SENATE **SÉNAT**

CANADA

THE ATLANTIC SNOW CRAB FISHERY

Standing Senate Committee on Fisheries and Oceans

Interim report on the Committee's study of the federal government's new and emerging policy framework for managing Canada's fisheries and oceans

Chair
The Honourable William Rompkey, P.C.

Deputy Chair
The Honourable Janis G. Johnson

June 2006

Ce rapport est disponible en français.

MEMBERSHIP

The Honourable William Rompkey, *Chair*

The Honourable Janis G. Johnson, *Deputy Chair*

and

The Honourable Senators:

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In addition, the Honourable Senators Eymard G. Corbin, J. Michael Forrestall, Leonard Gustafson, and Rose-Marie Losier-Cool were members of the Committee at various times during this study or participated in its work on this matter.

Research Staff:
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Till Heyde
Clerk of the Committee

ORDER OF REFERENCE

Extract from the *Journals of the Senate* of Tuesday, May 16, 2006:

The Honourable Senator Johnson moved, seconded by the Honourable Senator Stratton:

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;

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

That the Committee submit its final report to the Senate no later than Friday, June 29, 2007.

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

Paul C. Bélisle

Clerk of the Senate

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BACKGROUND

On 16 May 2006, the Committee was authorized by 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. Under this mandate, the Committee turned its attention to the Atlantic snow crab fishery and convened a panel discussion on 1 June with the following participants: Jean-Guy d'Entremont, Chair of the Fisheries Resource Conservation Council (FRCC); John Boland, staff representative of the Fish, Food and Allied Workers Union (FFAW/CAW); Brian Adams, President of the Area 19 Snow Crab Fishermen's Association; and Mr. Robert Haché, spokesperson for the Association des crabiers de la Baie, the Association des crabiers acadiens, the Association des crabiers gaspésiens, and les Crabiers du nord-est. To follow up on this discussion, the Committee met, on 13 June 2006, with the following senior officials of the Department of Fisheries and Oceans (DFO): David Bevan, Assistant Deputy Minister, Fisheries and Aquaculture Management; and Denis Rivard, Associate Director General, Ecosystem Science.(1)

Commercial fishing for snow crab (*Chionoecetes opilio*) on the East Coast began in the mid-1960s following the discovery of major stocks in the Gulf of St. Lawrence. In subsequent years, the fishery expanded, although a period of decline occurred in the 1980s. Following the imposition of groundfish moratoria in the early 1990s, the crab fishery entered a period of unprecedented growth. Temporary crab allocations were made to non-traditional harvesters, which were later made permanent. Harvesting effort increased, new fishing grounds were exploited, and large investments in vessels and gear were made to catch crab further offshore.(2) Coast-wide, the resource peaked in 2002 (see Figure 1 in the Appendix). In many cases, the snow crab fishery took on tremendous importance to local coastal economies.

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(1) The Committee's *Proceedings* are available at http://www.parl.gc.ca/common/Committee_SenHome.asp?Language=E&Parl=39&Ses=1&comm_id=7.

(2) In 1999, the Auditor General of Canada expressed concern that a large number of fishermen in Newfoundland had been given access to the fishery at a time when it was at historically high levels. Auditor General of Canada, Report, Chapter 4, *Managing Atlantic Shellfish in a Sustainable Manner*, April 1999, http://www.oag-bvg.gc.ca/domino/reports.nsf/html/9904ce.html.

With catches worth over $600 million, snow crab was the most valuable species harvested in the Atlantic region in 2004. That year, there were over 1,000 crab licences in the Maritimes and Quebec, compared to about 500 in 1992 (Table 1). In Newfoundland and Labrador, the number of licences rose from about 750 in 1992 to over 3,400 by 2004.

TABLE 1

Number of Snow Crab Licences

Region	1992	2004
Maritimes and Quebec	507	1,072
Newfoundland and Labrador	750	3,411

Source: FRCC, *A Strategic Conservation Framework for Atlantic Snow Crab*, 2005, p. 13.

CURRENT SITUATION

The Committee learned that the snow crab fishery was in difficulty on two fronts. First, there are market and economic factors over which the fishery has no control. Participants in our panel discussion said that the current problems afflicting the industry were due largely to soaring fuel costs (said to have more than tripled since 2002), high bait costs, plummeting crab prices, competing supplies from Alaska in the United States market, and especially changes in the value of the Canadian dollar, which is at its highest level in almost three decades. We heard that: the Canadian industry is a price-taker in world markets; snow crab was currently selling for 92 cents per pound at the wharf in Newfoundland and Labrador, compared to $1.64 in 2002; the province's fish exports were expected to be $400 million less this year than in 2004; and earnings were declining with no corresponding reduction in the fees that fishermen pay to access the fishery (e.g., observer and dockside monitoring fees). Some witnesses said that a more coordinated and collective marketing effort was needed in order to obtain greater value from the harvest.

Second, in some crab fishing areas (CFAs), quotas were reduced in response to falling catch levels. In DFO's Newfoundland and Labrador Region, where overall the Total Allowable Catch (TAC) was reduced by 7% to 46,233 tonnes this year, the state of the resource was described to the Committee as "a mixed bag." In some areas, quotas have been stable, and where there had been problems in 2005, the resource was said to have recovered.

