

**STANDING FISH PRICE-SETTING PANEL
ANNUAL REPORT
2013 - 14**




Newfoundland
Labrador

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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 2013-14. This report was prepared under the direction of all Panel members, and as such, the members are accountable for the results reported.

This is the Annual Report of the Panel, and the comments and record of activities contained herein occurred during the eighth year of the collective bargaining regime created in 2006. This document presents outcomes of the Panel's objectives, highlights, and achievements, and focuses on opportunities to 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. Accordingly, the report covers Panel activities for the period from April 1, 2013 to March 31, 2014.

Since their appointment, the Panel members and staff have been available to industry stakeholders to facilitate collective bargaining and act, as required, as an arbitration panel for the parties in setting prices and conditions of sale where they were unable to achieve a resolution. The mandate of the Panel is important to the fishing industry because unlike any other sector, this industry has a limited and uncontrolled window of opportunity in which 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.

Last year was a good year from a collective bargaining perspective as for the third consecutive year, the parties to collective bargaining reached agreement on at least six species. The parties reached settlements on their own for Cod, Lumpfish (Roe), Squid, Capelin, Whelk and Mackerel. The Panel wishes to acknowledge the excellent work conducted by the Panel facilitator in assisting the parties in bargaining fish prices. The rapport that has been developed by the facilitator with the parties to fish price negotiations as well as the skill and tenacity demonstrated by the facilitator in the conduct of mediation has contributed greatly to the success of the process in recent years.

The Panel looks forward to continued co-operation between the parties as we move forward. The Panel will continue to be available to assist the parties and to make decisions on price and conditions of sale to ensure timely prosecution of the fishing industry.

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 is 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.

This year was the Panel's eighth year of operation. The Panel members include: Joe O'Neill, Chair; Bill Wells, Vice-Chair; Max Short, member; Ed Hussey, alternate member; Rosalind Walsh, alternate member. The Panel facilitator provided support for the Panel's activities and stakeholders' work in establishing fish prices. Administrative and secretarial support services during the Panel's eighth year of operation continued to be provided by the Labour Relations Division of the Labour Relations Agency. 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 10 for more details). The Panel's office is located at the following address: 2nd 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 by the date established by the Minister of Fisheries and Aquaculture. 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 where negotiations do not occur.

Lines of Business

Establishing a Schedule of Negotiations:

Annually, the Panel 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.

Providing Support to Collective Bargaining:

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, and the hearing stage, if it becomes necessary.

The Panel also 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 relevant and timely market intelligence to assist the parties during the collective bargaining phase. The Panel uses this same market intelligence information 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

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. Over the 2011-2017 planning cycle, the Labour Relations Agency's mission is to improve labour relations supports conducive to positive workplace relations. The Panel has adopted the mission of the Labour Relations Agency and works within this context.

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 prices and conditions of sale 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 and conditions of sale 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 on 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

Collective Bargaining Facilitation and Hearing Results

On March 5, 2013, the Panel advised the parties to collective bargaining of the deadlines for binding agreements on price and conditions of sale for the species lobster, snow crab, shrimp, whelk, lumpfish (roe), cod, capelin, squid and mackerel. The Panel also advised of the dates on which hearings would be held for the individual species, should a binding agreement not be achieved.

In 2013, the Panel conducted a total of five hearings, all of which were related to price and conditions of sale. Three of the hearings were related to the species shrimp (spring, summer, and fall), and one each for the species lobster and crab. Of the five decisions the Panel was required to make, it accepted the position of the Fish, Food & Allied Workers (FFAW) on four occasions, and the position of the Association of Seafood Producers (ASP) once. For the species lumpfish (roe), cod, capelin, squid, mackerel, and whelk, the Panel accepted and confirmed agreements that had been reached between the FFAW and ASP, or an independent processing company, making those agreements binding on all who harvested/processed the specific species.

The Panel also received a request from the FFAW to reconsider its original decision on crab. The Panel rejected the FFAW request, which was made under section 19.14 of the *Act*.

The availability and timeliness of market intelligence information remains a critical component of both the collective bargaining process and the Panel's decision-making process. The Panel and the parties to collective bargaining have been provided with market intelligence information by the Market Intelligence Unit of the Department of Fisheries and Aquaculture (DFA) since the Panel's inception in 2006. During the hearing process, the Panel has also received market information from the parties to collective bargaining themselves. The DFA maintains an ongoing line of communication with industry stakeholders and the Panel facilitator to ensure that the market intelligence information is as timely and relevant as possible.

The Panel, along with the DFA, provides industry stakeholders with every opportunity for meaningful and constructive input on the format and content of market intelligence reports.

The Panel consulted with industry, conducted a thorough review, and made substantive changes to its Rules and Procedures. These changes will be in effect at the start of the 2014-15 season. Among other things, the Panel changed the timing of the hearings, and the timing of the exchange of final offer submissions by the parties to collective bargaining.

PERFORMANCE SUMMARY REPORT

In its 2011-2014 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 objectives that were established to address them throughout this report, but the following table provides a summary of the Panel's objectives and its success in achieving those objectives. As stated in the 2011-14 Activity Plan, the objectives identified by the Panel apply to the 2011-12, 2012-13 and 2013-14 fiscal years.

