

STANDING FISH PRICE-SETTING PANEL

ANNUAL REPORT 2008/09



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MESSAGE FROM THE CHAIRPERSON

In accordance with Government's commitment to transparency and accountability and as Chairperson responsible for the Standing Fish Price-Setting Panel, I am pleased to submit the Annual Performance Report for 2008-09. This report was prepared under the direction of all members of the Panel and as such, the members are accountable for the results contained in it.

This document presents outcomes of the Panel's goals and objectives, highlights achievements, and focuses on future opportunities that will further enhance the collective bargaining process in the province's fishing industry and bring greater stability to the industry. This Annual Report is prepared on a fiscal year basis April - March. Accordingly, Panel activities contained within, cover the period from April 2008 to the end of March 2009.

This is the third Annual Report of the Panel, and the comments and record of activities contained herein occurred during year three of the newly created collective bargaining regime. Panel members and support staff remain confident that against the backdrop of very challenging issues facing all participants in the Newfoundland and Labrador fishing industry during this period, this process has contributed to various fisheries commencing on a timely basis and without disruption throughout the 2008-09 fishing season. The Panel looks forward to working with all the key stakeholders to ensure this process remains beneficial to the industry.

Since their appointment in March 2006, the Panel members and staff have worked with industry stakeholders to facilitate collective bargaining and act, where necessary, as an arbitration panel for the parties in situations where they were unable to achieve binding collective agreements. The fishing industry, unlike any other, has a limited window of opportunity to be prosecuted. Weather, markets, biological and other conditions dictate that window of opportunity to the participants in this most important industry to the Province.

As a Standing Fish Price-Setting Panel, we have faced many challenges in the past year. We expect there will be more in the years ahead. However, we are convinced, provided we are vigilant toward the issues and maintain respect for the parties and the process, we will continue to overcome the obstacles that have challenged and will continue to challenge the fishing industry on a constant basis.

A handwritten signature in blue ink, appearing to read 'Joe O'Neill', with a stylized flourish at the end.

JOSEPH P. O'NEILL
CHAIR

PUBLIC BODY OVERVIEW

The legislative authority establishing the Panel's role and responsibilities are contained in Section 19 of the *Fishing Industry Collective Bargaining Act* (the *Act*) and associated *Regulations*. The Panel is classified as a Category 3 Government entity.

The present membership of the Panel includes: Joe O'Neill, Chair; Bill Wells, Vice-Chair; Max Short, member; and two alternates, Edwin Hussey and Rosalind Walsh Perry. Administrative and secretarial support services during the Panel's third year of operation continued to be provided by the Labour Relations Division of the Labour Relations Agency. The Panel facilitator provided support for the Panel's activities and stakeholders' work in establishing fish prices. Market intelligence support was provided by the staff at the Department of Fisheries and Aquaculture.

Funding to support the Panel's activities is identified under the allocation of the Labour Relations Agency under the heading of the Standing Fish Price-Setting Panel (see Financial Information on page 8 for more details). The Panel's office is located at 3rd Floor, Beothuck Building, 20 Crosbie Place, St. John's, NL A1B 4J6, telephone: (709) 729-0625.

Mandate

The Mandate of the Panel is to identify, on an annual basis and in consultation with the stakeholders, particular fish species for collective bargaining, and to ensure that binding collective agreements containing price and conditions of sale are in place prior to the normal opening date for these particular fish species. The Panel establishes parameters to facilitate collective bargaining, acts as an arbitration panel where the parties to negotiations fail to agree, and has the responsibility to set prices where negotiations do not occur.

Lines of Business

On an annual basis, the Panel consults with parties to negotiations to determine and establish normal opening dates for particular fish species to be bargained for the coming season. It provides written notice to applicable industry stakeholders of particular fish species subject to negotiations, the date by which binding agreements must be in effect, potential hearing dates, and locations where the Panel will hold hearings and receive submissions in the event binding agreements have not been achieved.

The Panel has established its Rules and Procedures, as provided under Section 19.4 of the *Act*, for the purpose of carrying out its duties. The intent of these rules and procedures is to provide direction to the parties to negotiations through the various collective bargaining stages, including the hearing stage, if it becomes necessary.

