

November 7, 2024

House of Commons Standing Committee on Fisheries and Oceans
131 Queen Street, Sixth Floor
House of Commons
Ottawa Ontario K1A 0A6
Via Email: fopo@parl.gc.ca

Attn: Geneviève Dubois-Richard
Clerk of the Committee

Re : IMPACT OF THE REOPENING OF THE COD FISHERY IN NEWFOUNDLAND
AND LABRADOR AND QUEBEC

Dear Madame Clerk:

Enclosed, please find supplementary evidence related to the Committee's above noted study. I would be appreciative if you would forward copies of this presentation to Committee members and to the Parliamentary Library Research Branch.

During my opening remarks to the Committee on October 9, 2024, I posed several questions to the Committee that I hoped might stimulate further lines of inquiry. That approach did not appear to be effective. This supplementary testimony will offer written answers to those same questions. Further, I have followed the testimony of fellow witnesses who have appeared before the Committee whose testimony, in my opinion, deserves rebuttal. I am also noting certain lines of inquiry pursued by individual Committee members and I will offer evidence in relation to these interests. I also am supplying five proposed 'recommendations' to the committee for consideration in the drafting of its final report. It is my hope and belief that Committee members will find this evidence compelling and of value to its final report.

Thank you again for the opportunity to appear and offer evidence to the House of Commons Standing Committee on Fisheries and Oceans' study, "Impact of the Reopening of the Cod Fishery in Newfoundland and Labrador and Quebec".

Sincerely,



HONOURABLE GERRY BYRNE, MHA
District of Corner Brook
Minister

Enclosures

SUPPLEMENTARY EVIDENCE

October 9, 2024 appearance

**IMPACT OF THE REOPENING OF THE
COD FISHERY IN NEWFOUNDLAND
AND LABRADOR AND QUEBEC**

Hon. Gerry Byrne, PC, MHA

**Minister of Fisheries, Forestry and
Agriculture and Minister Responsible for the
Public Procurement Agency**

**Government of Newfoundland and
Labrador**

Proposed Recommendations for inclusion in the final report regarding the study “IMPACT OF THE REOPENING OF THE COD FISHERY IN NEWFOUNDLAND AND LABRADOR AND QUEBEC”

Recommendation One:

The 2025 Northern Cod 2J3KL Management Plan be re-established as a science-based fishery and that the commercial fishery descriptor be revoked.

Recommendation Two:

That Total Allowable Catch (TAC) for the 2025 science-based fishery be set at removal levels recommended by DFO Science in consultation with inshore stakeholders.

Recommendation Three

That Canada inform NAFO and NAFO Contracting Parties that 2J3KL has returned to moratorium status and that no commercial fishing activity will be permitted with the NAFO Regulatory Area.

Recommendation Four

That the Government of Canada commit to a robust science program related to 2J3KL Northern Cod including science-based investigations into the seal-cod predator-prey relationship as well factors affecting 2J3KL Northern Cod productivity and recruitment among other areas of focus.

Recommendation Five

That the Government of Canada state an allocation policy for Northern Cod that is clear, unambiguous and not subject to re-interpretation and would read, “All combined allocations of 2J3KL Northern Cod between one kilogram and 115,000mt will be allocated exclusively to inshore Newfoundland and Labrador harvesters and to indigenous organizations resident in Newfoundland and Labrador and all such allocations will be fished by inshore vessels from Newfoundland and Labrador and that any Northern Cod quota in excess of 115,000mt may be allocated to inshore and offshore harvesters and to indigenous organizations from Newfoundland and Labrador under a sharing regime to be determined.

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Tab 1 What is the likelihood that the Northwest Atlantic Fishery Organization (NAFO) successfully 'PRESSURED' Canada into opening the commercial fishery for Northern Cod in 2J3KL?

Pressure against Canada by NAFO members to open a commercial cod fishery in 2J3KL in 2024 is a certainty. Pressure was applied and it was successful. This conclusion is easy to establish not just by way of informed observation taken from experienced Canadian diplomats and negotiators to the NAFO process but by evidence taken directly from the public statements of the European Fisheries Commission following the September 23 to 27, 2024 NAFO Annual General Meetings held in Halifax, Nova Scotia. (see attached)

Another driving factor was clearly the federal government's political assessment that opening the fishery, even in complete disregard of science advice, would be a **'political victory'**. I refer to testimony already before the Committee as to this point.

The Pressure Principle

2J3KL Northern Cod is supposed to be a **'Canadian Managed Stock'**. It is a transboundary stock whose range is mostly within the coastal state's (Canada's) 200 mile limit but it does stretch out into the NAFO regulatory area stock's outer range of 3L. But, within the NAFO process, it is designated as a Canadian managed stock as opposed to one managed by the Commission. As a Canadian-managed stock, Canada is supposedly able to set both the conservation harvesting rules and the overall quota for Canada and for NAFO with NAFO then applying the quota keys to determine any NAFO contracting party shares.

Any state that pronounces that this stock is NOT a Canadian Managed Stock would commit a serious provocation of Canadian rights within NAFO and violation of Canadian sovereignty.

Yet, this infringement was made without any Canadian counter-protest. Immediately following the conclusion of the 46th Annual meeting of NAFO in 2024, the [Directorate-General for Maritime Affairs and Fisheries of the European Commission](#) brazenly announced to the world:

“On the basis of a joint EU-Canada proposal, NAFO adopted a measure on the fishery for ‘Northern cod’ (Divisions 2J, 3K and 3L of the ocean area covered by NAFO).

NAFO reopened the fishery and established a revised sharing arrangement. Since the previous provisions dated from 1991, it was fair and necessary to increase the EU share to reflect the current composition of the EU.”

[NAFO Annual Meeting 2024: Key Decisions on cod and red fish stocks - European Commission](#)

Apparently, NAFO reopened the commercial Northern Cod fishery, not Canada. The European Commission's communique is the evidence and forms part of this annex.

Given this situation, it is noteworthy to reflect on a controversial amendment drafted into the NAFO Convention in 2007.

Clause 10 of Article VI – ‘The Commission’ was invoked in this decision:

10. The Commission may adopt measures on matters set out in paragraphs 8 and 9 concerning an area under national jurisdiction of a Contracting Party, provided that the coastal State in question so requests and the measure receives its affirmative vote.

