

**STANDING FISH PRICE-SETTING PANEL
ANNUAL REPORT
2020 - 21**



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Port-de-Grave, NL
By: Vince Andrews

Message from the Chairperson

In the Province of Newfoundland and Labrador, the **Fishing Industry Collective Bargaining Act** (the **Act**) regulates collective bargaining between fish harvesters and processors. This **Act** has been in place since 1971. In 2006, amendments to the legislation were passed resulting in the creation of the Standing Fish Price-Setting Panel (the Panel), whose main functions include: establishing the parameters for negotiations; facilitating collective bargaining; acting as an arbitration panel in the setting of fish prices and conditions of sale; and ultimately setting fish prices when the parties to negotiations are unable to agree.

The year 2020 can best be described as unprecedented, with the emergence of the Covid-19 pandemic during the first quarter of the year. This led to much turmoil in the fishing industry as processors and harvesters tried to comprehend the nature of the transmission of the virus and whether it would be possible to safely conduct fish harvesting and processing operations. Fishery re-openings were significantly delayed, adding to the tremendous market uncertainty as global markets and supply chains closed or were extensively curtailed by the pandemic.

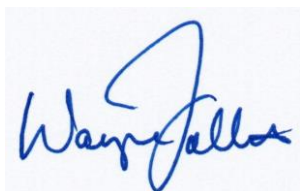
As a result, the parties and the Panel were forced to move forward with speed to get fisheries open in the face of unprecedented market uncertainty and risk. There was no blueprint for such an unprecedented level of uncertainty in the marketplace. The parties struggled with negotiating positions that weighed getting fisheries started against the need to take risk in their positions. The Panel was needed to arbitrate and set prices in the face of the market uncertainty. On the key species of crab, lobster and shrimp, reconsiderations were requested to allow the parties and the Panel to further consider emerging trends. In retrospect, we now know that some species, such as crab and lobster, defied general market trends and continued their positive momentum in the marketplace. Other species experienced significant declines in the marketplace.

The Panel has 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. In reviewing 2020, it is evident that the Panel was essential in facilitating prices and the conduct of fisheries in the face of the pandemic. At the same time, it could not protect the industry from unexpected outcomes such as experienced in crab. In that case specifically, unforeseen new lucrative markets emerged from consumer behavior created by a 'stay-at-home' reality. This resulted in a much stronger market than could have been foreseen by all, which allowed processors to accrue a significant and improved share of market returns.

Unfortunately, such unforeseen outcomes brought much pressure to bear on the parties as their members experienced financial gains and losses. Much of this pressure was deflected to the Panel and its processes. Under the Final Offer Selection process, the Panel must always select one of the Parties positions over the other. Consequently, the Panel and its processes are inevitably subject to criticism in a politically charged system of collective bargaining. The Panel members accept that as an ongoing reality.

In the end, the Panel is committed to facilitating and encouraging successful collective bargaining and, where necessary, the Panel sets fish prices and conditions of sale through a well-managed, unbiased, timely and transparent process. As Chair, I am grateful for the dedication, professionalism, and commitment of all Panel members in ensuring Panel decisions are always evidence-based and indifferent of any political discourse.

The Panel is a Category 3 entity. It is fully accountable for the preparation of this Report and achievement of the objectives and results contained within.

A handwritten signature in blue ink, reading "Wayne Follett". The signature is written in a cursive style with a large, stylized initial 'W'.

Wayne Follett
Chair

Overview

The legislative authority establishing the Standing Fish Price-Setting Panel's role and responsibilities is contained in Sections 19.1 to 19.14 of the **Fishing Industry Collective Bargaining Act** (the **Act**) and associated **Regulations**. The Panel is classified as a Category Three entity.

This was the Panel's fifteenth year of operation. Panel members included:

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

The Panel facilitator provided support for Panel activities and stakeholders' work in establishing fish prices. Administrative and secretarial support services during the fiscal year was provided by the Labour Relations Division of the former Department of Immigration, Skills and Labour. Market intelligence support was provided by staff at the Department of Fisheries, Forestry and Agriculture.

