

Standing Fish Price-Setting Panel

2020-23 Activity Plan



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Standing Fish Price-Setting Panel
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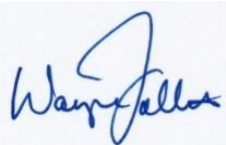
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Message from the Chairperson

Over the past three years, the Standing Fish Price-Setting Panel (the Panel) established a process for conducting post-season reviews in consultation with the industry stakeholders and government departments involved in the collective bargaining process. These post-season reviews are conducted with the goal of continuous improvement in mind while identifying best practices and policy or procedural issues arising from the last year's activity. These have proven to be productive and several issues have been identified and considered by the Panel. The reviews resulted in additions to the Panel's Rules and Procedures to clarify Panel processes. As well, the Panel participated in a process led by the Departments of Immigration, Skills and Labour and Fisheries, Forestry and Agriculture which resulted in amendments to the **Fishing Industry Collective Bargaining Act** (the Act) and **Regulations** to strengthen the Panel's legislative framework.

The decline of shellfish stocks in the past few years and the slow recovery of cod stocks has resulted in new economic and operational realities for the industry. Fortunately, markets for several key species have been at historically high levels softening some of the impacts of stock declines. The question remains whether these improved markets are temporary or a sign of a new normal. In any case, market fluctuations are inevitable. Whether in rising or falling markets there is always pressure on both sides of the industry, harvesting and processing, to ensure the issues of viability and appropriate sharing of returns are fully reflected in collective bargaining. The Panel is often needed to resolve these issues and plays an important role in contributing to the economic stability of the fishing industry. The Panel remains encouraged by the positive climate of negotiations between the parties and efficiency of the final offer selection process.

Looking forward, the Panel is cognizant of its role and of the need to discharge its mandate in an effective and efficient manner while contributing to the economic stability of the fishing industry. Facilitating and encouraging successful collective bargaining is paramount; however, where necessary, the Panel will set fish prices and conditions of sale through a well-managed, unbiased, timely and transparent process. The Panel is a Category three entity and has considered the strategic directions of the Provincial Government during the preparation of this Activity Plan, and is accountable for the Plan and achievement of the objectives contained within it.



Wayne Follett, Chair

1.0 Overview

The Act regulates collective bargaining between fish harvesters and processors. The collective bargaining framework was created in 1971 and has been amended several times to prohibit strikes or lockouts by providing for binding arbitration using several models: a single arbitrator; introduction of a voluntary fish auction system; and binding arbitration using a fish price-setting panel, which is the current model.

Established in 2006, the Panel is required to set the price and conditions of sale for fish when parties are unable to do so through the collective bargaining process. Specific duties of members are outlined in Section 19.2 of the Act and include: annually identifying, in consultation with stakeholders, particular fish species for collective bargaining; collecting and disseminating market information; establishing parameters for negotiations; facilitating collective bargaining; acting as an arbitration panel for the parties in setting fish prices; setting hearing dates; and setting fish prices when the parties to the negotiations have been unwilling or unable to agree.

The Panel members serve three-year terms, and may be re-appointed. The Panel consists of the following members (with their appointment term in brackets):

- Mr. Wayne Follett, Chair (January 10, 2020 – January 9, 2023)
- Mr. Bill Carter, Vice-Chair (January 10, 2020 – January 9, 2023)
- Mr. Brendan Condon, Member (October 2, 2018 – October 1, 2021)
- Mr. Jim Flight, Alternate Member (October 2, 2018 – October 1, 2021)
- Mr. Wayne Fowler, Alternate Member (October 2, 2018 – October 1, 2021)

The Panel is supported by a Panel Facilitator, who provides support for Panel activities and stakeholders' work in establishing fish prices. The Panel Facilitator, as well as administrative and secretarial support services are provided by the Labour Relations Division of the Department of Immigration, Skills and Labour.

The Panel's primary clients include: two organizations representing fish processors, the Association of Seafood Producers and the Seafood Processors of Newfoundland and Labrador; a number of independent fish processors who are not members of either organization; and the Fish, Food and Allied Workers'/Unifor which represents fish harvesters in the province.

The Panel also works in conjunction with the Department of Immigration, Skills and Labour, and the Department of Fisheries, Forestry and Agriculture, both of which provide administrative and consultative support to the Panel.

Contact Information

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2.0 Mandate

The mandate of the Panel is to consult with industry stakeholders to identify particular fish species for collective bargaining, and to ensure price and conditions of sale are in place by the date established by the Minister of Fisheries, Forestry and Agriculture. The Panel establishes parameters to facilitate collective bargaining, acts as an arbitration panel where the parties to negotiations fail to agree, and has the authority to set prices when negotiations do not take place.

The legislative authority establishing the Panel and its role and responsibilities is contained in Sections 19.1–19.15 of the Act. Appendix A outlines how the Panel is appointed, as well as duties of the Panel, from Sections 19.1-19.5 of the Act.

