

affording Canadian control over the resource.<sup>(1)</sup> In conjunction with the extension, for example, the federal government introduced the first annual Groundfish Management Plan. Foreign fishing was progressively cut back, and considerable and increasing attention was devoted to the application of sophisticated scientific techniques for identifying optimum levels of exploitation. In fact, it may be said that government-sponsored research on fish stocks and the marine environment has given Canada an enviable world reputation for biologically sound resource management.<sup>(2)</sup> Stocks of many species that were previously overexploited have recovered.<sup>(3)</sup>

All stocks, however, are not improving, especially those in the areas of the Flemish Cap and the Grand Banks, which are outside or straddle the 200 mile limit. As well, only limited additional growth is now being predicted for most species, although the situation in Canada compares favourably with that faced by other fishing nations and coastal states.

## **B. Managing the East Coast Fishery**

### **1. The Federal Mandate**

Fish are generally regarded as a "common property" resource: they become the private property of a fisherman only once they are caught and removed from the water. This tends to result in a "free-for-all" race for limited stocks in an effort to maximize returns. High profits and earnings constitute a powerful spur for fishermen to invest in bigger and more expensive boats, better gear and more sophisticated equipment in anticipation of future catches; since all fishermen react in the same way, however, no one is farther ahead. Moreover, since the industry is based on a resource that belongs to all, there is little incentive to preserve it ("everybody's property is nobody's responsibility"). Overcapacity and low profitability also arise in fish processing because of the seasonal nature of some fisheries; plants are built to handle peak capacity, but often remain idle for much of the year.

The result is too many in the industry for the limited fish available. In poor fishing years or when markets soften, the consequence is severe economic and social distress for the communities involved. Stability is therefore normally maintained or restored through government imposition of regulatory measures.

In Canada, federal jurisdiction over "seacoast and inland" fisheries is established under section 91(12) of the *British North America Act, 1867* as incorporated in the *Constitution Act, 1982*. The mandate of the Minister and the Department of Fisheries and Oceans (DFO) is set out in the *Government Organization Act, 1979*. The *Fisheries Act*, the basic statute among the 17 separate statutes administered by the Department,<sup>(4)</sup> governs legislation over such matters as fish allocation, licensing, habitat

<sup>(1)</sup> Canada, the Senate, *Proceedings of the Standing Senate Committee on Fisheries*, Issue No. 25, 4 February 1988, p. 118.

<sup>(2)</sup> *Ibid.*, Issue No. 29, 15 March 1988, p. 19.

<sup>(3)</sup> See Department of Fisheries and Oceans, *Resource Prospects for Canada's Atlantic Fisheries 1989-1993*, Supply and Services Canada, June 1988.

<sup>(4)</sup> Department of Fisheries and Oceans, brief presented to the Standing Senate Committee on Fisheries, 8 December 1987, p. 6.