In other areas, however, where stocks had been weak, the situation remains unchanged. Like crab stocks elsewhere in the world, snow crab is a naturally cyclical resource with or without fishing activity. It was also pointed out to us that, even with current quotas, the fishery would be turning a profit if the exchange rate for the Canadian dollar were at 2002 levels. We heard that the socio-economic consequences were only beginning to be felt, particularly in Newfoundland and Labrador where out-migration from rural areas was said to be taking place.

CONSERVATION AND RECRUITMENT

Although conservation is not the main factor in the current crisis, it is a concern. A sustainable fishery requires a strong resource.

Snow crab management focuses on reducing the mortality of female, juvenile and soft-shelled crabs in order to ensure the reproductive potential of the stocks. Only commercial-size, mature males (95 mm carapace width and greater) are targeted.(3) If caught, all other crabs must be returned to the water. Snow crabs undergo a series of moults, and there are protocols that protect the stock during the moulting stages.(4) New shells are soft and easily damaged, making them vulnerable to unnecessary injury or death if not handled properly. Baited traps are used to catch snow crabs, with the mesh size of the traps being large enough to allow most immature and small males and females to escape – a harvesting method which is not disruptive from an environmental standpoint. In fact, the Committee was advised that if all commercial fishing were conducted in this passive way, fisheries in Canada, and even throughout the world, would be better off today.(5) We learned that in CFA 19, harvesters had moved to a top-entrance-only trap in the 1990s to reduce the capture of small, soft and female crab, and that work was being conducted on new crab trap designs. DFO officials indicated that the Department wished to see biodegradable mesh panels in every crab trap used in the Atlantic region to prevent ghost fishing (i.e., lost crab traps that may continue to fish indefinitely).

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(3) It takes 5-10 years for snow crabs to reach legal (commercial) size, and their natural life cycle is about 15 years.

(4) The fishery is monitored on a grid system. If there is a high incidence of soft-shell crabs, then fishing in the area is closed. If this occurs in too many grids, the entire fishery is shut down.

(5) In some areas, crab fishermen have expressed concerns about the effects that bottom trawling could have on the snow crab resource. In recent years, a number of areas have been closed to address these concerns.

Of particular importance to the fishery was the FRCC's release of *A Strategic Conservation Framework for Atlantic Snow Crab* in June 2005.(6) The Framework was produced in response to a November 2003 request by the Minister of Fisheries and Oceans (hereafter referred to as the Minister) to review the current approaches to snow crab conservation, and to recommend a long-term conservation strategy. The FRCC's Chair, Mr. Jean-Guy d'Entremont, provided Committee members with an overview of the Strategic Conservation Framework, which identified three key principles to guide the achievement of sustainability:

- fisheries management needs to ensure that there is sufficient knowledge to protect snow crab and manage the snow crab fisheries;
- fishing strategies and fishing practices should optimize the protection of the incoming snow crab recruitment to the spawning stock and to the fishery; and
- the management of snow crab fisheries should be modernized to 21st century standards.

According to Mr. d'Entremont, there is overall consensus on the part of both DFO and industry on the direction of the FRCC's 2005 Framework. He indicated that, while the Council did not expect that all of its recommendations would be immediately implemented, the Framework benefits the industry by providing a road map for the long term. After over a year's work and deliberations,(7) the FRCC concluded that sustainability was attainable, provided that immediate actions were taken to protect recruitment into the fishery. The FRCC identified the incidental catch and discarding of immature male snow crab, and soft-shelled crab in particular, as the main threat to conservation. Among other things, the Council recommended "that fishing seasons be adjusted to minimize the catch of soft-shell snow crab, that the monitoring of soft-shell protocols be improved, that handling mortality be reduced by ensuring proper training, awareness and regulatory structures for all participants, and that fishing capacity be better matched with the productive capacity of the snow crab resource."

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(6) The FRCC was created in 1993 as a partnership between scientific and academic expertise and all sectors of the fishing industry. In 2002, following a review of its mandate, the FRCC took a new direction, focusing on long-term conservation strategies. Its first task, under this new direction, was to prepare a strategic conservation framework for Atlantic snow crab. During the fall of 2004, the FRCC held public consultations throughout the Atlantic region. In December 2004, the Council also held a three-day workshop to seek the views of experienced fishermen, processors, scientists and fisheries managers on the concerns, opportunities, and options highlighted during public consultations.

(7) In February 2006, the Minister asked the FRCC to review and evaluate the Atlantic Lobster Conservation Framework developed by the Council in 1995.

