

STANDING FISH PRICE-SETTING PANEL ANNUAL REPORT 2019 - 20



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Photo Credit:
Port-de-Grave, NL
By: Vince Andrews

Message from the Chairperson

The **Fishing Industry Collective Bargaining Act** (the Act) regulates collective bargaining between fish harvesters and processors. The legislation includes 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 the conditions of sale; and ultimately setting fish prices when the parties to negotiations are unable to agree.

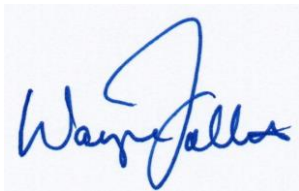
The past year was quite busy relative to recent years, but the Panel remains encouraged by the positive climate of negotiations between the parties and efficiency of the final offer selection process. The result has been timely decisions on price and conditions of sale for the normal opening dates for all fisheries. The Panel conducted a total of nine hearings related to prices and conditions of sale. The Panel also successfully dealt with an abrupt change, during price negotiations, from majority representation by a processors' organization for the species herring to non-majority status. There was also a decision by the Minister of Fisheries, Forestry and Agriculture (formerly the Department of Fisheries and Land Resources) to delay the date by which a price was to be established for herring.

At the end of 2019, the Panel conducted a post-season review in consultation with the industry stakeholders and government departments involved in the collective bargaining process. This post-season review was conducted with the goal of continuous improvement in mind while identifying best practices and any policy or procedural issues arising from the last year's activity. As a result of the meetings, several issues were identified and considered by the Panel. This resulted in additions to the Panel's Rules and Procedures to clarify the hearing process in circumstances when no majority processors organization exists for a species and to establish a process for parties to withdraw a request for reconsideration.

Also, as a result of the post-season review, the Panel wrote the Minister of Fisheries, Forestry and Agriculture. This is in keeping with its mandate under the Act (Section 19.2) "to make recommendations on matters falling within its mandate to the Minister." The Panel is requesting that the Minister take measures to improve data collection on the buying and processing of bait in the province to ensure all bait is accounted for, and that product classifications are fully reflective of product destined for bait markets. It is also requesting that the Minister modify processes used to determine majority representation for fish processing organizations under the Act.

The Panel has an important role in contributing to the economic stability of the fishing industry. Facilitating and encouraging successful collective bargaining is paramount but where necessary the Panel will set fish prices and conditions of sale through a well-managed, unbiased, timely and transparent process. Our commitment is to an evidence-based process, which is effective and efficient.

The Panel is a Category Three entity and considered the Panel's 2017-20 Activity Plan during the preparation of this Annual Report and is fully accountable for the preparation of the Annual Report and the achievement of the objectives contained within it.

A handwritten signature in blue ink, appearing to read "Wayne Follett". The signature is fluid and cursive, with a large 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 fourteenth 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 continued to be provided by the Labour Relations Division of the Department of Immigration, Skills and Labour (formerly the Department of Advanced Education, Skills and Labour). Market intelligence support was provided by staff at the Department of Fisheries, Forestry and Agriculture.

Funding for the Panel is contained in budget estimates under the Department of Immigration, Skills and Labour (see Financial Information on page 13 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 5, 2019, the Panel advised the parties to collective bargaining of the deadlines for binding agreements on prices and conditions of sale for 2019-20 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.

In the calendar year 2019, the Panel conducted a total of nine hearings related to prices and conditions of sale. Three of the hearings were related to the species crab, the initial decision and two subsequent reconsideration decisions. There were two hearings for the species squid, one for the initial decision, and one for the subsequent reconsideration decision. There were also two hearings for the species shrimp, one each for summer and fall prices. Finally, there was one hearing, each for the species capelin and herring. In eight of the hearings held, participants were the Fish, Food and Allied Workers' Union (FFAW) and the Association of Seafood Producers (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 one occasion, the participants were FFAW, ASP, The Barry Group Inc. (BGI), and Seafood Processors of Newfoundland and Labrador (SPONL), and the Panel established a price.

It's worth noting that for the second consecutive year, the parties to collective bargaining were able to successfully negotiate an agreement on spring shrimp prices.

Please see Appendix A for the Species Negotiations and Results Summary – 2019 Fishing Season.

Changes to Rules and Procedures

The Panel consulted with industry stakeholders through a series of meetings in the fall of 2019, and issued a notice to industry stakeholders advising of changes to the Rules and Procedures in 2020. The changes addressed two areas of concern: procedural issues during hearings when there is non-majority status, and the process for dealing with a withdrawal of a reconsideration request. These new Rules and Procedures were in place for the 2019-20 season, and had the positive effect they were intended to have by providing more structure to procedural issues around the hearing process. 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 2017-20 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 2017-20 Activity Plan, the objectives and indicators identified by the Panel apply to the 2017-18, 2018-19 and 2019-20 fiscal years. The 2019-20 Annual Report represents the third and final year of the Panel's 2017-20 Activity Plan.