3.0 Issues

Issue 1: Ensure binding collective agreements are established annually for particular species.

Where particular fish species are identified for collective bargaining purposes and where binding collective agreements are not achieved, the Panel will ensure arbitration hearings are held, and prices and conditions of sale established. The following objective and indicators apply to the 2020-21, 2021-22, 2022-23 fiscal years and will be reported on in the relevant annual reports.

Objective

By March 31, 2021, 2022 and 2023 the Panel will have ensured collective agreements were in place and prices and conditions of sale for fish species were established prior to the date established by the Minister of Fisheries, Forestry and Agriculture.

Indicators

- Industry stakeholders responsible for collective bargaining of fish species were notified of the dates by which binding collective agreements were to be in effect.
- Requisite facilitation and mediation services were made available to the parties to collective bargaining through the Panel facilitator, to assist the parties in achieving a collective agreement.
- Industry stakeholders responsible for collective bargaining of fish species were notified of hearing dates, where the parties did not achieve a collective agreement.
- 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.
- Following a hearing, the Panel made timely decisions, which established prices and conditions of sale for the particular fish species.
- The Panel advised all industry stakeholders affected by its decision for a particular species.

Issue 2: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.

The Panel regularly consults with all fishing industry stakeholders to seek input on improving both the collective bargaining process and the process by which the Panel makes decisions. When this process identifies an area where changes are necessary to improve the collective bargaining and hearing process, and improvements may be made through legislative amendments, the Panel may make representation to the Minister of Immigration, Skills and Labour, the Minister of Fisheries, Forestry and Agriculture, or both.

The following objective and indicators apply to the 2020-21, 2021-22, 2022-23 fiscal years and will be reported on in the relevant annual reports.

Objective

By March 31, 2021, 2022 and 2023, the Panel, where in its opinion it was warranted, made recommendations to the Minister responsible, with respect to an amendment to, or modification of, the **Fishing Industry Collective Bargaining Act and Regulations**.

Indicators:

- The collective bargaining process was monitored.
- Recommendations for changes to the legislation and regulations were proposed, as warranted.

4.0 Appendix A: Appointment and Duties of the Standing Fish Price-Setting Panel

(Source: Fishing Industry Collective Bargaining Act)

Appointment of Panel

19.1

- (1) The Standing Fish Price-Setting Panel is established consisting of 3 members appointed by the Lieutenant-Governor in Council.
- (2) The Lieutenant-Governor in Council shall appoint one of the members of the panel as chairperson.
- (3) A member of the panel shall serve for a period of 3 years and is eligible to be reappointed.
- (4) Where a member of the panel resigns or, due to absence, incapacity or other cause, is unable to carry out his or her duties as a member, the Lieutenant-Governor in Council shall appoint a person in his or her place who shall serve for the remainder of the term of the member being replaced.
- (5) The members of the panel shall be paid remuneration and expenses related to carrying out their duties at a rate set by the Lieutenant-Governor in Council.
- (6) The members of the panel shall elect one of their number to be vice-chairperson and during the absence or incapacity of the chairperson or during a vacancy in the office of the chairperson, the vice-chairperson has and may exercise the powers of the chairperson and shall perform his or her duties.
- (7) The Lieutenant-Governor in Council may appoint as many persons as he or she considers appropriate to serve as alternate members of the panel and the persons appointed hold office for 3 years and are eligible for reappointment.
- (8) The persons appointed under subsection (7) shall be considered to be members of the panel only while serving on the panel.
- (9) Notwithstanding subsection (3), a person continues to be and may serve as a member of the panel until he or she is reappointed or replaced.
- (10) Notwithstanding subsection (3), of the members of the panel first appointed
 - (a) the chairperson shall be appointed for a term of 3 years;
 - (b) one member shall be appointed for a term of 2 years; and
 - (c) one member shall be appointed for a term of one year, and are eligible for re-appointment.

Duties of the Panel

19.2 The duties of the panel are:

- (a) to facilitate access by parties to collective bargaining to market information relating to the sale of fish;
- (b) to establish criteria that are not inconsistent with this Act relating to collective bargaining under this Act;
- (c) to provide assistance to parties engaged in collective bargaining under this Act;
- (d) to set prices and conditions of sale for a fish species where parties have engaged in collective bargaining and have been unable to agree or where parties have refused to engage in collective bargaining;
- (e) to review and report on matters related to the price and conditions of sale of a fish species that may be referred to it by the minister responsible for the fisheries and aquaculture; and
- (f) to make recommendations on matters falling within its mandate to the minister responsible for fisheries and aquaculture and the minister responsible for fisheries in the Government of Canada.

Matters beyond Panel's authority

19.3 The Panel shall not have authority with respect to

- (a) raw material shares; or
- (b) production limits.

Procedure of the Panel

19.4 The Panel may establish rules and procedures for the purpose of carrying out its duties under this Act.

Powers of the Panel

19.5 The Panel has all the powers that are or may be conferred on a commissioner under the Public Inquiries Act.