Current funding for the Panel is contained in budget estimates under the Department of Environment and Climate Change (see Financial Information on page 12 for more details). The Panel's office is located at: 2nd Floor, Beothuk Building, 20 Crosbie Place, St. John's, NL, A1B 4J6, telephone: (709) 729-2711.

The mandate of the Panel is to annually identify, following consultation with the stakeholders, fish species for which prices and conditions for sale will be collectively bargained, and that these prices and conditions 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.

Additional information regarding the Panel, including its schedule of hearings and pricing decisions, can be found at <https://www.gov.nl.ca/fishpanel>.

Establishing a Schedule of Hearings

On an annual basis, the Panel will consult with parties to negotiations to determine the particular fish species to be bargained under the **Act** for the coming season.

The Minister of Fisheries, Forestry and Agriculture, on an annual basis, sets dates by which prices and conditions of sale must be in effect for the species subject to collective bargaining. The Panel will then provide written notice to applicable industry stakeholders of particular fish species subject to collective bargaining, the date by which binding agreements must be in effect, potential hearing dates, and places where the Panel will hold hearings and receive submissions in the event binding agreements have not been achieved.

Providing Support to Collective Bargaining

Rules and Procedures

The Panel, in consultation with the major parties to negotiations, 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 its rules and procedures is to provide direction to parties to negotiations through the various collective bargaining stages, including the hearing stage, if necessary.

Facilitation

The Panel provides the services of a facilitator to parties to negotiations for all species identified in the schedule of negotiations. The facilitator provides support to the parties by helping to identify outstanding issues and mediating/facilitating the collective bargaining process to assist parties in reaching a collective agreement. The facilitator also coordinates activities between the Panel, the parties to negotiations, and relevant provincial government departments.

The Panel envisions that their 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. In addition, the vision of the Panel is 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.

The Panel has a 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 to enable fisheries to start on a timely basis every year.

In order to provide improved labour relations supports conducive to positive workplace relations, it is the Panel's intent to work with relevant industry stakeholders to annually identify particular fish species subject to collective bargaining and ensure that prices and conditions of sale are in place prior to dates established by the Minister of Fisheries, Forestry and Agriculture. In the absence of such binding agreements, the Panel will establish hearing dates, receive submissions from industry stakeholders, and conduct hearings to establish such prices and conditions of sale, to enable timely openings of the relevant fisheries.

The intended results include successfully negotiated prices and conditions of sale for the majority of fish species, timely decisions on prices and conditions of sale for the normal opening dates for most fisheries, and certainty over prices and conditions of sale for all stakeholders in the industry.

Highlights and Partnerships

Collective Bargaining Facilitation and Hearing Results

On February 27, 2020, the Panel advised the parties to collective bargaining of the deadlines for binding agreements on prices and conditions of sale for 2020-21 for the species lobster, snow crab, shrimp, whelk, lumproe, cod, capelin, squid, halibut, herring 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. On June 19, 2020, the Fish, Food and Allied Workers' Union (FFAW) served notice to Association of Seafood Producers (ASP) of its intent to add the species turbot to the list of species for collective bargaining.

In the calendar year 2020, the Panel conducted a total of ten hearings related to prices and conditions of sale. There were two hearings for the species crab, the initial decision and subsequent reconsideration decision. There were two hearings for the species lobster, the initial decision and subsequent reconsideration decision. There were also two hearings for the species shrimp, the initial decision for summer shrimp, and subsequent reconsideration decision for summer shrimp. There was one hearing, each for the species capelin, cod, turbot, and mackerel. In eight of the hearings held, participants were the FFAW and the ASP. Of the eight resulting decisions, the Panel selected the position of FFAW on five occasions, and the position of ASP on three occasions. On two occasions, the participants were FFAW and Seafood Processors of Newfoundland and Labrador (SPONL), and the Panel selected the position of FFAW on both occasions.

