consistent with these principles:

- Conservation is paramount (consistency with the Wild Salmon Policy)
- Consistent legal framework
 - Pacific fish resources are a common property resource managed by the Minister of Fisheries and Oceans;
 - They must be conducted under an integrated management plan authorized by the Minister; and
 - Commercial participants fish under the same priority of access and similar rules.
- Aboriginal and treaty rights of First Nations
 - First Nations access to food, social and ceremonial fisheries will be respected; and
 - First Nations interests in increased economic access will be addressed in a manner consistent with Canada's treaty process.
- Fair transfer of fishing opportunity
 - Transfer of economic fishing opportunity to First Nations will be accomplished through voluntary licence retirement from willing sellers, and within existing programs, to mitigate impacts on established fishers.
- Stable resource access and allocation
 - Certainty will be provided for allocations between harvest sectors (First Nations, recreational and commercial);

- Allocation policy as it pertains to recreational access to Chinook and Coho will be maintained;
- Certainty of harvest share will be provided to commercial participants; and
- Commercial harvesters will enjoy a similar level of certainty regarding fisheries access.
- Responsibility and accountability
 - First Nations and stakeholders will assume a greater role in operational decision making and program delivery through effective co-management processes.
- Management regimes for commercial fishery
 - Fleets will be enabled to self-adjust;
 - Resource management practices will be designed to optimize economic performance while meeting conservation objectives;
 - Fleets will have the capacity to assume a larger share of the cost of management of their fishery;
 - Catch monitoring and independent validation will be implemented; and
 - Measures will be adopted to provide confidence that adequate compliance is achieved.
- Transition and adjustment
 - Existing government programs will be coordinated to best meet the needs of those impacted by change.

Source: DFO, "Vision and Principles For Pacific Fishery Reform," Backgrounder, 14 April 2005

APPENDIX 4

DFO's April 1999 Response to the Committee's December 1998 Report on *Privatization and Quota Licensing in Canada's Fisheries*

Recommendation 1

The Committee recommends that the Government of Canada issue a clear, unequivocal and written public statement as to what individual quotas are and what their role will be in the future fishery.

Departmental Response

A fishing licence issued under the Fisheries Act authorizes the person holding the licence to fish. An individual quota, which forms part of the licence, authorizes the person to catch up to a certain amount of fish. It does not guarantee a certain level of catch. A licence is not a grant of property. It is issued at the discretion of the Minister pursuant to section 7 of the Fisheries Act. It is inaccurate to refer to the notion of privatization in connection to IQs since the licence and the quota only confer a privilege to harvest a fixed share of the total allowable catch in a particular year.

The Department will soon be conducting an overall review of fishing policies for Atlantic Canada. In response to the Senate Committee's recommendation, the Department of Fisheries and Oceans will be pleased to issue a public statement on the role of IQs in the fishery of the future once the review is completed.

Our vision of the fishery is one of healthy and abundant fish resources supporting sustainable uses. In this vision, the fishery of the future is one that is environmentally sustainable, economically viable and self-reliant. Individual quota regimes have been and will continue to be a valuable tool in seeking to achieve this vision.

Recommendation 2

The Committee recommends that the Department of Fisheries and Oceans issue a clear, unequivocal and written public statement on what is meant by the terms "legally-binding, long-term, multi-year government/industry partnerships" (or "partnering agreement"), and state whether such agreements are meant to extinguish "the public right to fish" that exists in common law. The Department should indicate the impediments in the existing Fisheries Act that prevent the Minister of Fisheries and Oceans from entering into such fishing agreements with industry groups.

Section 7 of the present Fisheries Act gives the Minister of Fisheries and Oceans a discretionary power to issue licences. In administrative law, a government authority cannot bind itself by contract to exercise its discretion in a particular way, without specific authority in the statute. Under current legislation, the Minister of Fisheries and Oceans cannot thus enter into a fishing agreement with an industry group that would limit his authority to issue licences or that would guarantee a specific level of allocation.