In our panel discussion, we heard that newer entrants into the fishery were perhaps not as aware of the measures necessary to conserve the resource as traditional harvesters who had experienced the past effects of poor fishing practices. One panellist, however, said that this was not necessarily the case, and argued that owner-operators of small vessels, unlike absentee owners, have a greater interest in conservation because their livelihoods are directly at stake. Since the release of the FRCC Framework, important changes were said to have been taking place, with DFO and industry moving together on a number of fronts. In Newfoundland and Labrador, quotas were reduced in a number of areas, fishing seasons were shortened to protect recruitment, strict soft-shell protocols were introduced, and observer coverage was improved.(8) In CFAs 12, 18, 25, and 26 (in the southern Gulf of St. Lawrence), DFO set a TAC of 25,869 tonnes in 2006, provided that enhanced management activities were adopted, or 20,862 tonnes if these activities did not proceed.

FLEET REDUCTION

Oversubscription and overcapacity appear to be the crux of the current crisis. High dependence on the fishery coupled with dropping prices means that there is too little money to go around.

Harvesting is conducted almost exclusively by vessels less than 65 feet in length. Licence holders are allocated a specific tonnage of crab (individual boat quotas) and allowed to deploy a specified maximum number of traps to harvest their catches, which are monitored independently at dockside and must be live at the time of landing and processing.(9) While fishing capacity increased during the expanding years of the fishery, the FRCC noted in 2005 that rules or strategies to rationalize harvesting capacity during periods of resource decline were never defined. In some regions, the increase in the number of harvesters was not in balance with the available resource. This is particularly the case in Newfoundland and Labrador, where the number of crab licences increased from 70 in 1980 to over 3,400 by 2004.

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(8) DFO, "Minister Announces Management Measures for 2006 Newfoundland and Labrador Snow Crab Fishery," News Release, 29 March 2006; DFO, "Hearn Announces 2006 Snow Crab Management Plan in the Southern Gulf for Crab Fishing Areas 12, 18, 25, and 26," News Release, 30 March 2006.

(9) FRCC, *A Strategic Conservation Framework for Atlantic Snow Crab*, 2005, http://www.frcc.ca/2005/snowcrab.pdf.

The Committee heard that, because of the current economics of the fishery, a number of fishermen in Newfoundland and Labrador with small quotas and marginal incomes wish to leave the fishery. There is no mechanism, however, for exiting with some form of compensation. Mr. John Boland, staff representative of the FFAW/CAW, made us aware that a rationalization program had been proposed under which certain fleets would be given the opportunity to *collectively* buy out fishermen who wished to leave the fishery – a proposal that might require some start-up funding by government but that would not necessarily cost the taxpayer anything in the long run.

There are many possible ways or types of tools available to rationalize a fishery, including the combining of enterprises, industry-funded fleet buy-outs, and individual transferable quotas (ITQs), as the FRCC noted in its Strategic Conservation Framework. In this regard, the Council concluded that the method employed should be based on fleet preferences by fishing area. The Chair of the FRCC, Mr. Jean-Guy d'Entremont, noted that, in the absence of self-rationalization mechanisms, some crab harvesters are likely to respond to the cost/price squeeze they face by trying to catch as much crab as they can to make ends meet.

Very divergent views were expressed on the use of ITQs in our panel discussion. Mr. John Boland of the FFAW/CAW, which represents 20,000 workers in Newfoundland and Labrador (most of whom are employed in the fishing industry) strongly opposed ITQs, saying that the province would "fight to the bitter end" so as not to head down that road. He also stressed the need for DFO to enforce its *owner-operator* and *fleet separation* policies before any fleet reduction measures are put in place. Mr. Brian Adams of the Area 19 Snow Crab Fishermen's Association told us that individual trap ITQs had worked quite well for harvesters in CFA 19, a small zone off the west coast of Cape Breton. Mr. Robert Haché, who spoke on behalf of the majority of crabbers in the southern Gulf of St. Lawrence, said that the individual boat quota system introduced in 1990 had led to the rapid recovery of stocks in CFA 12. In his opinion, ITQs were a very good mechanism to rationalize capacity (where overcapacity is a problem) because they allow fishermen to sell their quotas to others and leave the fishery at no cost to the taxpayer. DFO officials, for their part, informed us that the Department had been working with the provinces, the industry and communities to find a solution to the situation in the crab fishery.

Mr. Robert Haché spoke about the need to implement the Atlantic Fisheries Policy Framework (AFPF). He stated that the guidelines and principles it contains, including the establishment of self-adjustment mechanisms that incorporate clear and enforceable entrance and

exit rules for new entrants (such as a last-in-first-out rule, and entrance and exit thresholds)[10] would allow for the better management of resource surpluses or declines. Mr. Haché recounted DFO's decision, in 2003, to award 696 new crab allocations in CFA 12 to lobster and cod fishermen, pointing out that the decision had increased the number of vessels by almost 300% and the number of crab traps by over 100%.[11]

With regard to possible future licence buy-backs or other large-scale interventions in the fishery, it is noteworthy that the AFPF states that those measures are completed and, that as "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." As the Committee reported in May 2005,[12] fleets can now "propose voluntary self-adjustment mechanisms," such as "the issuance of licences and quotas through a fleet planning board," thus allowing enterprises to combine or partner by pooling their quota share (or licences or gear), or ITQs.

THE OWNER-OPERATOR AND FLEET SEPARATION POLICIES

Panellists' testimony made clear that fleet reduction measures should not compromise the position of independent fishermen.