The inclusion of this clause was widely protested at the time by senior experts from Canada’s diplomatic and fisheries management community including former Deputy Ministers of DFO and Senior Executives engaged in International Policy at DFO. Clause 10 of Article VI was decried as a serious affront to Canadian sovereignty. They knew it would be a future “arm-twister” by NAFO against Canada and said so publicly.

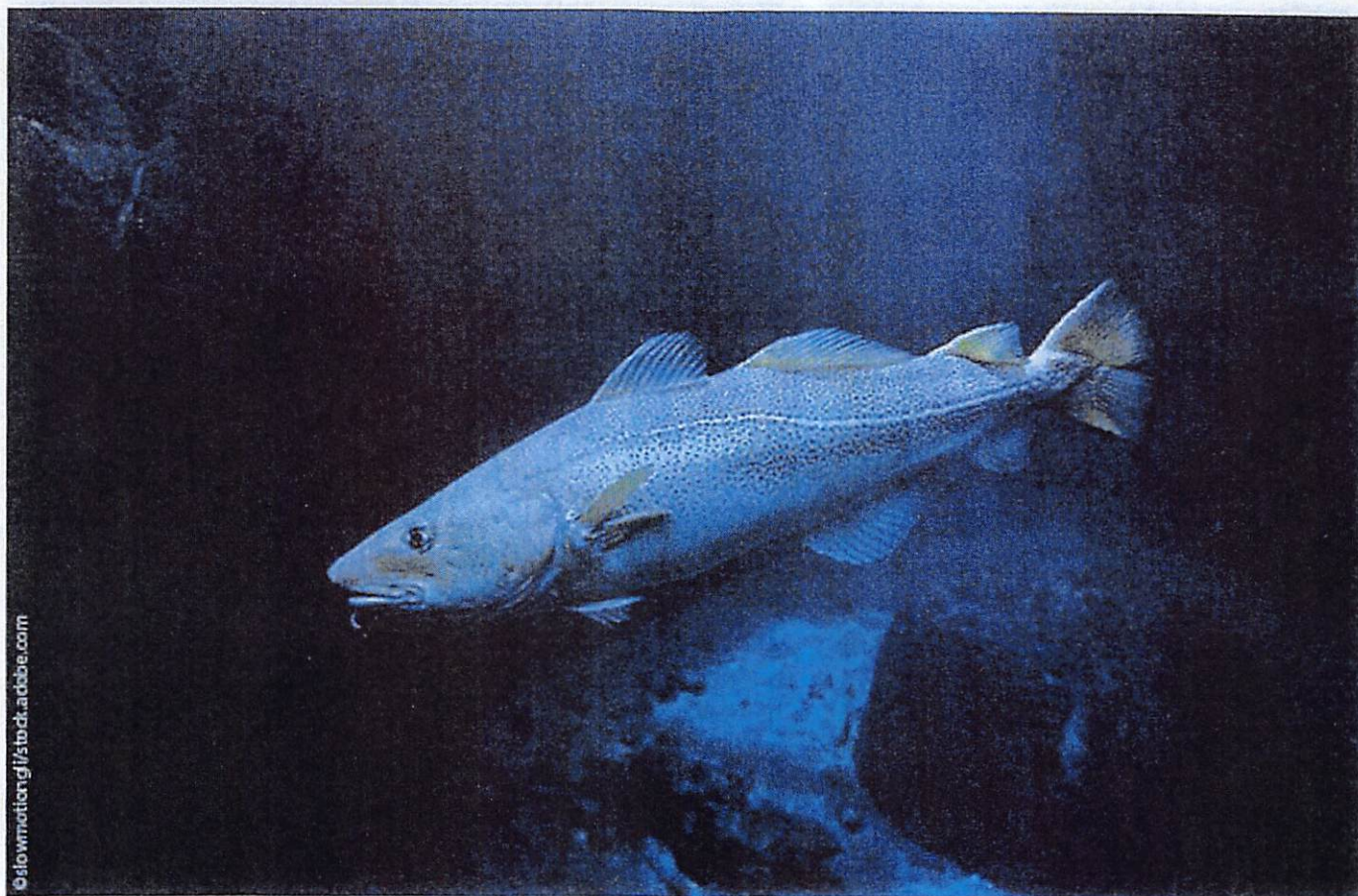
Members of the Committee may wish to call the Minister of the Department of Fisheries and Oceans to Committee or to recall senior officials of DFO to present and explain the details of this joint EU-Canada Proposal to reopen the Canadian-managed cod fishery in 2J3KL and how NAFO was able to re-open a Canadian Managed stock

Food, Farming, Fisheries

Oceans and fisheries

NEWS ANNOUNCEMENT | 1 October 2024 | Directorate-General for Maritime Affairs and Fisheries | 3 min read

NAFO Annual Meeting 2024: Key Decisions on cod and red fish stocks



Atlantic cod (*gadus morhua*)

The EU took a leading role in the 46th Annual Meeting of the Northwest Atlantic Fisheries Organization (NAFO) which took place in Halifax, Nova Scotia, Canada, from 23 to 27 September 2024.

The focus of the meeting was the sustainable management of key fish stocks in the Northwest Atlantic, including those of cod and Greenland halibut, which are of particular importance to the European Union.