For the third consecutive year, the parties to collective bargaining were able to successfully negotiate an agreement on spring shrimp prices. They were also successful in negotiating an agreement on fall shrimp prices.

Please see Appendix A for the Species Negotiations and Results Summary – 2020 Fishing Season.

Rules and Procedures

The Panel consulted with industry stakeholders through a series of meetings in the fall of 2020, to conduct a review of its Rules and Procedures. There were no changes to the Rules and Procedures as a result of this review. The latest version of the Panel's Rules and Procedures may be found at <https://www.gov.nl.ca/fishpanel/publications>.

Report on Performance

In its 2020-23 Activity Plan, the Panel identified two 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: (1) Ensure binding collective agreements are established annually for particular species; and (2) Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting. The issues and established objectives to address them are referenced throughout the report. The following table provides a summary of the Panel's objectives and its success in achieving those objectives. As stated in the 2020-23 Activity Plan, the objectives and indicators identified by the Panel apply to the 2020-21, 2021-22 and 2022-23 fiscal years. The 2020-21 Annual Report represents the first year of the Panel's 2020-23 Activity Plan.

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

Objective: By March 31, 2021, 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 for 2020-21	Performance for 2020-21
Industry stakeholders responsible for collective bargaining of 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 2020 fishing season, and advised by way of a letter to all stakeholders on February 27, 2020, the dates by which binding collective agreements were to be in place for lobster, snow crab, shrimp, whelk, lumproe, cod, capelin, squid, halibut, herring and mackerel. This consultation was conducted just prior to the 2020-21 fiscal year, as the Panel advises industry stakeholders early in the calendar year to ensure that they may have meaningful input in establishing an appropriate schedule for collective bargaining. The Panel provided similar notification to industry stakeholders in advance of the 2021 fishery on February 25, 2021.

<p>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</p>	<p>The Panel facilitator worked with the parties to collective bargaining for all species throughout the fishing season to help achieve binding collective agreements on fish prices and conditions of sale. The facilitator was available on a full-time basis throughout the year to support collective bargaining by answering enquiries, scheduling Panel meetings and coordinating all administrative communications and functions.</p> <p>Please see Appendix A for a full summary of 2020 fishing season activity.</p>
<p>Industry stakeholders responsible for collective bargaining of fish species were notified of hearing dates, where the parties did not achieve a collective agreement</p>	<p>The Panel advised industry stakeholders on February 27, 2020 of the dates on which hearings would be held for all species, should they be necessary. Consultation was conducted just prior to the 2020-21 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 2020 fishery on February 25, 2021.</p>
<p>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</p>	<p>The Panel conducted a total of ten hearings in 2020, allowing the parties to collective bargaining an opportunity to represent their respective positions. Two of the hearings were related to the species crab (the initial decision and subsequent reconsideration decision). Two hearings for the species lobster (the initial decision and subsequent reconsideration decision). Two hearings for the species summer shrimp (the initial decision and subsequent reconsideration decision). One hearing each for the species capelin, cod, turbot, and mackerel.</p> <p>Please see Appendix A for a full summary of 2020 fishing season activity.</p>
<p>Following a hearing, the Panel made timely decisions, which established prices and conditions of sale for the particular fish species</p>	<p>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.</p>

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. Nine notifications related to decisions were distributed and posted on the website in 2020.
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At the end of 2020-21, the first of three years covered in the 2020-23 Activity Plan, the Panel had ensured that collective agreements were in place and prices and conditions of sale were established in accordance with deadlines established by the Minister of Fisheries, Forestry and Agriculture, for all species subject to collective bargaining.

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

Objective: By March 31, 2021, 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 for 2020-21	Performance for 2020-21
The collective bargaining process was monitored	Throughout the 2020-21 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.
Recommendations for changes to the legislation and regulations proposed, as warranted	The Panel, as warranted, makes representation to the Minister Responsible for Labour and the Minister of Fisheries, Forestry and Agriculture on the collective bargaining framework for the fishery and on possible amendments to the legislation. It was not deemed necessary during the 2020-21 fiscal year to make representation to either Minister.