The Panel provides the services of a facilitator to the parties to negotiations for all species identified in the schedule of negotiations, and with the support of the Department of Fisheries and Aquaculture, provides market intelligence to assist the parties during the collective bargaining phase and to further provide the Panel with relevant and timely market intelligence to utilize in their decision-making process.

Vision

In acting as a default mechanism to the collective bargaining regime for the province's fishing industry, it is the Panel's hope that its work with industry stakeholders will help achieve the optimum economic value from the fishing industry and thus contribute to economic growth, competitiveness and prosperity for the provincial economy.

The Panel's vision is that of an optimal collective bargaining climate between fish harvesters and processors in the province to ensure that binding collective agreements are in place for the timely commencement of the fisheries on an annual basis.

Mission/Shared Commitments

As a Category 3 Government entity, the Panel has the option of adopting the mission of the responsible department and indicating how they will be contributing to the results. The Panel has the unique mandate to facilitate and act as an arbitration panel to the collective bargaining regime for the harvesting and processing sectors in the province's fishing industry, ensuring that fish prices and conditions of sale are in place, and that the fisheries start on a timely basis, thus contributing to the economic value of the province's fishing industry. Although independent, the Panel enjoys a collaborative relationship with both the Labour Relations Agency and the Department of Fisheries and Aquaculture.

In the context of the Labour Relations Agency's mission, in relation to collective bargaining, it is the Panel's intent to work with industry stakeholders to annually identify particular fish species subject to collective bargaining, and to ensure that binding collective agreements are in place prior to normal fishery opening dates. The Panel establishes hearing dates, receives submissions from industry stakeholders, and conducts hearings to establish such collective agreements, thus ensuring timely openings of the relevant fisheries, and ensuring that prices for fish are in place prior to the opening of those fisheries.

With respect to interaction with the Department of Fisheries and Aquaculture, the Panel solicits advice and current market intelligence to support the collective bargaining and arbitration processes. The result of collective bargaining, in this context, contributes to the harvesting and processing of high quality fish products that are supplied to markets on a consistent basis, thus strengthening and creating new economic opportunities for the province.

HIGHLIGHTS/ACCOMPLISHMENTS

Legislative Amendments

There were no legislative amendments related to collective bargaining in the fishing industry during the period covered by this report.

Collective Bargaining Facilitation and Hearing Results

Leading up to the 2008-09 season, after consulting with major parties to negotiations, the Panel advised the parties of the deadlines for binding agreements on price and conditions of sale on February 13, 2008, for the species crab, shrimp, capelin, cod, lumpfish (roe), mackerel, and squid. The Panel also advised of the dates on which hearings would be held for the individual species, should a binding agreement not be achieved.

Where hearings were held and there was a majority processors organization identified under the legislation, the Panel was obligated to use Final Offer Selection (FOS) in the decision-making process. In 2008, the Panel conducted seven price hearings, three of which involved majority processors organizations (Appendix A). On all three occasions the Panel chose the final offer of the Fish, Food and Allied Workers (FFAW). In the case of snow crab, the majority processors representative, Association of Seafood Producers (ASP), withdrew from the process and the Panel established a price. Early into the crab fishery, the FFAW made representation to the Panel under Section 19.14 of the *Fishing Industry Collective Bargaining Act*, requesting that the Panel reconsider its original decision, stating that the conduct of the fishery was in jeopardy. The Panel considered the FFAW's request and opted to modify its original decision. Following the Panel's reconsideration decision, the fishery proceeded uninterrupted for the balance of the season.

On February 13, 2009, after consulting with major parties to negotiations, the Panel issued notice for hearing dates to the industry for seven fish species for the 2009 season. By March 31, 2009, the Panel had already held three hearings and issued three decisions on shrimp (non-price issues), spring shrimp prices, and crab prices. Since there was majority processors representation in all three cases, the Panel was required to use FOS in its decisions. It selected the position of ASP in both shrimp decisions, and the position of the FFAW on crab.