Significantly, a protective policy wall was erected in the Atlantic region to ensure that small-vessel fleets (the "inshore") remained under the control of community-based enterprises. First, a *fleet separation policy* established in 1979 separates fish harvesting and processing by preventing the issuance of new fishing licences to corporations (e.g., processing

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(10) In 1999, DFO embarked on an Atlantic Fisheries Policy Review (AFPR) in order to create a more cohesive and consistent policy framework, to set out a broad vision of the future direction of Atlantic fisheries, and to address criticisms from the Auditor General, parliamentary committees, and others. The AFPR is being completed in two phases. The first phase produced a long-term Atlantic Fisheries Policy Framework in March 2004 (*A Policy Framework for the Management of Fisheries on Canada's Atlantic Coast*). The second phase is expected to establish priorities and implement elements of the Framework.

(11) As well, we heard that each of the 33 organizations representing new entrants had been given a seat at the CFA 12 management table, reducing the representation of crabber associations to 20% of its previous level. The historical share of each crab fisher, which was intended to guarantee long-term economic viability and encourage crabbers to maintain rigorous conservation practices, was said to have been permanently reduced by 30%.

(12) Standing Senate Committee on Fisheries and Oceans, *Interim Report on Canada's New and Evolving Policy Framework for Managing Fisheries and Oceans*, May 2005, http://www.parl.gc.ca/38/1/parlbus/commbus/senate/com-e/fish-e/rep-e/repintmay05-e.pdf.

companies) for vessels of less than 65 feet in length. In other words, fish processing companies are not allowed to own fishing licences or to establish vertically integrated operations. Second, an *owner-operator policy* requires licence holders to be on their vessels and personally fish their licences, a policy designed to keep licences from falling into the hands of corporations or absentee investors with no attachment to the fishing industry or coastal communities.

Witnesses in our panel discussion strongly supported the fleet separation and owner-operator policies, and also wished to close the legal loopholes that exist in the form of "trust agreements," which are private contracts that undermine the spirit and intent of the two policies.(13) Trust agreements allow fish processors or other parties to gain control of licences by financing harvesters to purchase enterprises as titular owners. We heard that absentee ownership of fishing licences had the effect of reducing crew incomes, that processors were controlling fishing enterprises, and that the capital financing needs of fishermen were driving trust agreements.(14) Because, in legal terms, fishing licences are temporary privileges issued at the discretion of the Minister, lending institutions do not typically accept licences or quota as security because they are not allowed to take ownership of these privileges if the borrower defaults on the loan.

The March 2004 Atlantic Fisheries Policy Framework states that DFO is intent on preventing the use of trust agreements. Even so, according to a comprehensive, federally funded study on Canada's fishing industry released by the Canadian Council of Professional Fish Harvesters (CCPFH) in 2005, processing companies in Newfoundland and Labrador and larger fishing enterprise owners had been "aggressively pushing to consolidate control of quota through arrangements that often contravene[d] the owner-operator and fleet separation policies."(15)

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(13) The President of the Area 19 Snow Crab Fishermen's Association noted that, in some cases, a family member may have helped a fisherman financially; the matter therefore needed to be looked at carefully. Trust agreements separate ownership of the title of fishing licences from the "beneficial use" of those licences. DFO officials told the Committee in 2005 that, because they are private contracts, the Department does not monitor or register them. See 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.

(14) The distinction was made between processors lending harvesters capital in return for greater security of supplies, and arrangements that result in the transfer of control of licences to processors. The matter of "latent capacity" in the fishery, or inactive licence holders who maintained their fishing privileges but who did not fish, was also brought up in our discussions.

(15) Praxis Research and Consulting Inc., *Setting a New Course: Phase II Human Resources Sector Study for the Fish Harvesting Industry in Canada*, prepared for the CCPFH, May 2005 (released in August 2005).

Entitled *Setting a New Course*, the CCPFH study reported that many snow crab harvesters with small quotas were preparing to leave the fishery not only because of marginal incomes, but also because of age. *Setting a New Course* emphasized that a great generational transfer of licences would be taking place in Canada over the next decade due to the fishery's aging labour force, and that the next generation of fishermen will not only face high costs in acquiring commercial fishing licences and quotas, they will be unable to turn to financial institutions because fishing licences are normally not accepted as security on loans.

With respect to trust agreements, the Minister of Fisheries and Oceans, who appeared before the Committee on 30 May 2006, indicated that he intended "to clean up the situation." According to the Minister, the person holding the licence should be the one who fishes the resource and the one who benefits. We were informed by DFO that there may be, "in the not-too-distant future," an announcement on changes in the way the fleet separation and owner-operator policies are administered.

CO-MANAGEMENT AND ADMINISTRATIVE SANCTIONS

Under the *Fisheries Act*, DFO is responsible for the management, conservation and development of the fishery on behalf of Canadians.(16) Section 7 of the *Fisheries Act* bestows on the Minister very broad discretionary powers to distribute wealth in the form of fishing licences and fish quotas. When issuing or authorizing leases and licences for fisheries or fishing, the Minister has *absolute discretion*, the reason for this extraordinary discretion being that fisheries are a "common property resource." Under the current legislative regime, the Department is responsible and accountable for all fisheries management decisions (e.g., assessing stocks, establishing TACs, developing and implementing fishing plans, and evaluating results), a situation often described as top-down, command-and-control regulation.