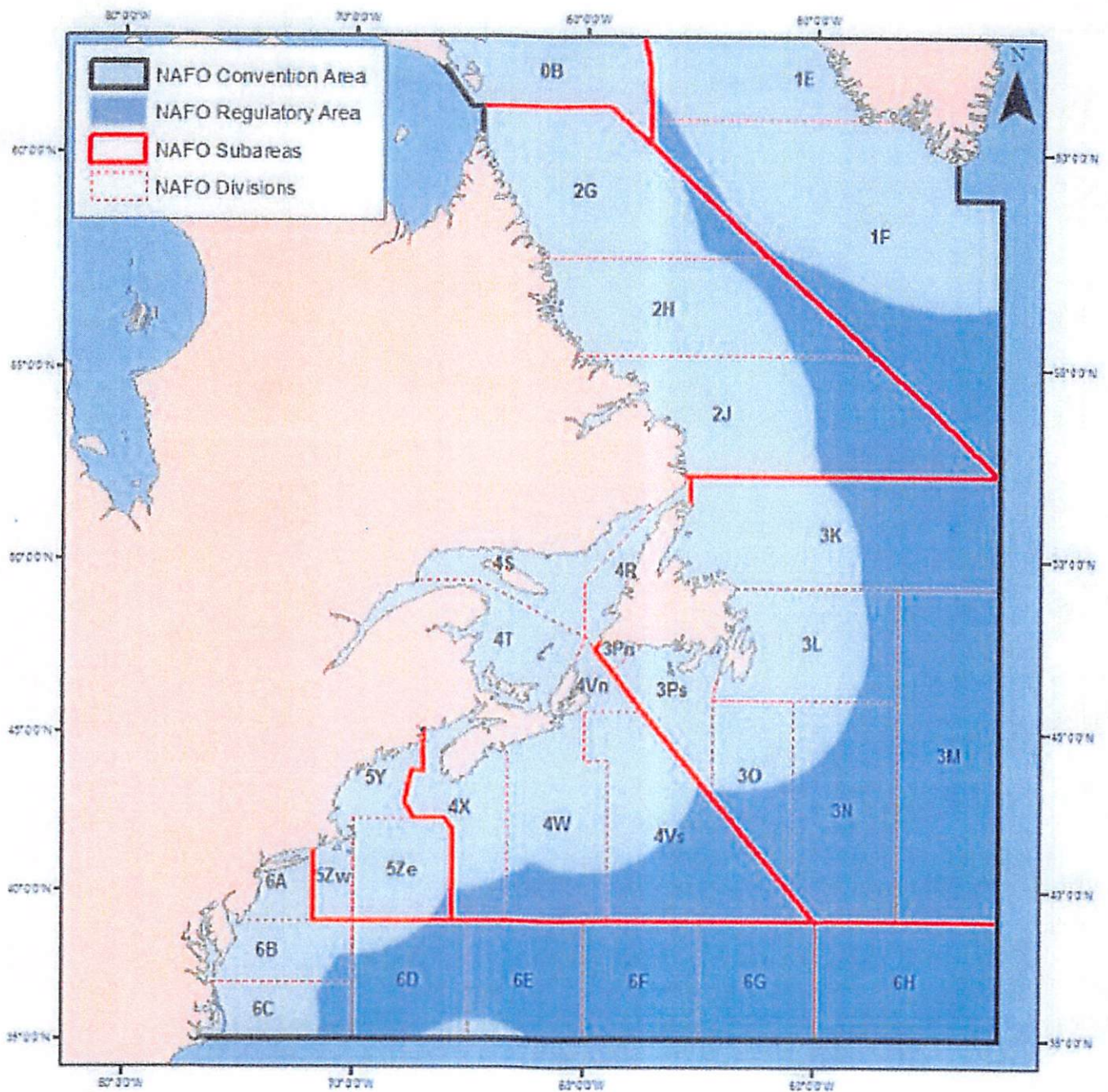
Main decisions on several key stocks

Cod

On the basis of a joint EU-Canada proposal, NAFO adopted a measure on the fishery for 'Northern cod' (Divisions 2J, 3K and 3L of the ocean area covered by NAFO).

NAFO reopened the fishery and established a revised sharing arrangement. Since the previous provisions dated from 1991, it was fair and necessary to increase the EU share to reflect the current composition of the EU.

NAFO also increased the fishing opportunities for 3M cod, with the continuation of the existing technical measures for the protection of the cod stock.



NAFO Regulatory Area Map
©Northwest Atlantic Fisheries Organization

The NAFO decision rewards the sector for its efforts by increasing fishing opportunities while exercising caution to protect the stock.

Greenland halibut

It was agreed to adopt as a new methodology for the management of the stock, and to set fishing opportunities according to the new Harvest Control Rule.


Redfish

For redfish in Divisions 3L and 3N of the ocean area under NAFO, the EU supported an approach that takes due consideration of scientific uncertainties regarding the status of the stock. This approach protects the stock by reducing catches but does not entail a closure of the fisheries, which would have also had important repercussions on data collection.

Control measures for Irminger Sea redfish

NAFO voted to adopt control measures to support the sustainable management of the Irminger Sea redfish. These measures are aimed at ensuring that contracting parties do not contribute to unsustainable fishing in case of a moratorium. Parties will have to ensure that their vessels do not participate in transshipments and that any landings and transshipments of catches of this stock will be denied in their ports, unless in case of distress. The measure mirrors [similar measures](#)  already adopted in the North East Atlantic Fisheries Commission.

Background

The Northwest Atlantic Fisheries Organisation (NAFO) is the [regional fisheries management organisation \(RFMO\)](#) , with the competence to regulate the fishing activities in the high seas of the Northwest Atlantic outside Canada's 200-mile exclusive economic zone, excluding the fisheries on tuna and tuna-like species, which are managed by another RFMO.

It is an intergovernmental organisation gathering the countries bordering the Northwest Atlantic and the countries having an interest in the fisheries in the area. The objective of NAFO is 'to ensure long term conservation and sustainable use of the fishery resources in the Convention Area and, in so doing, to safeguard the marine ecosystems in which these resources are found' (*Convention on Cooperation in the Northwest Atlantic Fisheries*).

The EU is a member of NAFO since its beginning in 1979. NAFO comprises of 13 contracting parties, the other members being Canada, Cuba, Denmark in respect of Faroe Islands and Greenland, France in respect of St. Pierre et Miquelon, Iceland, Japan, Norway, the Republic of Korea, the Russian Federation, Ukraine, the United Kingdom and the United States of America.

RFMOs

RFMOs make sure that fishing activities do not cause significant adverse impact on biodiversity and marine ecosystems.

Countries with fishing interests in a given geographical area form RFMOs, which are also open to coastal states. Those RFMOs can also be accessed by countries whose fleets have been traditionally fishing in these areas or are interested in participating in these fisheries.

RFMOs have the power to adopt a variety of rules to manage the fishery. They use management tools like catch limits (quota), technical measures, spatial and/or temporal restrictions, and monitoring, control and surveillance activities to ensure

compliance with the rules. RFMOs make decisions based on scientific advice provided by their respective scientific bodies and regularly review compliance by their members.

Today, RFMOs cover the majority of the world's seas. They can broadly be divided into RFMOs focussing only on the management of highly migratory fish stocks, notably tuna and tuna-like species ('tuna-RFMOs') and RFMOs that manage other fisheries resources (i.e. pelagic or demersal) in a more specific area.

The EU, represented by the European Commission, plays an active role in 5 tuna-RFMOs and 13 non-tuna RFMOs. This makes the EU one of the most prominent actors in RFMOs worldwide.