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

Objective: By March 31, 2020, 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 2019-20	Performance for 2019-20
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 2019 fishing season, and advised by way of a letter to all stakeholders on February 5, 2019, 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 2019-20 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 2020 fishery on February 27, 2020.

<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 2019 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 5, 2019 of the dates on which hearings would be held for all species, should they be necessary. Consultation was conducted just prior to the 2019-20 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 27, 2020.</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 nine hearings in 2019, allowing the parties to collective bargaining an opportunity to represent their respective positions. Three of the hearings were related to the species crab (the initial decision and two subsequent reconsideration decisions). Two hearings for the species squid (the initial decision and subsequent reconsideration decision). Two hearings for the species shrimp (one each for summer and fall pricing). One hearing each for the species capelin and herring.</p> <p>Please see Appendix A for a full summary of 2019 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 2019.
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At the end of each of the three years covered in the 2017-20 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, 2020, 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 2019-20	Performance for 2019-20
The collective bargaining process was monitored	Throughout the 2019-20 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 of Immigration, Skills and 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 2019-20 fiscal year to make representation to either Minister.

At the end of each of the three years covered in the 2017-20 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**.

Opportunities and Challenges Ahead

Looking ahead to 2020, never has there been more uncertainty about the world generally, and as a consequence, the Newfoundland and Labrador fishery specifically. With the backdrop of a global pandemic, instability and uncertainty rule. Global markets can experience periods of volatility during the best of times, making market demand and price forecasting difficult. But generally speaking, there are indicators that provide enough information to at least allow for reasonably accurate forecasting of trends. Things may eventually stabilize to allow for that at some point in 2020, but as of the period of this report, forecasting is extremely challenging. This will have a major impact on collective bargaining. The most significant determining factor in establishing raw material prices in our fishery is always global seafood market prices, and while there is always some degree of uncertainty in projecting how pricing trends will evolve over the course of any fishing season, those projections are near impossible leading into the 2020 fishing season.

The cost of operating a fishing or processing enterprise also has never been more unpredictable, with the still to be determined health and safety protocols that will surely be implemented during a global pandemic. There are some variations in operating costs from year to year, but there could be significant changes coming, with reduced workforces and restrictive operating protocols that will challenge productivity. The ongoing pandemic poses challenges to the operation of production facilities and fishing enterprises, as well as securing the required workforce.

In terms of the collective bargaining process itself, the biggest challenge will be trying to secure reliable market intelligence information, which is a critical component of collective bargaining, and the Panel hearing process in particular. For Panel members it is the primary source of information during its deliberations and decision making. The hearing process itself will be impacted because of restrictions on public gatherings due to social distancing measures. In the larger sense, that may be the least significant of challenges, but there will certainly be some struggles as all of the participants adjust to whatever emerging technologies become available.

Financial Information

The following table is a summary of Panel expenditures for 2019-20.

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, 2020. 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, 2020
(Unaudited)**

Summary of Expenditures For the Year Ended March 31, 2020			
Activity – 4.1.04	Actual Expenditure \$	Amended Budget \$	Original Budget \$
Salaries	99,925	100,000	99,900
Transportation and Communication	5,448	17,800	17,800
Supplies	-	200	200
Professional Services	95,897	83,100	77,400
Purchased Services	3,117	3,500	3,500
Property, Furnishings and Equipment	-	100	100
Total	204,387	204,700	198,900

Appendix A

Species Negotiations and Results Summary – 2019 Fishing Season

Species	Parties to Bargaining	Agreement Reached	Hearing Held	Panel Decision
Crab	ASP and FFAW	No	Yes	FFAW
Crab Reconsideration	ASP and FFAW	No	Yes	ASP
Crab Reconsideration (2)	ASP and FFAW	No	Yes	FFAW
Shrimp (Spring)	ASP and FFAW	Yes	No	NA
Halibut	SPONL and FFAW	Yes	No	NA
Herring	ASP, SPONL, BGI and FFAW	No	Yes	Panel Established Price
Lobster	SPONL and FFAW	Yes	No	NA
Whelk	ASP and FFAW	Yes	No	NA
Lumpfish (roe)	ASP and FFAW	Yes	No	NA
Cod	ASP and FFAW	Yes	No	NA
Capelin	ASP and FFAW	No	Yes	FFAW
Shrimp (Summer)	ASP and FFAW	No	Yes	ASP
Squid	ASP and FFAW	No	Yes	FFAW
Squid Reconsideration	ASP and FFAW	No	Yes	ASP
Shrimp (Fall)	ASP and FFAW	No	Yes	FFAW

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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