In 2005, the FRCC reported that DFO appeared to be committed to the concept of shared stewardship in fisheries, and recommended that the *Fisheries Act* "undergo a total review in order that it responds to the needs of the modern day fishery, including the provision of open, transparent third-party, rules-based mechanisms for access and allocation, better enforcement tools such as administrative sanctions as well as to provide a foundation for shared stewardship."

(16) Through their responsibility for "property and civil rights," the provinces have jurisdiction over on-shore processing. The provincial governments have an obvious interest in maintaining shore-based employment, and processors in securing supplies of fish.

In May 2005, the Committee reported that the Department had been moving forward on a process of Fisheries Management Renewal (FMR) to modernize the way DFO manages Canada's fisheries, and that DFO had been looking at possible changes to the *Fisheries Act* to give effect to new fisheries management frameworks, including the AFPF.(17) The AFPF calls for the development of specific policies to define the Department's role and to take measures to expand commercial licence holders' participation in decision making and which frequently mentions the need to possibly amend the Act. Although amendments were anticipated in 2005, they were never tabled. No one outside government knew for certain the specifics of the proposed changes.

The FRCC's 2005 *Strategic Conservation Framework for Atlantic Snow Crab* recommended that DFO accelerate implementation to allow crab harvesters and their representative organizations a stronger influence on the fishery's future. According to the Chair of the FRCC, participants in the snow crab fishery were asking ("begging") for "more co-management." We were told that snow crab harvesters would never have "a true say" in co-management unless the Minister relinquishes some of his or her decision-making power to participants, and that this requires legislative changes to the *Fisheries Act*. This view was shared by Mr. Brian Adams, President of the Area 19 Snow Crab Fishermen's Association, which has had a co-management arrangement with DFO since 1996, which the President said been effective and working well. CFA 19 harvesters were said to be working closely with local DFO staff to monitor soft-shell crab and promoting conservation-oriented handling and discarding practices at sea. Mr. Adams stated that the CFA 19 Agreement had served as a model for other fisheries in Canada and around the world. While not a cure-all for all problems, co-management provided a greater opportunity for harvesters to participate in decision-making and management.(18)

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(17) The plan had four main elements: ensuring conservation and sustainable use of the resource; ensuring stable access and allocation and predictable, transparent decision-making processes; promoting shared stewardship in fisheries management; and developing a modernized compliance regime that supports the new approach. The overarching goal was to develop a new governance model that would "enable DFO and resource users to meet conservation objectives of the fishery, and that [would] also enable resource users to respond to the economic forces that impact their industry." See DFO, *Response to the Committee's May 2005 Interim Report on the Government's New and Evolving Policy Framework*, 22 November 2005.

(18) Initially, the Agreement lasted from 1996-2001 and consisted of an Integrated Fisheries Management Plan (which set out harvest levels, conservation requirements, and allocation processes) and a Joint Project Agreement (which outlined roles, responsibilities and financial commitments). The Agreement, involving 184 permanent licence holders, was renegotiated for the period 2001-2010, which the FRCC highlighted in Appendix VI of the 2005 *Strategic Conservation Framework*. In 2006, it was re-opened to allow 73 temporary licence-holders to become permanent. At the time of writing, the new Agreement was near completion and will be in effect until 2013.

The Committee learned that some fleets in the Gulf of St. Lawrence have had co-management agreements with DFO. When officials were asked why changes to the *Fisheries Act* were required for shared stewardship, it was explained that there were limits on what may be included in co-management agreements, such as Joint Project Agreements, because the Minister has absolute discretion under the Act, and there are no guidelines on the exercise of this discretion. Real co-management would involve the sharing of responsibility and accountability for results between the Department and resource users.(19)

According to the Chair of the FRCC, snow crab harvesters were also asking for stiffer penalties and greater fines in the form of "administrative sanctions" to deal with non-compliance with the rules, instead of having to rely on the legal system. Strong statements were made in support of such sanctions in our panel discussion. For several years, all harvesters faced administrative sanctions, in addition to criminal prosecution in the event of a serious conservation-related offence, but this changed following a Federal Court decision. In 2005, the FRCC called for a return to administrative sanctions and the establishment of a "legislatively-based tribunal process to levy licensing and other penalties for specified fishing offences" that included "the right to hearing before an unbiased tribunal." Administrative sanctions would not only have a salutary effect on compliance, but would also be more efficient and less costly, and could be tailored to the seriousness of the violation and applied in a timelier manner. The Council's Chair stated that DFO had advised the FRCC that a system of administrative sanctions would require amendments to the *Fisheries Act*. DFO indicated to the Committee that such sanctions would be reinstated once the Department was in a position to table a new Act.