Regarding the public right to fish, only Parliament can regulate or limit this right and Parliament has already, by enacting the Fisheries Act, created a legal framework for regulating the public right. For most fisheries, regulations made under the Act prohibit anyone from fishing without a licence. The Act authorizes the Minister of Fisheries and Oceans to issue leases and licences at his discretion.

Recommendation 3

The Committee recommends that the issue of privatization and individual quota licensing in Canada's fisheries be debated in the Parliament of Canada.

Departmental Response

The Department of Fisheries and Oceans does not propose to privatize the resource or its management. Privatization is not an option. Canada's fisheries are common property in nature and are managed by the federal government on behalf of all Canadians, both present and future.

The Department believes that the best way to deal with the critical issues facing fisheries management is through discussions with Canadians and greater participation of the industry in conservation activities. The Department believes that the most successful way to a viable fishery is by agreeing to common objectives for the industry and the government. Consequently, the most appropriate forum to review the issue of individual quota licensing is at the community level through discussions with industry and other stakeholders involved in the fishery.

Recommendation 4

The Committee recommends that no new individual quota or individual transferable quota licences be issued in Canada until written public statements on individual quotas and partnership agreements (recommendations 1 and 2) are issued, and a parliamentary debate (recommendation 3) has taken place.

Departmental Response

In response to the Senate Committee's first recommendation, the Government of Canada has agreed to issue public statements on the role of individual quotas in the fishery of the future once a review of Atlantic fisheries policy is completed. However, the Department believes it cannot refuse a request from the industry to consider implementing an individual quota management regime in a specified fishery if the parties involved believe it is in the best interest of fisheries conservation and viable fishing operations. The allocation of individual quota to each participant in a fishery is a management tool that is as acceptable as allowing all participants to fish competitively from a single allocation. Each regime has its pros and cons. As long as conservation requirements are met, the fishing participants are encouraged to be proactive in the decision as to which management regime to adopt, taking into account the conditions of its own fishery.

At the 1995 "Round Table on the Future of the Atlantic Fishery," industry recognized that individual quotas are an acceptable management tool subject to a number of conditions, including the support of a clear majority of licence holders. The Department concurs with this industry's position and has consistently maintained that individual quotas would only be introduced on a voluntary basis. As well, the Department has acknowledged that individual quotas may not be suitable for all fisheries, such as species of a highly migratory nature such as salmon.

Individual quotas have been used extensively in recent years to permit temporary access by numerous inshore fishermen to the shrimp and crab fisheries among many others. Individual quotas allowed many more fishermen access to these resources than would have been possible under a competitive quota regime. This is because the large number of fishermen and the excessive level of fishing capacity that exists in the inshore fleet would have compromised the conservation objective for the stock had the fishery been open to a competitive harvest.

Recommendation 5

The Committee urges the Department of Fisheries and Oceans to more thoroughly consider the long-term social and economic effects of individual quota licences, especially those that are transferable, on Canada's coastal communities, Aboriginal and other, and not extend the individual quota regime until the needs of coastal communities, Aboriginal and other, have been fully assessed.

Departmental Response

DFO does consider the long-term social and economic effects of its policies and programs such as individual quota licences. The problems in the Atlantic groundfish fishery were extensively examined by the Task Force on Income and Adjustments in the Atlantic Fishery. It concluded that the industry suffered from excessive fishing and processing capacity even before the collapse of important groundfish stocks and recommended a rationalization program. Studies related to the Pacific salmon fishery reached similar conclusions. Implementation of a capacity rationalization program has meant that the fishery would have to be smaller and would be capable of supporting fewer fishermen and plant workers.

The effect of introducing an ITQ program into a fishery with excessive capacity is well understood from both theory and experience. The participants in the fishery are able to rationalize the excess capacity by buying and selling quota. The result is a smaller fishery as was recommended for both examples cited above.