More information

[Regional fisheries management organisations \(RFMOs\)](#) 

Details

Publication date

1 October 2024

Author

[Directorate-General for Maritime Affairs and Fisheries](#)

TAB 2 Did Canada Have NO CHOICE but to declare the 2024 2J3KL Northern Cod fishery a COMMERCIAL FISHERY?

Any notion that the Government of Canada had ‘no choice’ but to declare the Northern Cod quota of 19,000mt a ‘commercial fishery’ is a fraud. It’s patently ridiculous. It implies that there is an existing legal framework or a common, international understanding that forces such an interpretation. This would be a fiction. No such framework or common understanding exists. It is a matter of interpretation that could easily have been defeated at the September meeting of NAFO if there was a will to do so. I base this on the assessment of experts who have attended the NAFO table representing Canada’s interests in the past and on my own experience and assessment of the facts.

2J3KL Northern Cod is a transboundary stock but is not managed by the Northwest Atlantic Fisheries Organization (NAFO). It is managed by Canada. Participation in a fishery by NAFO contracting parties depends on a reasonable consensus to what is a commercial fishery (notwithstanding the objection clause). It hinges on Canada’s leadership in framing this question. That leadership was clearly absent. Based on evidence in Tab 1 above, Canada’s efforts appear to have promoted a ‘commercial’ fishery designation with all of its clear risk to Canada’s interests.

Canada had an opportunity to deploy reasonable evidence, reasonable argument and reasonable diplomacy to establish awareness among NAFO members that any stock that had been under moratorium for 32 years, had been balancing between commercial extinction and the critical zone for 30 years, was recently elevated to the cautious zone only by a change in metrics and not by a change in productivity and science was advising that the stock could dip back into the critical zone in any given year in any future assessment. Canada had the evidence that 2J3KL Northern Cod was not yet a commercial fishery. It failed. It didn’t even try.

This is where strong international engagement can win the day. Canada did not take to the field. When Canada doesn’t try, Canada will always lose. Clearly, Canada did not even try.

Why? Why didn’t Canada try to win what was, in my experience and assessment, an otherwise completely winnable argument that the stock had not yet reached a size for a commercial fishery? The answer to that comes from the disclosures made available in the Fish Food and Allied Workers (FFAW) injunction application against the federal fisheries minister’s Northern Cod management plan. The federal government wanted a “political win” and that political win required a commercial fishery. Distant water fishing fleets, however, were the ones receiving that win.

But if none of the above is convincing that Canada could have resisted any NAFO effort to force the declaration of a commercial fishery, consider this:

At its peak, the total annual removals of 2J3KL Northern Cod were 810,000mt in 1968. At 19,000mt in 2024, that is less than 2.4% of what the fishery used to be at 810,000mt.

Using the discussion point coming out of the 1979 Corner Brook Northern Cod Conference (referenced by witnesses to this study from the Offshore), a suggestion was made that annual Northern Cod removals of 350,000mt could be reasonable for a commercial fishery. At 19,000mt in 2024, that is just 5.4 % of what a commercial fishery should look like.

Using an annual harvest level of 200,000mt of Northern Cod, a measure taken from a highly conservative, historically examination of 2J3KL's productivity potential for Northern Cod, what is the impact of the current access? At 19,000mt in 2024, that is just 9.5% of the normal commercial activity at 200,000mt.

A 90.5% to 97.6% reduction in access is NOT the foundation for a commercial fishery.

To illustrate the point, ask other industries to walk a similar path to that of Newfoundland and Labrador's Northern Cod fish harvesters.

- If the Canadian dairy industry was reduced to a 90.5% cut in production quota, would dairy farming be considered a 'commercially viable' industry? The answer is **No**.
- If Canadian paper mills were reduced to just 9.5% of its normal wood fibre supply, is that industry a viable commercial business any more? **No**.
- If a fishery were operating with a 97.6% or a 94.6% or even a 90.5% cut in quota, is it really a commercial fishery? **No!**

Political hubris and diplomatic inaction defeated Canada's international fisheries engagement, opportunity and responsibility. At 19,000mt, compared to 810,000mt or 350,000mt or even 200,000mt is not a commercial fishery.

Tab 3 What is the historical record describing the longstanding Government of Canada allocation policy of the first 115,000 mt of harvestable Northern Cod quota being awarded exclusively to the Inshore (<65' fleet) in 2J3KL?

The historical record that cements this allocation policy for Northern Cod in place is well established and confirmed.

My correspondence to federal fisheries minister Dianne Leboutillier of August 1, 2024 recounts this history in some detail. I offer it to the Committee for your examination.



August 1, 2024

The Honourable Dianne Lebouthillier
Minister of Fisheries and Oceans
200 Kent Street, 15th Floor, Station 15N100
Ottawa, ON K1A 0E6

Dear Minister Lebouthillier:

As the recently appointed Minister of Fisheries, Forestry and Agriculture for the government and for the people of Newfoundland and Labrador, I would like to introduce myself to you and to say that I look forward to our positive collaboration on fisheries issues and on developing solutions to create a stronger Canadian federation and a more prosperous Newfoundland and Labrador.

As you may be aware, I had the privilege of serving as the Member of Parliament for Humber St. Barbe-Baie Verte for a near 20 years and during my time in Ottawa I was particularly proud to have served in the federal cabinet of The Right Honourable Jean Chrétien. I held several senior parliamentary roles during my career, served extensively on the Standing Committee on Fisheries and Oceans and gained a deep knowledge of our nation's fisheries and its rich history through this service. Before my parliamentary roles, I served as senior advisor to a former minister of Fisheries and Oceans and completed studies in this very field. More recently, I have served for eight consecutive years in the provincial cabinet of Newfoundland and Labrador including as the Minister of Fisheries and Land Resources from 2017 to 2020. I am very pleased to have the privilege to serve again in this capacity. I am available to you at any time to provide advice, guidance and context to any matter affecting our oceans and our ocean resources.

While it is regrettable that our opening interaction is a matter of disagreement, I am of the belief that positive outcomes can come from dialogue and from being open-minded to solutions.

As Minister of Fisheries and Oceans, you have an unfettered right under the federal Fisheries Act to make decisions on the prosecution of all sea coast and inland fisheries in Canada including all allocation decisions. With such authority comes great responsibility. That authority must be exercised with respect to those who live the life of our oceans; namely with our adjacent fisheries communities and our adjacent fish harvesters. Responsibly must be respected or both the resource will suffer and the federation of Canada will suffer.