Market Intelligence Support

As reported in its 2007-08 Annual Report, the Panel, through consultation with the parties to collective bargaining, determined that the availability of accurate and timely marketing information was a critical component of both the collective bargaining process and the Panel's decision-making process, and because of its importance, market intelligence would be subject to further industry consultation and analysis in 2008-09.

Through the efforts of the Department of Fisheries and Aquaculture, industry consultation meetings were held to provide industry stakeholders with an opportunity for meaningful and constructive input on the format and content of market intelligence reports on a go forward basis.

PERFORMANCE SUMMARY REPORT

In its 2008-2011 Activity Plan, the Panel identified three strategic issues aimed at ensuring that fish prices and conditions of sale were in place for species under consideration between the parties to collective bargaining in the fishing industry. There are references to these issues and the goals that were established to address them throughout this report, but the following table provides a summary of the Panel's goals and its success in achieving those goals. As stated in the 2008-11 Activity Plan, the objectives identified by the Panel apply to the 2008/09, 2009/10 and 2010/11 fiscal years, meaning the same objectives reported on in this report will also be reported on in the 2009/10 and 2010/11 Annual Reports.

Issue 1: Ensure binding collective agreements are established annually for particular species.	
Objective: By 2009, the Panel will have ensured that collective agreements are in place and prices and conditions of sale for fish species are established prior to the normal opening dates of each species.	
Planned Results	Actual Results
Measure 1: Ensured binding collective agreements were in place.	
Industry stakeholders responsible for collective bargaining of the fish species were consulted and notified of the dates by which binding collective agreements were to be in effect.	Following consultation with industry stakeholders in advance of the 2008 fishing season, the Panel advised on February 13, 2008, the dates by which binding collective agreements were to be in place for each species under consideration. This consultation was not conducted in 2008-09 as consultation is required early in the calendar year to ensure that industry stakeholders may have meaningful input in establishing an appropriate schedule for collective bargaining. It provided similar notification to industry stakeholders in advance of the 2009 fishery on February 13, 2009.
Requisite facilitation/mediation services were made available to the parties to collective bargaining through the Panel facilitator, to assist the parties in achieving a collective agreement.	The Panel facilitator worked with the parties to collective bargaining throughout the fishing season to help achieve binding collective agreements on fish prices and conditions of sale.
Measure 2: Ensured prices and conditions of sale were established.	
Industry stakeholders responsible for collective bargaining of the fish species were notified of hearing dates, where the parties did not achieve a collective agreement.	Panel advised industry stakeholders on February 13, 2008 of the dates on which hearings would be held for each species, should they be necessary. This consultation was not conducted in 2008-09 as the Panel advises industry stakeholders early in the calendar year to ensure that stakeholders have adequate time to prepare for collective bargaining and conclude collective agreements prior to the scheduled hearings for each particular species.
Where collective agreements were not achieved, hearings were conducted to provide the parties to collective bargaining an opportunity to represent their respective positions to the Panel.	Between April-September 2008, the Panel conducted a total of 7 hearings, allowing both parties to collective bargaining the opportunity to represent their respective positions. The Panel conducted hearings and established price and conditions of sale for the species: crab, mackerel, squid, on two occasions for shrimp (spring and summer fisheries), and on two occasions for cod (3Ps and 2J3KL/4R3Pn).
Following a hearing, the Panel made timely decisions that established prices and conditions of sale for the particular fish species.	For each species under consideration, the Panel made timely decisions prior to the start of the fishery for the species under consideration.
The Panel advised all industry stakeholders affected by its decision for a particular species.	For each species for which a hearing was required, the Panel notified the parties to collective bargaining (and other affected stakeholders) of its decision in a timely manner.
Issue 2: Ensure that there is adequate and reliable market information available to the parties to collective bargaining.	
Objective: By 2009, the Panel will have ensured that the parties to collective bargaining have access to the best market information available with respect to the species under consideration.	