By definition, all marine commercial fishing activities are linked to coastal communities and the benefits generated by fishermen participating in the fishery flow to these communities. The Department of Fisheries and Oceans is fully aware that the downturn in the fishery, whether prosecuted under individual quota regimes or competitive regimes, has affected many of these communities. That is why the government objective is to promote viable fishing enterprises that are self-sustaining and resilient to withstand temporary downturns and bring stability to communities, even if it means that fewer individuals are able to participate in the fishery.

Recommendation 6

The Committee recommends that the Department of Fisheries and Oceans issue a clear, unequivocal and written public statement on whether it views Canada's commercial fisheries as primarily industrial or rather as the economic basis of a traditional Canadian way of life.

Departmental Response

In Canada, the commercial fishing referred to in this recommendation is a business that has traditionally accommodated large and small enterprises. Like farming or logging, fishing enterprises vary in size and scope. There are small independent family owned and run harvesters with a few crew, small family owned processors, and many mid-sized and larger companies most of which are family owned. Many of the enterprises including some of the very smallest have integrated processing and/or marketing capacity. There is room in the fishery for all viable fleet sectors.

This recommendation assumes there are two distinct views or visions for the fishery. This is far from the case. The Department has issued a statement on its vision of the fishery of the future. It makes no reference to an "industrial" model and it does not adopt policies that would artificially support a "traditional way of life." The fishery has important aboriginal, commercial and recreational components that must also be considered.

As a result of changing harvesting patterns, due in part to resource declines in Atlantic groundfish and Pacific salmon, the Canadian fishery is undergoing significant structural changes on both coasts. The

Department is responding by reviewing its fisheries management policies on both coasts, to help shape the fishery of the future. When the reviews are completed, the Department will share the results of these exercises with stakeholders and the public in general.

Recommendation 7

The Committee recommends that the Senate refer the Estimates of the Department of Fisheries and Oceans to the Standing Senate Committee on Fisheries for parliamentary scrutiny.

Departmental Response

The Minister would be pleased to answer any questions the Standing Senate Committee on Fishery may have upon conducting its planned review of the Estimates of the Department of Fisheries and Oceans.

Recommendation 8

The Committee recommends that the Department of Fisheries and Oceans immediately begin to enforce its Atlantic fleet separation policy – that is, regulations preventing the vertical integration of processors into fish harvesting – and policies aimed at restricting the ownership of individual quotas to certain maximum limits. The Department should continue to enforce regulations restricting the ownership of fishing licences by foreign interests.

Departmental Response

The DFO effectively applies its fleet separation policy within the limits of its jurisdiction. This policy applies only to inshore licences (i.e., for vessels less than 65'). With the exception of about 50 licences that are held since 1978 by corporations and that fall under a grandfather provision, inshore licences may only be transferred to individual fishermen. Regarding the permanent transfer of individual quotas, limits have usually been set under individual program guidelines and these limits are applied where a permanent quota transfer is requested (e.g., 2% of the 1991 groundfish quota in the Scotia-Fundy ITQ fleet or 1.755% in the Zone 19 crab fishery). Licences or quotas cannot be transferred without the knowledge of DFO because, by law, DFO has to approve each such transaction.

In the conduct of their fishing businesses, fishermen may have entered into several forms of private arrangements with third parties that may even result in the catch harvested by individual holders of IQs being sold to different third parties. However, the DFO does not require fishermen to disclose such third party contracts which are deemed private.

Also, DFO cannot prevent fishermen from acquiring shares in processing plants as such a question falls under provincial jurisdiction. Fishermen have effectively acquired many plants in recent years.

Regarding the current restriction on foreign ownership of licensed corporation, the DFO does not intend to change its current policy on the matter.

Recommendation 9

The Committee recommends that the Department of Fisheries and Oceans equitably distribute the resource in order to allow small-scale fishers a better opportunity of participating in the fisheries.