We also learned from the FRCC that DFO had been criticized at virtually every meeting during its consultations for having been overly influenced by political motivations, rather than focusing on than managing the crab fishery on a conservative and sustainable basis. The Council therefore proposed the creation of an independent, third-party, apolitical structure (a panel) to deal with access and allocation issues, based on pre-established procedures and guidelines, which the Chair considered one of the Strategic Conservation Framework's key recommendations. Mr. Robert Haché noted that the AFPF similarly calls for fisheries management decision-making processes that are fair, transparent and subject to clear and consistent rules and procedures. In Mr. Haché's view, the Department had been contributing to

(19) The AFPF envisions co-management as eventually encompassing the sharing of authority for fisheries management.

conflicts in the industry and uncertainty with respect to allocations by maintaining a paternalistic approach to resource users. The example given was the Department's March 2005 announcement that resource-sharing arrangements had been stabilized for a period of up to five years (confirmed again in March 2006) without having consulted Area 12 crabbers. Another panellist (Mr. Brian Adams) believed more discussion was needed before implementing a crab panel on access and allocations.

With regard to making the advisory process more inclusive, the FRCC noted that there had been increasing pressure from non-governmental, environmental and community groups to become involved in the fisheries management process, and considered it "only natural and appropriate that Canadians at large wish to partake in the management of industries that exploit public resources." The Council recommended that provision should be made for their participation.(20) As a practical matter, the FRCC suggested a hierarchy of issues, so that a wider constituency would participate in overarching issues (e.g., harvesting strategies, conservation measures and ecosystem concerns) during the crab advisory committee process. Shorter-term operational issues, on the other hand, would be subject to discussions between licence holders and DFO. The Department informed us that it had yet to respond to this challenge; while discussions had taken place with the licence holders, communities had not been brought into the advisory committee process.

SCIENCE AND RESEARCH

The annual crab harvest is managed on the basis of total allowable catches established each spring for several snow crab fishing areas. Data on the fishery are generated from many sources. Catch rates, which are indicators of a fishery's performance, are obtained from harvester log records. However, the Committee learned that they do not necessarily indicate stock trends, because harvesters may have ways to compensate for low catches. In the southern Gulf of St. Lawrence and in eastern Nova Scotia, we heard that biomass levels are estimated annually from specifically designed trawl surveys, but that in other regions, this method is not possible because of the physical characteristics of the ocean bottom. In Newfoundland and Labrador, where only catch rates had once been employed, post-season

(20) The AFPF similarly states 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."

trap surveys involving harvesters are now conducted, which DFO hoped would improve the quality of assessments in the region. According to the Department's Associate Director General of Ecosystem Science, collaboration with industry is key, not only in collecting data and assisting in surveys, but also in analyzing information and discussing results.

In 2005, the FRCC Strategic Conservation Framework called for more information on snow crab, the setting of exploitation rate targets and limits, and the fishery being managed according to biological units (i.e., CFAs should reflect the biological characteristics of the resource). From what we heard, the degree of knowledge about snow crab is not uniform throughout the Atlantic region, and much more needs to be known about the distribution of stocks and their cyclical fluctuations. In the southern Gulf of St. Lawrence, where data on catches are available from the early 1970s onwards and where trawls surveys have been conducted, there have been two documented cycles or waves lasting 10-15 years, which we were told may be due to biological reasons related to the development of female snow crabs. Mr. Adams informed us that the Area 19 Snow Crab Fishermen's Association had funded, and continues to fund, various science projects to learn more about snow crab; he also emphasized that DFO's financial contribution toward scientific research was inadequate. This view was shared by the representative of the FFAW/CAW, who pointed out that there were more people operating television cameras at our panel than there were DFO staff working full-time on snow crab science in Newfoundland and Labrador.

With regard to CFA 12, Committee members heard that, following the depletion of the resource in 1990, industry and DFO had cooperated to rebuild the resource and that, within a few years, the stock had rebounded and crabbers had bought back processing plants that had been previously abandoned.(21) As well, in 1994, the 130 mid-shore crabbers in the southern Gulf of St. Lawrence had taken over from DFO the funding for scientific research; over the next eight years, more than $10 million had been invested in scientific research, conservation and crab stock management activities conducted by DFO. However, these partnerships, which were described to the Committee as a model of public/private cooperation, ended abruptly in 2003 when the number of participants in the crab fishery increased in order to reduce the harvesting of lobster and groundfish.

(21) The fleet separation policy does not prevent licensed fishermen from becoming plant owners.

In 2005, the FRCC Strategic Conservation Framework reported that "the current erosion of the funding base allocated to research and data collection within DFO requires the reassessment of funding priorities." The Framework also noted that there was "insufficient Atlantic-wide discussion of the approaches taken to snow crab science and the interpretation of the data for fisheries management," and "little regional coordination and communication among scientists within the DFO." Significant regional differences were said to exist in stock assessment methods, management strategies and practices in the industry, and the Council stressed the need for better coordination and the transfer of knowledge between regions. The President of the Area 19 Snow Crab Fishermen's Association also hoped to see more dialogue, because fishing effort on the boundary of two CFAs, it was explained, may reduce the fishable biomass in the area where the fishing season opens later. As well, more attention should be paid to the information that fishermen bring to DFO and the science community, as fishermen are the people who have first-hand knowledge of the resource.