With that said, there remains an issue that must be resolved once and for all; Northern cod. Northern cod is representative of other issues of key importance to Newfoundland and Labrador but arguably none is more visceral, demonstrative or essential than Northern Cod. After 32 years of moratorium, if Ottawa can not get Northern Cod right, there is little hope for the success of any other fishery or for the resolution of any other issue from a conservation point of view and from a perspective that is respectful of our history and our attachment to our fishery.

As federal Minister you have taken a decision on Northern cod which is contrary to decades of established federal public policy. You have opened a commercial fishery at a time when stocks remain vulnerable to both ecological pressures (seals and climate change primarily) and to less predictable fishing pressure (factory trawlers, both foreign and domestic, and their highly adaptable killing power). You have made a serious mistake that must be corrected.

Northern cod should remain under ongoing evaluation through sentinel fishery into the foreseeable future. The longstanding policy that the first 115,000mt quota of Northern cod must go exclusively to the inshore must be preserved.

I understand that there have been some efforts to create revisionist history regarding this longstanding policy that both Canada and Newfoundland and Labrador have shared. There is no place for advancing 'alternative facts' in this manner as some have attempted to do and that have obviously persuaded you into believing to be true. Allow me to supply you with the unvarnished truth of this matter.

I begin by citing the allocation policy for Northern Cod that your government articulated as recently as June, 2021.

"The 2021 Management approach also includes a decision to allocate the first 115,000t of Northern cod to the inshore sector and Indigenous groups. When a total allowable catch (TAC) for Northern (2J3KL) cod is established, the first 115,000 t of directed Canadian access will be allocated to the inshore sector and Indigenous groups in Newfoundland and Labrador. At a TAC level less than or equal to 115,000 t, directed fishing activity will be limited to inshore harvesters and Indigenous groups in Newfoundland and Labrador. All other fleets, where no quota is allocated, will be limited to bycatch only. The Integrated Fisheries Management Plan will be updated to reflect this decision."

[2021 2J3KL Northern Cod stewardship fishery management approach \(dfo-mpo.gc.ca\)](#)

More locally, a former provincial Fisheries Minister Vaughn Granter had this to say on the floor of the House of Assembly in June of 2015:

"So, indeed. I am pleased to stand today to support this private members resolution calling on the federal Minister of Fisheries and Oceans...to

reaffirm the federal policy of returning the first 115,000 metric tonnes of northern cod quota to the adjacent inshore harvesters of Newfoundland and Labrador...I am glad that all Members support that."

This should give you clear evidence of the longstanding policy held by the government of Newfoundland and Labrador and by our Legislature.

Further, I can say with some pride that I happened to be in the room when the Department of Fisheries and Oceans' (DFO) Assistant Deputy Minister (ADM) for Resource Management, David Beavan, under sworn testimony informed the Standing Committee on Fisheries and Oceans in 2008:

"That policy was put in place as we made significant decisions, for example, on 2J3KL cod. The first 115,000 tonnes go to the inshore and the remainder would be shared between the inshore and the offshore."

As a direct witness to much of this history, I can also inform you and others that the policy of the Harper Conservative federal government of 2008 was a reiteration of the Mifflin and Tobin policies of the 1990s following the moratorium. My view to this public policy context was both as a member of the House of Commons and a minister in the federal cabinet.

Within the text, "History and Management of the Fishery for Northern Cod in NAFO Divisions 2J, 3K and 3L" an historical context objectively captured 50 years of public policy on Northern cod allocation policy as articulated in the 1979 Conference on Northern Cod Allocations held in my home town of Corner Brook, Newfoundland and Labrador. The position of then federal DFO minister, Progressive Conservative James McGrath, who was also member for St. John's East, Parsons and Lear write, quoting the federal minister within,:

"At the Northern Cod Seminar in August 1979 Minister McGrath reiterated that the Department recognized that the northern cod were the "staff of life" to the people of Northeast Newfoundland and Labrador. He stated that the policy of the government was that the inshore fishermen had the first call on this resource: 'For these people, for these people working in processing plants, for their families and the communities in which they live, the right and the ability to reap this harvest is indispensable, because they have a special, a very special relationship to these stocks'."

Further to this remarkably bi-partisan approach, former Fisheries Minister Romeo LeBlanc of New Brunswick took a similar tact a short time earlier in 1977, the year of the 200 mile EEC extension, when he pronounced to a gathering of provincial leaders at a special meeting of the St. John's Rotary Club:

"Who gets first crack at these fish? Here I must say...that I have a clear bias for the inshore fisherman. Not because of some romantic regard, not because of his picture on the calendars, but because he cannot travel far after fish, because he depends on fishing for his income, because his community in turn depends on his fishery being protected."

As you can now see, federal minister after federal minister, provincial government after provincial government have been very clear; the inshore is to be the first and sole beneficiary of the first 115,000mt of Northern cod and that any allocations after that measure should be subject to further discussion. One caveat is provided; only after reaching that quota threshold or if the inshore is unable to harvest its full 115,000mt, a discussion should occur on Newfoundland and Labrador offshore participation and that this qualification was based on the overarching objective of preventing foreign, distant water fishing fleet arrival. Your current decision fails history, it fails the resource and it fails the truth.

The foundations of the Northern Cod allocation policy are well founded, are transparently rooted in both 20th and 21st century fisheries management priorities and are well described in public policy. With that said, I am open to continuing to work with all sectors of our magnificent fishery to advance principled policy to greater prosperity. I will raise this issue with priority at both our upcoming Eastern Conference of Fisheries and Aquaculture Ministers and with the Canadian Conference of Fisheries and Aquaculture Ministers in Charlottetown where we can all collectively discuss and collaborate.

To restate the position of the government of Newfoundland and Labrador, the Northern cod stock remains vulnerable despite indications of an improving spawning and overall biomass, commercialization of the resource is far too early, inshore harvesters remain the intended sole beneficiary of the first 115,000t and the offshore, both foreign and domestic, will not be permitted into the harvest regime until after the 115,000mt threshold is met.

This was, is and shall remain the policy of the Government of Newfoundland and Labrador.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a horizontal line extending to the right.

HONOURABLE GERRY BYRNE PC, MHA
District of Corner Brook
Minister

TAB 4 Is there any factual weight to an allocation policy of a Two Thirds / One Third Inshore Offshore quota split enacted by any federal government at any time?