Departmental Response

Large and small scale fishermen from all fleet sectors invest over the years in their enterprises based on certain levels of access to the resource. As businesses, fishermen expect some stability as to the amount of resources they will receive from year to year to support these investments. Most fisheries are fully

subscribed and many have excess fishing capacity. It is important that fishermen operate in a way that will be consistent with our vision of the fishery of the future, one that is environmentally sustainable, economically viable and self-reliant, resilient and self-adjusting. To support such a vision and provide the industry with a stable operating environment, the Department intends to respect historical shares in allocating fish resource among the different fleets, except in Pacific salmon where the recreational sector is to receive priority allocation over the commercial sector. Each fleet will then be expected to adjust and operate within its level of allocation. A fleet sector that will successfully achieve on its own a balance between its capacity and the available resources should not then be penalized by having a portion of its allocation taken away to support another fleet sector. In addition, redistribution of resources cannot be done in light of the following allocation principles: conservation will not be put at stake, viability of permanent licence holders will not be compromised and new access will be provided on a temporary basis.

It is worth noting that, where additional resource has become available in recent years, most have effectively been allocated on a temporary basis to small scale inshore operators, such as in the northern shrimp in Newfoundland and crab fisheries in the Atlantic.

Recommendation 10

The Committee recommends that the Department of Fisheries and Oceans stop using the examples of individual quota management systems in New Zealand and Iceland until the Department has taken full account of the criticisms of individual quotas emanating from those countries.

Departmental Response

The Department of Fisheries and Oceans can learn from the experience of other fishing nations. As a member of the Organization for Economic Co-operation and Development's (OECD) Fisheries Committee and the APEC fisheries working group, the Government of Canada has the opportunity to obtain international information on the experience of quota management systems in other countries. Moreover, many of these countries have a very large fishing industry and a long history in the use of individual quota management. The Department of Fisheries and Oceans closely examines all information before it is considered for adoption in any Canadian fishery. In order to remain a world ocean leader, Canada must keep abreast of new developments in all aspects of fisheries management worldwide in order to better serve the industry.

The Department has also closely monitored Canadian fisheries that have opted for individual quota management systems to ensure that all objectives are met. Consequently Canada has developed its own expertise in this field and does not have to rely solely on other countries' experience in managing this type of fishery.

APPENDIX 5

“Negative Impacts of ITQs on Fishing Productivity and Conservation of Fish Stocks,”

By Dr. Parzival Copes.

17 February 2005

Management Requirements:

1. Relatively inflexible TACs: ITQs must be fixed at the beginning of the season, regardless of what changing stock conditions may occur during the season. Reducing ITQs in mid-season, when different ITQ holders will have fished larger or smaller portions of their quotas, tends to destroy the credibility of the system and will be resented and/or resisted, though it may be essential for conservation purposes.
2. Near-irreversible system commitments: When ITQ systems are established, existing vessel owners are given ITQs for free. New participants in the fishery must buy quotas, usually at high prices. If experience shows that the ITQ system has poor results, the authorities will likely continue with the system nevertheless, because owners of quotas will demand compensation for their failed investment if their quotas are cancelled.
3. Bycatch dumping or bycatch enlargement: ITQs are given for specific fish species. Inevitably fishing vessels have bycatches of species for which they do not have quota. If regulations do not allow them to sell these bycatches, they must dump the fish (usually dead) which is wasteful and lowers harvesting productivity. If they are allowed to keep the bycatch to avoid waste, they are likely to target on bycatches in order to increase their revenues. This will cause overfishing of the bycatch species, which again will lower harvesting productivity.
4. Incompatibility of single-species focus with ecosystem management: It is now widely recognized that fisheries management needs to be sensitive to the impacts that different fisheries regulations are likely to have not only on specific fisheries, but also simultaneously on entire ecosystems. Regulations underpinning ITQ systems typically are single-species-focused. This follows from the need for quota entitlements to be defined in terms of unit quantities of fish of a particular species. If they were not species-specific, quota holders would be trying to fill up their quotas with the most valuable species, threatening the stocks of those species with severe depletion or extinction, while failing to utilize harvestable surpluses of less valuable species. Therefore separate sustainable quotas need to be set for different species. There is also a need to take bycatches into account. It is impossible for fishers to take catches in precise proportion to the quotas they hold. Inevitably there will be bycatches of some species for which they do not hold sufficient quota or any quota at all. Regulations are needed to limit such bycatches as much as possible. In addition, quota entitlements need to be limited to levels that take into account the expected level of inevitable bycatches so that the total mortality levels for each species remain compatible with sustainable use of these species.

