

**STANDING FISH PRICE-SETTING PANEL
ANNUAL REPORT
2012 - 13**




Newfoundland
Labrador

TABLE OF CONTENTS

Message from the Chairperson	i
Public Body Overview	2
Highlights/Accomplishments.....	5
Performance Summary Report.....	6
Opportunities and Challenges Ahead.....	8
Financial Information	9
Appendix A.....	10

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 2012-13. 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 seventh Annual Report of the Panel, and the comments and record of activities contained herein occurred during year seven of the collective bargaining regime created in 2006. This document presents outcomes of the Panel's objectives, highlights 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, 2012 to March 31, 2013.

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 very important industry to the Province.

Last year was a good year from a collective bargaining perspective as Lobster was the only fishery in which there was a dispute of any kind. The parties reached settlements on their own in Cod, Lumpfish (Roe), Squid, Summer Shrimp, Capelin and Whelk. The decisions of the Panel in the other species resulted in the prosecution of these fisheries without incident.

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 black ink, appearing to read "Joseph P. O'Neill". The signature is fluid and cursive, with the first name "Joseph" being the most prominent part.

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 seventh year of operation, and the membership remained the same. 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 seventh 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 9 for more details). The Panel's office is located at 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 responsibility to set prices where negotiations do not occur.

Lines of Business

Establishing a Schedule of Negotiations:

On an annual basis, 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, including 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 mission of the Department of Fisheries and Aquaculture over this same period is to support the strengthening of the fishing industry and the expansion of the aquaculture industry to create sustainable and economic opportunities for the province. While the Panel does not directly contribute to either mission; it aligns with the overall results to be achieved by the Labour Relations Agency and the Department of Fisheries and Aquaculture.

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 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 9, 2012 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 2012 the Panel conducted a total of five hearings, all of which were related to price and conditions of sale. Two of the hearings were related to the species shrimp (spring and fall), and one each for the species lobster, crab and mackerel. Of the five decisions the Panel was required to make, it accepted the position of the Fish Food Allied Workers (FFAW) on each occasion. For the species lumpfish (roe), cod, shrimp (summer), capelin, squid and whelk, the Panel accepted and confirmed agreements that had been reached between the FFAW and Association of Seafood Producers (ASP), or an independent processing company, making those agreements binding on all who harvested/processed the specific species.

The Panel received two requests to reconsider its original decision; one relating to lobster and one relating to mackerel. These requests were made under section 19.14 of the *Act*. With respect to lobster, the Panel confirmed the agreement reached by the FFAW and Seafood Producers of Newfoundland and Labrador and selected the position of ASP for the mackerel reconsideration.

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, and 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.

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, 2013, 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 2012 fishing season, and advised by way of a letter to all stakeholders on March 9, 2012, the dates by which binding collective agreements lobster, snow crab, shrimp, whelk, lumpfish (roe), cod, capelin, squid and mackerel. This consultation was conducted just prior to the 2012-13 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.
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 9, 2012 of the dates on which hearings would be held for all species should they be necessary. This consultation was conducted just prior to the 2012-13 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.

<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 five hearings allowing the parties to collective bargaining the opportunity to represent their respective positions. Two of the hearings were related to the species shrimp (spring and fall), and one each for the species lobster, crab and mackerel. In addition, the Panel held one reconsideration hearing relating to mackerel.</p>
<p>Following a hearing, the Panel made timely decisions that 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>
<p>The Panel advised all industry stakeholders affected by its decision for a particular species.</p>	<p>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.</p>
<p>Issue 2: Ensure that there is adequate and reliable market information available to the parties to collective bargaining.</p>	
<p>Objective: By March 31, 2013, 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.</p>	
<p>Planned Results</p>	<p>Actual Results</p>
<p>Measure 1: Timely market reports for the particular species under consideration were made available to the parties to collective bargaining.</p>	
<p>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.</p>	<p>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.</p>

Issue 3: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.	
Objective: By March 31, 2013, 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 2012-13 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.

OPPORTUNITIES AND CHALLENGES AHEAD

Collective Bargaining Outlook for 2013-14

All parties were active in collective bargaining over the reporting period, and their efforts resulted in continued success over the previous fishing season. The 2012 fishing season saw ASP and the FFAW reach an agreement on the price of Summer Shrimp prior to the start of the season. Agreements were also achieved for the species lumpfish (roe), cod, capelin, squid, and whelk. As a result of the efforts of all parties in collective bargaining, the Panel's role was further reduced over previous years.

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 2013-14. 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 2012-13, as six of the eleven sets of fish price negotiations resulted in the parties to negotiations reaching an agreement. Looking forward to 2013-14, 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 2012-13.

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, 2013. 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, 2013
(Unaudited)**

Summary of Expenditure For the Year Ended March 31, 2013				
Activity		Actual Expenditure \$	Amended Budget \$	Original Budget \$
5.1.04.01	Salaries	85,136	85,200	84,800
5.1.04.02	Employee Benefits	775	800	0
5.1.04.03	Transportation and Communication	2639	10,000	10,300
5.1.04.04	Supplies	347	500	0
5.1.04.05	Professional Services	74,800	95,000	120,000
5.1.04.06	Purchased Services	2,191	11,900	13,000
5.1.04.07	Property, Furnishings and Equipment	100	500	400
	Total	165,988	203,900	228,500

APPENDIX A

Species Negotiations and Results Summary – 2012

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

Note: This summary table provides a summary of activities for the previous calendar year (2012), despite the report itself covering the period of the 2012-13 fiscal year (April 1, 2012 to March 31, 2013).