At the end of 2020-21, the first of three years covered in the 2020-23 Activity Plan, the Panel had ensured that it had, where it was warranted, made representations to the Minister responsible, with respect to an amendment to, or modification of, the **Fishing Industry Collective Bargaining Act and Regulations**. It was not deemed necessary during the 2020-21 fiscal year to make representation regarding amendments or modifications.

Opportunities and Challenges Ahead

Looking ahead to 2021, the pandemic remains a concern. Despite the uncertainty in 2020, crab markets were very strong, and there is a high probability they will remain strong, and possibly strengthen in 2021. The crab resource also appears to be on an upswing with projections of quota increases in many fishing areas for 2021. The potential for increased catches and increased prices bodes well for the industry.

The progression of the vaccine rollout plan in the U.S. is positive news for the province's fishery. The U.S. market remains vitally important to the provincial industry, and the indication that social activity is ramping up, should translate to a return to normal patterns of activity in the food service sector, hopefully creating strong demand in both the food service and retail sectors for items like snow crab.

The impact of the pandemic on business activities in the province was a major concern heading into the 2020 fishing season. It is encouraging that the threat isn't nearly as great heading into the 2021 season, and businesses are much more prepared to deal with the challenges that might occur.

Collective bargaining in the fishery will likely continue to be conducted in virtual forums in 2021. The upside is that this will be the second year that industry stakeholders will have used virtual technology, and participants have become increasingly more comfortable with it. The downside is that there is real benefit to face to face meetings in collective bargaining, such as relationship building, and for the second consecutive year, that element is missing.

Financial Information

The following table is a summary of Panel expenditures for 2020-21.

Expenditures included in this document are unaudited 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, 2021. The Standing Fish Price-Setting Panel is not required to provide a separate audited financial statement.

**Standing Fish Price-Setting Panel
Summary of Expenditures
For the Year Ended March 31, 2021**

Summary of Expenditures For the Year Ended March 31, 2021			
Activity – 4.1.04	Actual Expenditure \$	Amended Budget \$	Original Budget \$
Salaries	102,153	103,800	103,800
Transportation and Communication	17,200	17,200	17,200
Supplies	55	200	200
Professional Services	90,938	77,400	77,400
Purchased Services	0	3,500	3,500
Property, Furnishings and Equipment	-	100	100
Total	196,858	202,200	202,200

Appendix A

Species Negotiations and Results Summary – 2020 Fishing Season

Species	Parties to Bargaining	Agreement Reached	Hearing Held	Panel Decision
Crab	ASP and FFAW	No	Yes	ASP
Crab Reconsideration	ASP and FFAW	No	Yes	FFAW
Shrimp (Spring)	ASP and FFAW	Yes	No	NA
Lobster Reconsideration	SPONL and FFAW	No	Yes	FFAW
Halibut	SPONL and FFAW	Yes	No	NA
Herring	ASP, SPONL, BGI and FFAW	Yes	No	Panel Confirmed Agreement
Lobster	SPONL and FFAW	No	Yes	FFAW
Whelk	ASP and FFAW	Yes	No	NA
Lumpfish (roe)	ASP and FFAW	Yes	No	Panel Confirmed Agreement
Cod	ASP and FFAW	No	Yes	ASP
Capelin	ASP and FFAW	No	Yes	FFAW
Shrimp (Summer)	ASP and FFAW	No	Yes	FFAW
Squid	ASP and FFAW	Yes	No	NA
Shrimp (Summer) Reconsideration	ASP and FFAW	No	Yes	FFAW
Shrimp (Fall)	ASP and FFAW	Yes	No	NA
Turbot	ASP and FFAW	No	Yes	FFAW
Mackerel	ASP and FFAW	No	Yes	ASP

Abbreviations:

ASP: Association of Seafood Producers

BGI: Barry Group Inc.

FFAW: Fish, Food and Allied Workers' Union

SPONL: Seafood Processors of Newfoundland and Labrador



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