

STANDING FISH PRICE-SETTING PANEL

ANNUAL REPORT 2007/08



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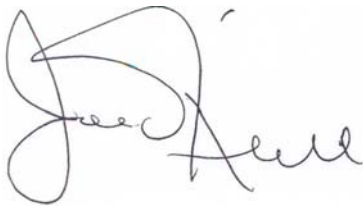
MESSAGE FROM THE CHAIRPERSON

In accordance with Government's commitment to transparency and accountability and as Chairperson responsible for the Standing Fish Price-Setting Panel, I hereby submit the Annual Performance Report for 2007-08. This report was prepared under the direction of all members of the Panel and we are all 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 2007 and the early portion of the 2008 fishing seasons.

Since their appointment in March 2006, the Panel members and staff have worked with industry stakeholders to facilitate collective bargaining and act as an arbitration panel for the parties in situations where they were unable to achieve binding collective agreements. In February 2008, as a result of a retirement, the Panel hired a new facilitator to work with fishing industry stakeholders, the Panel, and Government.

This is the second Annual Report of the Panel, and the comments and record of activities contained herein occurred during year two of the newly created collective bargaining regime. Panel members and support staff are confident that this process has contributed to fisheries commencing on a timely basis and without disruption throughout the 2007-08 fishing season. As with any new process, it takes some time to finely tune and modifications are expected as the process evolves. The Panel looks forward to working with all the key stakeholders on appropriate modifications to make this process beneficial to the industry.

A handwritten signature in black ink, appearing to read "Joseph P. O'Neill". The signature is fluid and cursive, with a large initial "J" and "O".

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 second year of operation continued to be provided by the Labour Relations Division of the Labour Relations Agency, and a new facilitator was hired in the winter of 2008 to support the Panel's activities and to support stakeholders' work in establishing fish prices. Market information support was provided by the staff at the Department of Fisheries and Aquaculture.

Funding to support the Panel's activities was voted in the allocation of the Department of Human Resources, Labour and Employment under the heading of the Labour Relations Agency (see Financial Information on page 6 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, in consultation with the stakeholders, particular fish species for collective bargaining, annually, 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 information to assist the parties during the collective bargaining phase and to further provide the Panel with a market knowledge-base 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 information 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

In response to a request from the Panel in the fall of 2006, Government brought forward amendments to the Act in December 2006 designed to: (1) provide the Panel with the authority to, on application, reconsider a decision it has previously given in relation to price and conditions of sale; and (2) provide the Minister of Human Resources, Labour and Employment authority to determine, by Regulations, the arbitration method the Panel shall apply in considering decisions (Section 19.11(3)).

In 2007-08, the latter proved to be instrumental in helping the Panel resolve a dispute in the summer shrimp negotiations. At issue, was the Autonomous Tariff Rate Quota (ATRQ) in the European Union, and how changes to it affected the price and conditions of sale for raw material in Newfoundland and Labrador. As the Minister of Human Resources, Labour and Employment had the authority to determine, by Regulations, the arbitration method the Panel may apply in considering its decision, the Panel was able to use conventional arbitration, instead of the FOS model that it was typically required to use. This enabled the Panel to make a decision that helped to prevent a disruption of the shrimp fishery, something it believed would have happened had it not been given the flexibility to use conventional arbitration.

Collective Bargaining Facilitation and Hearing Results

Leading up to the 2007-08 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 12, 2007, 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, unless the parties to negotiations mutually agreed otherwise, the Panel was obligated to use FOS in the decision-making process.

In 2007, the Panel conducted nine price hearings, six of which involved majority processors organizations (Appendix A). On two of the six occasions involving majority processors organizations, the negotiating parties mutually agreed to waive the requirement for FOS, thus allowing the Panel to use conventional arbitration to establish price and conditions of sale. On one other occasion, the Panel requested an amendment to the regulations, asking not to be bound by FOS. The request was granted and the Panel proceeded with conventional arbitration to make its decision. Ultimately, the Panel used FOS in only three of the six hearings involving majority processors organizations to establish price and conditions of sale. In two of those instances, the Panel selected the final offer of the Association of Seafood Producers (ASP) and in one instance the Panel selected the final offer of the Fish, Food, and Allied Workers (FFAW).

On February 13, 2008, after consulting with major parties to negotiations, the Panel issued notice for hearing dates to the industry for seven fish species for the 2008 season. The parties to negotiations were not successful in reaching a collective agreement on spring shrimp prices, and in the absence of such agreement, the Panel held a hearing on March 11, 2008. On March 25, the Panel advised the parties of its decision to accept the position of the FFAW. The Panel issued its full report on the Spring Shrimp Fishery on April 11, 2008.

PERFORMANCE SUMMARY REPORT

In its 2007-08 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. There is discussion of 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.