System-Induced Behaviour:

5. Quota busting: In individual quota fisheries there always is a temptation to catch more than the allocated quota allows and to dispose of the extra catch illegally. Trying to enforce quotas in Canadian small-scale fisheries is quite a challenge, what with thousands of vessels spread along one of the world's longest coastlines, offering innumerable opportunities to dispose of the extra catch. When and where it is known that much of this "quota busting" is happening, the credibility of the ITQ system is eroded and many fishermen who are otherwise law-abiding may feel obliged to participate, in order to maintain their share of the catch and revenue. The result may be serious overfishing and consequent depletion of fish stocks.
6. High-grading: Individual quotas are normally defined by weight. To obtain the greatest net value for his legal catch of a species, a quota fisherman then will want to fill his quota with fish of the size and quality that fetches the highest price per kilogram. This provides a direct incentive to engage in high-grading, that is discarding fish (usually dead) that has a lower value per unit weight because it is of a non-preferred size or is of lesser quality for some other reason. High-grading has been reported on a large scale in many ITQ fisheries (e.g., in Canada and Iceland). This causes high levels of unreported fish mortality, resulting in stock levels much below those calculated from reported fish landings.
7. Price dumping: In many fisheries port prices for fish vary considerably from day to day, or even within in a day, according to supply and demand conditions. In an ITQ fishery it is possible for a vessel operator returning with a catch to hear on the radio that the port price has dropped drastically. It is known (e.g., in some Canadian and Australian ITQ fisheries) that under these circumstances some operators dump their catch so that it will not count against quota, in the hope and expectation that prices will be much better on a subsequent occasion. Obviously, this practice wastes fish and adds to stock depletion.
8. Ratcheting of quotas: In the fishery, the certainty of an immediate catch weighs heavily in relation to speculation on a better catch in the future. Consequently, fishing companies and fishermen are often inclined to press for increases in TACs (and thus in ITQs), and to resist reductions. ITQs have been promoted as a means of "privatizing" fisheries. Under pressure of this notion, the demands of quota owners in ITQ fisheries for larger quotas are often approved by fisheries managers and politicians, even when scientists warn about imminent dangers of stock decline. There is ample evidence (e.g., in Canada and New Zealand) of quotas having been ratcheted upwards when fishing was good, but of not having been cut back when fishing was poor.
9. Discount-driven stock depletion: The promotion of ITQs as a form of "privatization" of the fishery has led to pressure for associations of ITQ holders to take over more and more of the management authority for the stocks in their fishery, to the advantage of their members. Corporations and wealthy investors have demonstrated considerable interest in the acquisition of large holdings of quotas in a number of fisheries, often in a speculative mode. They generally have high private discount rates, that is expectations for high profit levels. Economic calculations demonstrate clearly that in some fisheries (particularly for long-lived, slow-growing species) higher target profit levels may be satisfied only with a rapid fishing-up of the biomass, which could lead to stock collapse. The large returns thus secured may then be used partly to write off the quota investment

in the fished-up stocks, leaving the rest to be invested in quotas for alternative fish stocks, where the scenario may be repeated, or for investments outside the fishing industry. ...