In 2005, the FRCC recommended that an Atlantic-wide Snow Crab Science Council be created to focus on gaps and opportunities and to improve the flow of information on snow crab science between the numerous administrative regions on the East Coast. According to the Council's Chair, the Science Council, which would meet at least once a year, would bring together scientists and fishermen from different areas of the Atlantic region to exchange knowledge and experience, and would provide a mechanism for identifying issues and sharing solutions.

RECOMMENDATIONS

1. **The Committee recommends to the Treasury Board that the Government of Canada provide the Department of Fisheries and Oceans (DFO) with funding to significantly improve scientific research on snow crab.**

2. **The Committee recommends that the Minister of Fisheries and Oceans establish an Atlantic-wide Snow Crab Science Council in co-operation with the Fisheries Resource Conservation Council.**

3. **The Committee recommends that the Minister of Fisheries and Oceans introduce amendments to the *Fisheries Act* to allow for the use of administrative sanctions to penalize offenders.**

4. **The Committee recommends that DFO collaborate closely with various crab fleets on an urgent basis to develop voluntary self-adjustment**

mechanisms to reduce fishing capacity where needed. In this regard, the snow crab fishery in Newfoundland and Labrador should be given immediate priority.

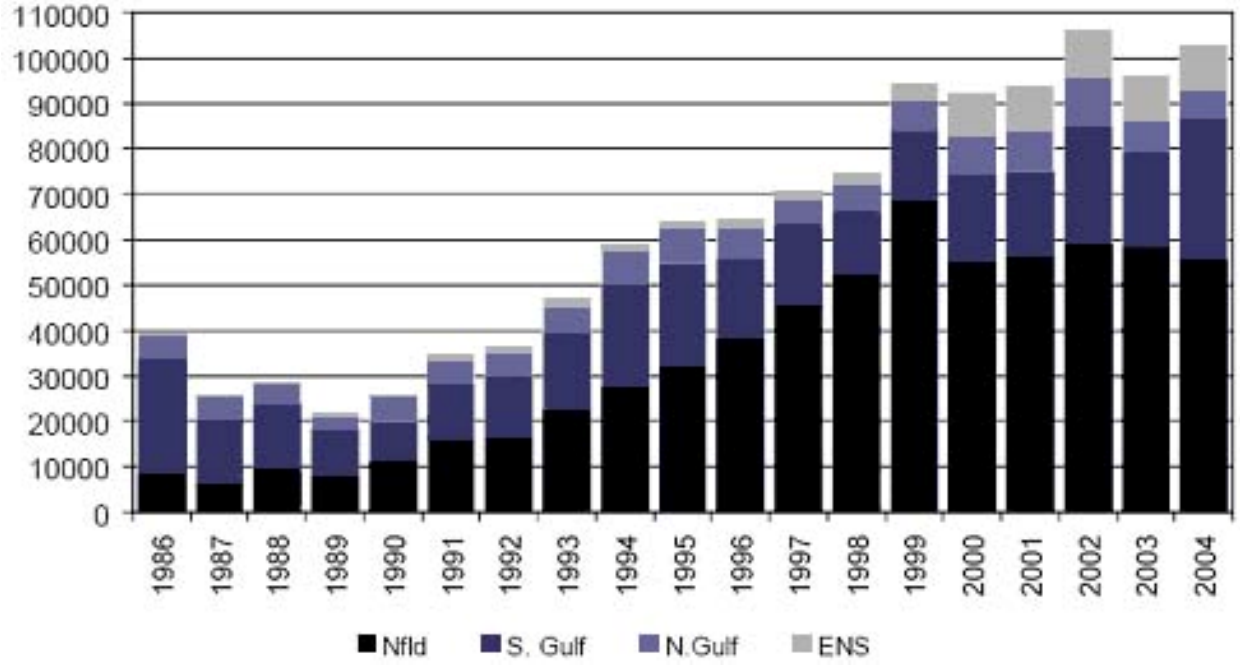
5. **The Committee recommends that the Minister of Fisheries and Oceans announce publicly how he intends to follow through on the stated commitment to prevent the use of trust agreements which undermine the spirit and intent of the owner-operator and fleet-separation policies. The Minister should also indicate what proposals he will make to facilitate licence transfers to a new generation of small-vessel fishermen.**

6. **The Committee recommends that the Minister of Fisheries and Oceans ensure that the Department report on a biannual basis on what steps have been, and are being, undertaken to implement Phase II of the Atlantic Fisheries Policy Review.**

APPENDIX 1: SELECTED STATISTICS ON THE SNOW CRAB FISHERY

FIGURE 1

Atlantic Snow Crab Landings
(in tonnes, by region, 1986-2004)