In my 29 years representing Newfoundland and Labrador in the House of Commons and in the House of Assembly, the first time I have ever heard of this reference was listening to representatives of Ocean Choice International, an offshore Enterprise Allocation (EA) holder after the Committee announced this study. Reference is now being made to an allocation policy for Northern Cod having been established at the '1979 Corner Brook Northern Cod Conference'.

This is pure fiction.

The 1979 Corner Brook Conference was held on August 28-30, 1979 to bring stakeholders together to talk primarily about the harvesting potential of the Northern Cod following Canada's extension of its Exclusive Economic Zone (EEZ) to 200 miles (the 200mile limit).

It was here that elected leaders, including the federal minister of DFO continued to pronounce the primacy of the inshore (see Tab 3).

It is my opinion, that both Sylvie LaPointe of the Atlantic Groundfish Council and Carey Bonnell of Ocean Choice International gave misleading evidence to the Committee. In my opinion, they misled by commission and omission and particular attention should be drawn to this behavior by the Committee.

Sylvie LaPointe stated within her privileged testimony to this Committee that there has never been an historic policy statement or footprint that refers to a 115,000 mt inshore quota exclusivity by the federal government in policy or in law. In her own words:

"I can't speak about NAFO commitments per se in this regard. However, as my colleague Mr. Bonnell noted, there's never been a policy or legislative commitment to give exclusive access to the first 115,000 tonnes to inshore. Priority access was outlined, but not exclusivity."

Sylvie LaPointe, October 21, 2024 FOPO

While Sylvie LaPointe currently serves as President of the Atlantic Groundfish Council, a role she has held since 2023, I will remind Committee Members that until 2021, Ms. LaPointe served as Assistant Deputy Minister of Fisheries Resources and Harbours at the Department of Fisheries and Oceans.

I now cite the Department of Fisheries and Oceans 2J3KL Northern Cod Management plan from 2021 which Sylvie LaPointe would have had a central hand in early drafting:

“The 2021 Management approach also includes a decision to allocate the first 115,000t of Northern cod to the inshore sector and Indigenous groups. When a total allowable catch (TAC) for Northern (2J3KL) cod is established, the first 115,000 t of directed Canadian access will be allocated to the inshore sector and Indigenous groups in Newfoundland and Labrador. At a TAC level less than or equal to 115,000 t, directed fishing activity will be limited to inshore harvesters and Indigenous groups in Newfoundland and Labrador. All other fleets, where no quota is allocated, will be limited to bycatch only. The Integrated Fisheries Management Plan will be updated to reflect this decision.” (emphasis mine)

[2021 2J3KL Northern Cod stewardship fishery management approach \(dfo-mpo.gc.ca\)](https://www.dfo-mpo.gc.ca/fisheries-fiseries/management-gestion/2021-2J3KL-northern-cod-stewardship-fishery-management-approach-eng.aspx)

Committee members may be surprised that, in preparation of her sworn testimony to the Committee, Sylvie LaPointe who is now President of the Atlantic Groundfish Association and in representing the interests of the Offshore, **did not re-acquaint herself** with elements of her own work. Before leaving DFO as ADM Fisheries and Harbours to go as Vice President to the Canada Food Inspection Agency in 2021, it is likely that Ms. LaPointe was fully aware of the inclusion of the inshore exclusivity for the first 115,000mt of Northern Cod in the 2021 plan. This is especially true since she was the ADM who is responsible for assuring the integrity of the department’s Conservation Harvesting Plans – including this very plan presumably. There is evidence of an integrity question, however, and that much is certain.

Nor does it appear that the former DFO Fisheries ADM re-acquainted herself with the statements made by her predecessor, David Bevan, in his sworn testimony 15 years ago to the House of Commons Standing Committee on Fisheries and Oceans said, in 2008,

“That policy was put in place as we made significant decisions, for example, on 2J3KL cod. The first 115,000 tonnes go to the inshore and the remainder would be shared between the inshore and the offshore.”

DFO ADM David Bevan appearing before FOPO, 2008

I find there to be little space for a suggestion of ‘ambiguity’ about what is contained in the 2021 management plan or what is stated as fact by former DFO ADM David Bevan’s testimony 15 years earlier. I find little opportunity as to how this could be interpreted to mean anything other than an inshore ‘exclusivity’ policy for the first 115,000mt of Northern Cod. Further historical details, as cited in my letter to the federal minister, add additional weight in establishing certainty of this fact for the benefit of the Committee.

The statements made by the former ADM of Fisheries Management to the Committee - now working for a particular interest within the fishery that she once regulated and had significant influence over - are concerning.

Finally, I would like to deal with Ms. LaPointe's assertion that I misled the Committee.

The President of Ocean Choice International, Blaine Sullivan said on public radio:

"Well certainly, I mean, if you look historically its completely unfair. I mean, totally agree with the priorities of the inshore and the first 115,000 tonnes and the priority is well defined."

Blaine Sullivan, September 5, 2024 CBC's 'The Broadcast'

How any reasonable person that was of reasonable integrity would suggest this is not an endorsement of the inshore priorities is beyond me. As Newfoundland and Labrador's Fisheries Minister, I can assert that to make such a statement out loud, given the public understanding of the inshore priorities are to enshrine inshore exclusivity of the first 115,000mt of Northern Cod quota, as to nor endorse the inshore's position is not credible. The priorities of the inshore are that the first 115,000mt are exclusively for the inshore.

It was suggested that there is a solid, two thirds / one third dimension of some sort to all of this. An exploration of Mr. Bonnell's testimony refers. This is beyond the pale.

Concerning the comments of **Carey Bonnell** while before the Committee, Mr. Bonnell of OCI stated in his privileged testimony to the Committee on October 21, 2024:

"The long-standing government allocation policy is a commitment to priority for the inshore, not exclusivity. Key elements of that policy were adopted in 1979 by DFO at the Corner Brook conference, which defined priority to be two-thirds inshore and one-third offshore."

I find no evidence to support this. It is mis-information. I urge extreme caution by the Committee in considering the veracity of Mr. Bonnell's statement and in calculating its weight.

First off, the 1979 Corner Brook Northern Cod Conference referred to by Mr. Bonnell made no such pronouncement. Several weeks following the conference, however, a "**DISCUSSION PAPER**" was produced by the Department of Fisheries and Oceans. This Discussion Paper was entitled "**Toward a Policy for the Utilization of Northern Cod**" and offered only as a discussion point for that point in time; that two thirds of the Northern Cod quota might be assigned to the inshore and, presumably, one third to the offshore. This was a point of discussion - not policy - and it is completely fictional to suggest otherwise.