10. Data fouling: Quota busting is illegal and operators engaging in this practice undoubtedly will fail to report it. Officially recorded catches therefore will understate real catches and the real drain they impose on fish stocks. Discarding of fish through high-grading and price dumping may or may not be illegal, but it is as a rule not reported and thereby represents an unrecorded and largely unknown drain on fish stocks. All of these problem practices have the effect of “fouling” the data used by scientists to calculate the TACs that need to be prescribed to ensure that fisheries remain sustainable at high catch levels. Unfortunately, scientists have sometimes assumed that what they do not know, does not exist. By either ignoring or underestimating unreported and discarded catches, they are liable to assume higher stock levels than actually exist and consequently recommend catch levels that are not sustainable. In any case, with “fouled” data they will not be in a position to calculate TACs with an appropriate degree of accuracy, with adverse consequences for fisheries management.

Source: Dr. Parzival Copes, Emeritus Professor of Economics, Simon Fraser University, Excerpt of Brief Submitted on 17 February 2005

APPENDIX 6

Witnesses

The following list includes all witnesses who appeared before the Committee to Tuesday, May 17, 2005 on this Order of Reference. This interim report reflects evidence received to March 10, 2005, and subsequent evidence will be reflected in future reports on this matter.

Thursday, November 4, 2004

Department of Fisheries and Oceans:

David Bevan, Assistant Deputy Minister, Fisheries and Aquaculture Management;
Michel Vermette, Acting Director General, Program Planning and Co-ordination.

Thursday, December 7, 2004

United Fishermen and Allied Workers' Union:

Garth Mirau, Vice-President.

Tuesday, February 8, 2005

The Honourable Geoff Regan, P.C., M.P., Minister of Fisheries and Oceans;
Shawn Murphy, P.C., M.P., Parliamentary Secretary to the Minister of Fisheries and Oceans.

Department of Fisheries and Oceans:

Larry Murray, Deputy Minister;
Joan Adams, Commissioner of the Canadian Coast Guard;
Wendy Watson-Wright, Assistant Deputy Minister, Science;
Sue Kirby, Assistant Deputy Minister, Ocean and Habitat;
David Bevan, Assistant Deputy Minister, Fisheries and Aquaculture Management;
Robert Bergeron, Director General, Small Craft Harbours.

Thursday, February 10, 2005

As an individual:

Daniel W. MacInnes, Professor, Department of Sociology and Anthropology, Saint Francis Xavier University.

Thursday, February 17, 2005

As an individual:

Parzival Copes, Emeritus Professor of Economics, Institute of Fisheries Analysis and Centre for Coastal Studies, Simon Fraser University.

Thursday, February 24, 2005

Canadian Council of Professional Fish Harvesters:

Earle McCurdy, Fish Food and Allied Workers, CCPFH President;

Christine Hunt, Native Brotherhood of British Columbia, CCPFH Vice-President;

John Sutcliffe, CCPFH Executive Director;

O'Neil Cloutier, Alliance des pêcheurs professionnels du Québec, CCPFH Secretary-Treasurer;

Rachel Josée Chiasson, Fédération régionale acadienne des pêcheurs professionnels;

Ronnie Heighton, Gulf Nova Scotia Flead Planning Board ;

Rick Nickerson, Maritime Fishermen's Union;

Sandy Siegel, Maritime Fishermen's Union;

Keith Paugh, Prince Edward Island Fishermen's Association.

Tuesday, March 8, 2005

Area 23 Snow Crab Fishermen's Association:

Gordon MacDonald, Managing Director;

Fred Kennedy, Consultant.

Thursday, March 10, 2005

West Coast Vancouver Island Aquatic Management Board:

Andrew Day, Executive Director.

Hesquiaht Tribe:

Simon Lucas, Chief, and Member of the Aquatic Management Board.

Thursday, April 14, 2005

New Zealand High Commission:

His Excellency Graham Kelly, High Commissioner;

Andrew Needs, Deputy High Commissioner.

Thursday, April 21, 2005

Town of Burgeo, Newfoundland and Labrador:

His Worship Allister J. Hann, Mayor;

George Redi Deputy Mayor.

Thursday, May 5, 2005

Town of Canso, Nova Scotia:

His Worship Ray White, Mayor.

Town of Lunenburg, Nova Scotia:

His Worship D. Laurence Mawhinney, Mayor.