Planned Results	Actual Results
Measure 1: Timely market reports for the particular species under consideration were made available to the parties to collective bargaining.	
Through the Panel facilitator and the Department of Fisheries and Aquaculture, the Panel provided timely and relevant market information to the parties to collective bargaining, prior to the start of negotiations for the particular species.	For each particular species under consideration, the parties to negotiations were provided with timely and relevant market reports, prepared by independent consultants identified by the Department of Fisheries and Aquaculture.
Issue 3: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.	
Objective: By 2009, the Panel, if necessary, will have made representation to the responsible Minister regarding the modification of the <i>Fishing Industry Collective Bargaining Act and Regulations</i> .	
Planned Results	Actual Results
Measure 1: Appropriate representation made to the responsible Minister, if necessary.	
The collective bargaining process was monitored.	Throughout the 2008-09 season, the Panel continuously monitored the collective bargaining process to ensure that where the services of the Panel were required in relation to assisting in the setting of fish prices, parties were engaged and provided with support in order to ensure the timely commencement of the fishery.
Where it was deemed necessary, made recommendations for changes to the legislation and regulations.	The Panel, made representation to the Ministers of Human Resources, Labour & Employment and Fisheries & Aquaculture updating issues related to collective bargaining in the fishing industry and offered perspective for potential legislative amendments.

OPPORTUNITIES AND CHALLENGES AHEAD

Collective Bargaining in 2009-10

Against the backdrop of a global financial crisis, the Panel expects 2009-10 to be a challenging year for the fishing industry generally, for collective bargaining in the fishing industry in particular, and by extension, the operations of the Panel. It is logical to expect that in a very difficult economic climate, the parties to collective bargaining may find it very difficult to find common ground for collective agreements.

Legal Matters

The legal challenges referred to in the Panel's 2007-08 Annual Report - ASP filed two applications with the Supreme Court challenging decisions made by the Panel - remain outstanding heading into 2009-10.

Panel Rules and Procedures

As it has done in previous years, the Panel again requested the input of the parties to collective bargaining regarding its Rules and Procedures. The Panel views this as a good opportunity for industry stakeholders to provide meaningful input and assist the Panel in its efforts to improve the structure and operation of the Panel. The Panel is currently finalizing the Rules and Procedures and expects any changes to be in effect for the 2009-10 fishery.

Moving Forward

There will of course always be new development opportunities and challenges moving forward, but the Panel's focus is, as it always has been, to work closely with industry stakeholders and take advantage of any opportunity to improve the collective bargaining process for the benefit of the entire fishing industry.

FINANCIAL INFORMATION

The following table is a summary of Panel expenditures for 2008-09.

Expenditures included in this document are un-audited and based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for the Year Ended 31 March 2009. Audited financial statements are a requirement at the government level and are made public through the Public Accounts process; however, the Standing Fish Price-Setting Panel is not required to provide a separate audited financial statement.

**Standing Fish Price Setting Panel
Summary of Expenditure
For the Year Ended March 31, 2009
(Unaudited)**

Summary of Expenditure For the Year Ended March 31, 2009				
Activity		Actual Expenditure \$	Amended Budget \$	Original Budget \$
7.1.04.01	Salaries	64,725	85,900	79,600
7.1.04.03	Transportation and Communication	2,538	7,500	30,000
7.1.04.04	Supplies	30	500	-
7.1.04.05	Professional Services	126,431	128,000	99,000
7.1.04.06	Purchased Services	3,911	7,000	41,000
7.1.04.07	Property, Furnishings and Equipment	219	500	-
	Total	197,854	229,400	249,600

APPENDIX A

Species Negotiations and Results Summary – 2008

Species	Parties to Negotiations	Agreement Reached	Panel Decision
Spring Shrimp	FFAW & ASP/ SPONL	No	Panel selected FFAW
Crab	FFAW	No	Panel established price
Cod (3Ps)	FFAW & Independent	Yes	Panel Sanctioned Agreement
Cod (2J3KL and 4R3Pn)	FFAW & Independent	Yes	Panel Sanctioned Agreement
Lumpfish	FFAW & ASP	Yes	None required
Capelin	FFAW & ASP	Yes	None required
Summer Shrimp	FFAW & ASP	No	Panel selected FFAW
Squid	FFAW	N/A	Panel sanctioned FFAW proposal
Mackerel	FFAW & ASP	No	Panel selected FFAW
Fall Shrimp	FFAW & ASP	Yes	None required