Issue 1: Ensure binding collective agreements are established annually for particular species.	
Objective: By March 31, 2014, the Standing Fish Price-Setting Panel will have ensured that 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 and Aquaculture.	
Planned Results	Actual Results
Measure 1: Ensured binding collective agreements were in place.	
Industry stakeholders responsible for collective bargaining of the fish species were notified of the dates by which binding collective agreements were to be in effect.	The Panel consulted with industry stakeholders prior to the start of the 2013 fishing season, and advised by way of a letter to all stakeholders on March 5, 2013, the dates by which binding collective agreements were to be in place for lobster, snow crab, shrimp, whelk, lumpfish (roe), cod, capelin, squid and mackerel. This consultation was conducted just prior to the 2013-14 fiscal year, 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. The Panel provided similar notification to industry stakeholders in advance of the 2014 fishery on February 11, 2014.
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 March 5, 2013 of the dates on which hearings would be held for all species should they be necessary. This consultation was conducted just prior to the 2013-14 fiscal year, 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. The Panel provided similar notification to industry stakeholders in advance of the 2014 fishery on February 11, 2014.
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.	The Panel conducted a total of five hearings allowing the parties to collective bargaining the opportunity to represent their respective positions. Three of the hearings were related to the species shrimp (spring, summer, and fall), and one each for the species lobster and crab. In addition, the Panel held one reconsideration hearing relating to crab.
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, typically within two days of the hearing, 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.	When a hearing was required, the Panel notified the parties to collective bargaining (and other affected stakeholders) of its decision at least three days prior to the start of the fishery. Written copies of the Panel decisions were sent to impacted stakeholders and placed on the Panel's website for public viewing.

Issue 2: Ensure that there is adequate and reliable market information available to the parties to collective bargaining.	
Objective: By March 31, 2014, the Standing Fish Price-Setting Panel ensured that the parties to collective bargaining had 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. These reports were provided by the Department of Fisheries and Aquaculture who, with industry input, identify appropriate market consultants to provide the most current and most relevant market intelligence available each year.
Issue 3: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.	
Objective: By March 31, 2014, the Standing Fish Price-Setting Panel, where in its opinion it was warranted, made representations to the Minister responsible, with respect to an amendment to, or 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 2013-14 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, as required, makes representation to the Minister responsible for the Labour Relations Agency and the Minister of Fisheries and Aquaculture on the collective bargaining framework for the fishery and on possible amendments to the legislation. It was not deemed necessary during 2013-14 fiscal year to make representation to the Minister.

OPPORTUNITIES AND CHALLENGES AHEAD

Collective Bargaining Outlook for 2014-15

All parties were active in collective bargaining over the reporting period, and their efforts resulted in continued success over the previous fishing season. The 2013 fishing season saw ASP and the FFAW reach an agreement on six species: lumpfish (roe), cod, capelin, squid, mackerel, and whelk. 2013 marked the third consecutive year that the parties were able to reach agreement on six species or more. By contrast, in the Panel's first year of operation, 2006, the parties to collective bargaining were able to reach agreement on only one species.

The Panel is hopeful that the parties to collective bargaining will continue to build on the success of the past two fishing seasons. While the Panel is always prepared to perform its duties in accordance with its legislative obligation, it has consistently stated its preference to play as limited a role as possible.

Legal Matters

The legal challenges referred to in the Panel's previous annual reports – ASP filed two applications with the Supreme Court challenging decisions made by the Panel – remain outstanding heading into 2014-15. A further application was made to the Supreme Court in 2012, challenging the Panels jurisdiction in the conduct of a hearing into shrimp harvesting caps. The court rejected the ASP application.

Moving Forward

The Panel acknowledges the positive results of collective bargaining in 2013-14, as six of the eleven sets of fish price negotiations resulted in the parties to negotiations reaching an agreement. Looking forward to 2014-15, the Panel is hopeful that its services will be required to an even lesser extent which would be indicative of continued successes at the bargaining table.

FINANCIAL INFORMATION

The following table is a summary of Panel expenditures for 2013-14.

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 March 31, 2014. 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, 2014
(Unaudited)**

Summary of Expenditure For the Year Ended March 31, 2014				
Activity		Actual Expenditure \$	Amended Budget \$	Original Budget \$
6.1.04.01	Salaries	88,887	89,000	87,600
6.1.04.03	Transportation and Communication	770	2,300	10,300
6.1.04.04	Supplies	36	500	-
6.1.04.05	Professional Services	53,900	55,000	120,000
6.1.04.06	Purchased Services	-	500	18,000
6.1.04.07	Property, Furnishings and Equipment	-	400	400
	Total	143,593	147,700	236,300

APPENDIX A

Species Negotiations and Results Summary – 2013

Species	Parties to Negotiations	Agreement Reached	Panel Decision
Lobster	FFAW and SPONL	No	Panel selected FFAW
Shrimp (Spring)	FFAW and ASP	No	Panel selected FFAW
Crab	FFAW and ASP	No	Panel selected ASP
Lumpfish (Roe)	FFAW and ASP	Yes	Panel confirmed agreement
Cod	FFAW and Independent	Yes	Panel confirmed agreement
Shrimp (Summer)	FFAW and ASP	No	Panel selected FFAW
Capelin	FFAW and ASP	Yes	Panel confirmed agreement
Squid	FFAW	Yes	Panel confirmed agreement
Mackerel	FFAW and ASP	Yes	Panel confirmed agreement
Shrimp (Fall)	FFAW and ASP	No	Panel selected FFAW
Whelk	FFAW and ASP	Yes	Panel confirmed agreement
Crab Reconsideration	FFAW and ASP	No	Panel rejected FFAW request

Note: This summary table provides a summary of activities for the previous calendar year (2013), despite the report itself covering the period of the 2013-14 fiscal year (April 1, 2013 to March 31, 2014). This is due to the seasonal nature of the industry and while negotiations may have occurred just prior to the fiscal year, agreements came into effect during the fiscal year.



Labour Relations Agency

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