The use of the word '**TOWARD**' in the discussion paper's title gives further evidence to this effect. The word 'toward' in this case means that a journey is underway but that the destination is far from known. Mr. Bonnell would appear to have the Committee believe that this was a pronouncement of certainty. I am certain the committee is smarter than that.

In 1980, the year after the conference, the Canadian inshore quota was 115,000mt (the relevance of that number is likely not lost on anyone), the Canadian offshore quota was 45,000mt and the foreign quota was 20,000mt.

The question before the Committee is whether Mr. Bonnell's testimony suggesting that a "Discussion Paper" drafted at a time when the quota of Northern Cod was already far in excess of 115,000mt that never appeared in the public record again gives strength to a notion of a two thirds / one third split policy is to be deemed relevant. It definitely does not. Given the serious contextual omission by Mr. Bonnell, Committee Members may want to weigh his entire testimony accordingly.

Clearly, there is evidence that the 115,000mt inshore exclusivity policy is deliberate and well articulated. Clearly, there is NO solid evidence of a two thirds / one third policy prior to the arrival of the 115,000mt quota threshold other than in fiction. Deploying a discussion paper, drafted at a point in time when the quota was already 65,000mt above the 115,000mt threshold, never to be spoken of again and noting that, if acted upon, would have resulted in a slight increase in the inshore share is...desperation by the offshore.

Please consider both Ms. LaPointe's and Mr. Bonnell's arguments defeated.

TOWARD A POLICY FOR THE UTILIZATION OF NORTHERN COD

A DISCUSSION PAPER

DEPARTMENT OF FISHERIES AND OCEANS
GOVERNMENT OF CANADA

SEPTEMBER 28, 1979

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C3

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TAB 5 What has been the longstanding position of the Government of Newfoundland and Labrador on the inshore offshore allocation split and on the entry of factory Freezer Trawlers into the Northern Cod fishery?

The offshore has a place in the 2J3KL fishery after the Canadian quota rises to be in excess of 115,000mt. The FFAW agrees with this, the inshore council agrees with this, federal governments have agreed with this, everyone is satisfied to agree with this except the offshore. But the position of Newfoundland and Labrador goes further. So fearful are we of the presence of foreign factory freezer trawlers - the instrument of such destruction to this iconic resource in the past – we feel their presence must be controlled and strategies put in place to ensure this. To help control this presence, we actively reserve the right of the offshore to be able to fish any uncaught inshore Canadian quota should that be required on a spot basis.

Why would we maintain this position? Because we have no choice. Because under NAFO rules and policy, uncaught fisheries resources are subject to reallocation to other contracting parties. **Use it or lose it.**

In the event of a situation such as a labour disruption, natural disaster or market disturbance, we must prevent the use of information about an uncaught Canadian quota being weaponized by NAFO members at future annual meetings and foreign bottoms from foreign states getting additional access.

The position of the Government of Newfoundland and Labrador was, is and will remain:

The first 115,000mt of Northern Cod is exclusively the domain of the inshore. Should disruption occur that causes uncertainty that Canadian quota could be left in the water and making it a target of reallocation to other NAFO contracting parties, the CHP should be flexible in those circumstances to allow offshore vessels into the fishery below 115,000mt on a spot basis only.

TAB 6 Is there merit to an argument that, without the deployment of Factory Freezer Trawlers (the Offshore Fleet), two Labrador indigenous communities, the Nunatsiavut Government and the Innu Nation that received indigenous allocations in 2024 of 600mt respectively, along with a Special Allocation of 600mt provided to a Labrador community organization, Nunatukavut Community Council, would not be able to receive and to benefit from the Northern Cod resource or to fish these allocations?

Ottawa rightly awarded three community based allocations to Labrador interests; two indigenous quotas to the Nunatsiavut Government and the Innu Nation respectively and a special allocation (rather than an indigenous allocation) to the NCC. I make no comment on the difference between indigenous allocations and special allocations.

Parliamentary Secretary Yvonne Jones, who joined the Committee for the October 21 meeting, made what I referred to as a 'strawman argument' about these allocations. The Member conflated an argument to suggest that failure to support offshore Enterprise Allocation holders – the offshore - was a failure to support Labrador communities. The implication in my opinion was quite clear. It was also disingenuous.

For the benefit of the Committee, it should be said that neither the indigenous communities nor the NCC community group are restricted to using offshore platforms to catch their fish. The implication being made by MP Jones, as I perceived it, was that if the offshore were barred from fishing this community cod, the fish would have to remain in the water; it would 'disappear' from them.

I was recently informed that the Nunatsiavut Government contracted a Newfoundland based inshore harvester to catch Nunatsiavut's cod and that their cod was landed in Newfoundland. Nunatsiavut benefited from a strong financial return in the process. The Committee may want to confirm these details with DFO officials by asking which entities are fishing these three community allocations and where these allocations they are being landed.

Fish don't disappear if they are fished by the inshore, The opposite is true.

TAB 7 What are some of the inherent conservation risks of foreign, distant water fleets entering the fishery under the current NAFO Convention and its system of voluntary rule?

The conservation ethic of foreign, distant water fishing fleets is poor. History proves this.

The inspection regime of NAFO is weak. The enforcement regime of NAFO is weak. The prosecution regime is weak. The conservation ethic of several NAFO members is weak.

Once allowed into the 2j3KL fishery, these unscrupulous operators have cover to prosecute the fishery in a cloak of virtual darkness. Breaking the rules is part of their business plan.

Further, the objection procedure within the NAFO regime is part of this plan. It is ripe for abuse by foreign participants. Here is the specific reference within the NAFO Convention:

Article XIV – Implementation of Commission Decisions

2. Where any Contracting Party presents an objection to a measure by delivering it to the Executive Secretary within sixty days of the date of transmittal specified pursuant to subparagraph 1(a), any other Contracting Party may similarly present an objection prior to the expiration of an additional twenty day period, or within fifteen days after the date of transmittal specified in the notification to the Contracting Parties of any objection presented within that additional twenty day period, whichever shall be later. The measure shall then become binding on each Contracting Party, except any that has presented an objection. If, however, at the end of such extended period or periods, objections have been presented and maintained by a majority of Contracting Parties, the measure shall not become binding, unless any or all of the Contracting Parties nevertheless agree as among themselves to be bound by it on an agreed date.