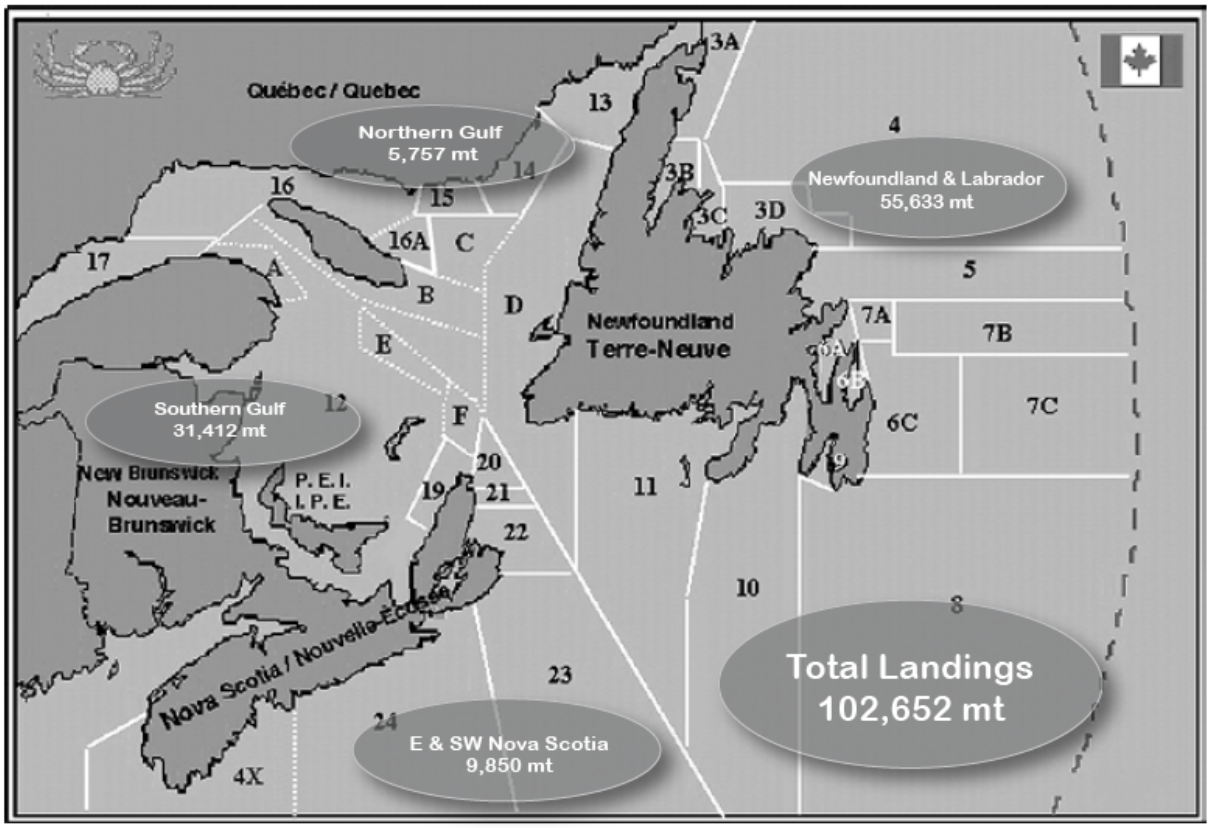


Note: The four regions are: Newfoundland, Southern Gulf, Northern Gulf, and Eastern Nova Scotia.

Source: FRCC, *A Strategic Conservation Framework for Atlantic Snow Crab*, 2005.

FIGURE 2

ATLANTIC SNOW CRAB LANDINGS 2004



Northern Gulf: Areas 12A, 12B, 12C, 13, 14, 15, 16, 17
Southern Gulf: Areas 12, 12E, 12F, 19
East and SW Nova Scotia: Areas 20, 21, 22, 23, 24
Newfoundland: Areas 3A, 3B, 3C, 3D, 4, 5, 6A, 6B, 6C, 7A, 7B, 8, 9, 10, 11

Note: In 2004, the number of licences (and crab traps) by region was as follows: 3,411 (755,900) in Newfoundland; 619 (41,878) in the Southern Gulf; 223 (15,395) in the Northern Gulf; and 231 (9,120) in Eastern and Southwestern Nova Scotia.

Source: FRCC, *A Strategic Conservation Framework for Atlantic Snow Crab*, 2005.

APPENDIX 2: WITNESSES

Tuesday, May 30, 2006

The Honourable Loyala Hearn, P.C., M.P., Minister of Fisheries and Oceans.

Fisheries and Oceans Canada:
Larry Murray, Deputy Minister;
David Bevan, Assistant Deputy Minister, Fisheries and Aquaculture Management.

Thursday, June 1, 2006
Fisheries Resource Conservation Council:
Jean Guy d'Entremont, Chair.

Area 19 Snow Crab Fisherman's Association:
Brian Adams, President.

Association des crabiers de la Baie, Association des crabiers acadiens, Association des crabiers gaspésiens, and Crabiers du nord-est:
Robert Haché, Spokesperson.

Fish, Food and Allied Workers Union:
John Boland, Staff Representative.

Tuesday, June 4, 2006
Fisheries and Oceans Canada:
David Bevan, Assistant Deputy Minister, Fisheries and Aquaculture Management;
Denis Rivard, Associate Director General, Ecosystem Science.