Issue 1: Ensure binding collective agreements are established annually for particular species.	
Goal: By 2008, the Standing Fish Price-Setting 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 collective agreements are in place.	
Industry stakeholders responsible for collective bargaining of the fish species are notified of the dates by which binding collective agreements are to be in effect.	Panel notified industry stakeholders in advance of the 2007 fishing season on February 12, 2007, and worked with processors and harvesters throughout the fishing season to establish fish prices where the parties to negotiations were unable to establish prices themselves. It provided similar notification to industry stakeholders in advance of the 2008 fishery on February 13, 2008.
The Panel will identify hearing dates and conduct hearings as necessary.	Panel advised industry stakeholders on January 12, 2007 of the dates on which hearings would be held for each species, should they be necessary. The Panel conducted a total of 9 hearings in 2007.
Measure 2: Ensured prices and conditions of sale are established.	
Where collective agreements are not in place, hearings are conducted to establish prices and conditions of sale for fish species.	During the 2007 fishing season, the Panel conducted hearings and established price and conditions of sale for the species: cod, crab, lumpfish(roe), capelin, mackerel, squid, and on three occasions for the species shrimp (spring, summer, and fall fisheries)
Issue 2: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.	
Goal: By 2008, the Standing Fish Price-Setting 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.	
Monitored the collective bargaining process.	Throughout the 2007-08 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.	In 2007, the Panel recommended a change to the Regulations to allow it to use conventional arbitration instead of FOS to deal with an issue in the shrimp industry. The issue was the Autonomous Tariff Rate Quota (ATRQ) in the European Union, and how changes to it affected the price and conditions of sale for raw material. The regulatory change was instrumental in helping the Panel establish a price for the summer shrimp fishing in its decision of August 27, 2007.

OPPORTUNITIES AND CHALLENGES AHEAD

Through consultation with the parties to collective bargaining in 2007-08, the Panel determined that the availability of accurate and timely marketing information was a critical component of the collective bargaining process, and that it was an equally critical component of the Panel's decision-making process. Given its continued importance, emphasis in this area will be subject to further industry consultation and analysis in 2008-09.

As it did in its first year of operation, the Panel faced a number of challenges in 2007-08. Many of the issues raised by the parties to negotiations, including legislative interpretations, procedural issues, the validity of collective agreements and the challenges to the autonomy of the Panel and basis for decisions had previously been raised in 2006-07. In 2006, the Seafood Producers of Newfoundland and Labrador (SPONL) challenged, in an Application to the Labour Relations Board, a decision of the Panel. The Labour Relations Board upheld the Panel's decision, and dismissed SPONL's Application. In 2007, ASP challenged a Panel decision in an Application to the Supreme Court of Newfoundland and Labrador. The Supreme Court upheld the Panel's decision, and dismissed ASP's Application. To date in 2008, ASP has filed two separate Applications with the Supreme Court, again challenging decisions made by the Panel. The outcome of those Applications will be determined at a later date. While these concerns may continue to exist and create both challenges and opportunities, the focus of the Panel's efforts remains the same; to ensure a harmonious relationship in the collective bargaining process whereby parties to negotiations value the aspects of cooperation and work collectively, in concert with the Panel, to achieve the maximum benefits and financial returns from the province's fishing industry.

FINANCIAL INFORMATION

Funding to support the operations of the Panel is contained within the Labour Relations Agency's annual budget. In the fiscal year 2007-08, the Panel was allocated \$249,600 to support its operations and expenditures. Its actual overall expenditure was \$122,000, which included Salaries (\$60,800), Professional Services (\$59,300), Purchased Services (\$1,700), Transportation and Communication (\$200).

The above-noted overall expenditure is contained within and is based on public information provided for the Labour Relations Agency in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund Fiscal Year ended March 31, 2008.

There is no requirement for the Panel to submit a separate audited financial statement.

APPENDIX A

Species Negotiations and Results Summary - 2007

Species	Parties to Negotiations	Agreement Reached	Panel Decision
Spring Shrimp	FFAW & ASP	Yes	Panel Sanctioned Agreement
Crab	FFAW & ASP	No	ASP Position
Cod	FFAW & Independent	Yes	Panel Sanctioned Agreement
Lumpfish (Roe)	FFAW & ASP	No	Panel Established Price
Capelin	FFAW & ASP	No. Parties mutually agreed to waive FOS	Panel Established Price
Summer Shrimp	FFAW & ASP	Yes, price schedule. No ATRQ. Parties mutually agreed to waive FOS	Panel established details for Price re-opener on ATRQ
Shrimp ATRQ	FFAW & ASP	No. Panel requested amendment to Regulations to make non- FOS decision	Panel Established Price
Squid	No Formal	No. FFAW presented roll-over of 2006 Price	Panel Sanctioned Proposal
Mackerel	FFAW & ASP	No	ASP Position
Fall Shrimp	FFAW & ASP	No	FFAW Position