Clause 2 of Article XIV of the NAFO Convention grants a means for any Contracting Party (NAFO member) to 'Object' to any decision of the organization. The Article goes on to establish the process and the rights of the objecting Party. These 'rights' include the right to set their own quota and to fish that quota as it sees fit.

It is NAFO's '**Trojan Horse**' clause that allows foreign overfishing through the front door while individual vessels commit foreign overfishing violations through the backdoor. In short, the rules of NAFO allow a simple scenario to unfold: **'Don't like a decision? Object and set your own rules and quota.'**

Once the foreign vessels are allowed in, they have capacity to do as they please. That is the risk that Canada has taken and no one will ever truly understand why except maybe the Minister herself.

TAB 8 Are there other Atlantic fisheries that demonstrate that the Department of Fisheries and Oceans has failed to understanding its past management mistakes and to learn better conservation management approaches for Atlantic fisheries in the future?

Unit 1 Redfish!

Unit 1 Redfish in the Gulf of St Lawrence went into moratorium in 1995. Like Northern Cod, the causes were similar.

Too many demands on too few fish;

Too much capacity out of balance with the resource;

Too much politics defeating too little science;

Too little action taken far too late.

In the 30 years of Unit 1 redfish moratorium, the over-capacity was put into check. All over Atlantic Canada and Quebec, harvesting licenses were retired, plants closed and communities attempted to adjust.

The slow, painful but patient wait for stock rebuilding started. Fishermen cooperated with scientists to conduct stock evaluations, gear technology trials were conducted to reduce harmful bycatch, optimal fishing technology was evaluated in wait for the day to come that reopening could occur.

All of this was done exclusively by the Inshore. The Offshore went on to other opportunities elsewhere. Now that the hard work is done, they want back in.

After 30 years of waiting, when the Spawning Stock Biomass had risen to a level that seemed unprecedented for the stock, Ottawa:

Increased the experimental science quota from 4,500mt to 60,000mt in one year which is an amount equivalent to the quota allocated just before the 1995 collapse;

It awarded allocations to entities that had long exited the fishery;

It promised taxpayers money to get more offshore boats back into the fishery and to build more plants all over the region.

Instead of nurturing the harvesting and processing capacity that had 'right-sized' to the resource, Ottawa said 'Let's do it all over again'.

It is the greatest, unspoken environmental policy travesty by Canada in the 21st century. The one that goes, "the mistakes of the 20th century will be repeated. We have learned nothing."

Good afternoon distinguished members. I would like to acknowledge with appreciation my co-panelists appearing today.

It is a sincere pleasure for me to return to this table. This time, however, it will be at the other end of the committee room. As some of you may know I had the privilege of serving on the House of Commons Standing Committee on Fisheries and Oceans for several years and I believe we did important work back then as you continue to do now.

I have been witness to every aspect of the rise and the fall of our Northern cod resource as well as the pain surrounding its slow and difficult rebuilding.

In 1994, as a much younger man, I was asked to serve as the Special Advisor to the Minister of Fisheries and Oceans. This was just after the two year moratorium had already been declared by John Crosbie in 1992. In 1994, the two year moratorium became a moratorium of indefinite duration.

In 1996, I was honoured to be asked to serve as the MP for Humber-St. Barbe Baie Verte. I served in the House for just shy of 20 years including in the cabinet of Mr. Chretien. In 2015, for the very reasons we sit together at this table today, I took a decision to seek office in the provincial legislature and currently serve as its minister of fisheries. Prior to my parliamentary career, I worked briefly in marine ecosystem research in Northern Newfoundland having trained at Dalhousie University.

My perspectives of the past failures and of the ongoing failures of Northern cod management are both professional and personal.

In these difficult times, one thing I believe that we, the people of Newfoundland and Labrador need to be able rely on is that this Committee will serve the interests of a better fishery and a better future for those who have been waiting in hope for it to return. Now is not the time for partisan loyalties or entrenchments. In my time here, if there was one committee on parliament hill that rightfully cultivated the reputation of being beyond politics and in service to our coastal communities, it is this committee. I can't ever remember any member of this

Committee looking to join so that they could be a shill for their party. Nor can I remember dissenting minority reports being the norm as it is with other committees. This committee always came together to speak truth to power. Keep hold of that.

With that said, it was disturbing to have learned through internal DFO documents that the 32 year moratorium was somehow over by virtue of a switch of a single word and in defiance of science advice. The legal and political consequences of relying on a single word – commercial over sentinel – to generate a false hope is offensive. Talking points don't change 32 years of loss, or the anxiety of cultural separation or the economic and social upheaval. It doesn't change the past but unfortunately, we have discovered, it does have a material affect on our future.

For anybody to think that the decisions around the 2024 Harvesting Plan or CHP for Northern Cod would result in street parades and songs and poems being written in celebration that the weight of the past 32 years has been lifted exposes the fact that the magnitude of this decision was never understood by DFO. It wasn't understood in 1992 and clearly still isn't understood to this day. There was no 'political win' deserving to anyone here.

The only political win that can ever be created is from a fishery that has been honestly rebuilt on a foundation of sustainability, with windows and doors to allow transparency and a protective roof made up of informed decision making with fishermen and scientists working together towards informed joint decision making. This is the kind of house we need to build to have a future. This was obviously too much for Newfoundland and Labrador to ask.

I just don't know what to say to that.

But over the next 90 minutes, if you were to ask me what I know about the longstanding Government of Canada allocation policy on the first 115,000 mt of harvestable quota, I will tell you.

If you ask me what has been the longstanding position of the government of Newfoundland and Labrador on the inshore offshore allocation split, I will tell you.

If you ask me what I think of the supposed necessity for Canada having no choice but to recognize the fishery as being commercial with all of its legal implications within NAFO, I will tell you why this was untrue and defeatist.

If you ask me what I feel about the risks of foreign, distant water fleets entering the fishery under the current NAFO Convention and its system of voluntary rule , I will tell you.

And if you were to ask me if there are other Atlantic fisheries that demonstrate just or more clearly how far off track DFO is from understanding the past and learning from it to make better conservation decisions in the future, I will point to what is happening today with Redfish in the gulf of St. Lawrence.

But most importantly, if you were to ask me how all of this was able to occur in such a vacuum here in Ottawa with no one offering honest, pragmatic advice to the emperor about the clothes they think they are fashioning, I will tell you.

I will explain why Joint Management's time has come.

Mr. Chair, I look forward to your questions