

STANDING FISH PRICE-SETTING PANEL ANNUAL REPORT 2018 - 19



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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.

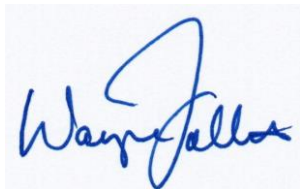
During the past year, the Panel conducted a total of eight hearings related to prices and conditions of sale. The Panel was encouraged by the positive climate of negotiations between the parties and efficiency of the final offer selection process. The result has been timely decisions on price and conditions of sale for the normal opening dates for most fisheries. For the first time since the Panel's inception, the parties to collective bargaining were able to successfully negotiate an agreement on both spring and summer shrimp prices. As well, in its hearing decision on lobster, the Panel wrote a detailed report enumerating the challenges and providing guidance for the industry to consider in future attempts to significantly change the longstanding lobster pricing formula.

During the fall of 2018, the Panel initiated a series of meetings between the industry stakeholders and government departments involved in the collective bargaining process to review the previous season's processes. This proved to be beneficial and will be continued in the coming fall. As a result of the meetings, several issues were identified and considered by the Panel. In December 2018, changes to the Rules and Procedures were introduced which addressed the attendance at Panel hearings and the process for dealing with a reconsideration request. These changes have been successfully implemented in the hearings to date in 2019. As well, the Panel participated in a process led by the Departments of Advanced Education, Skills and Labour and of Fisheries and Land Resources to consider amendments to the Act and Regulations by the House of Assembly. These proposed amendments are intended to strengthen the legislative framework and improve the Panel's processes. One amendment under consideration is the extension of the time for the parties and the Panel to deal with reconsiderations and the Panel is hopeful it will be implemented.

As noted last year, the markets for several key species remain at historically high levels, softening some of the impacts of recent stock declines. The question remains whether these improved markets are temporary or a sign of a new normal. 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, reading "Wayne Follett". The signature is written in a cursive style with a large, stylized initial 'W'.

Wayne Follett
Chair

Public Body 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 thirteenth year of operation. Panel members included:

- **Mr. Wayne Follett** (Chair) – Term: January 10, 2017 – January 9, 2020
- **Mr. Bill Carter** (Vice Chair) – Term: January 10, 2017 – January 9, 2020
- **Ms. Rosalind Walsh** (Member) – Term: January 10, 2017 – June 26, 2018 (resignation date)
- **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

Mr. Condon, prior to his appointment as a regular member on October 2, 2018, had previously served as an alternate member since January 10, 2017.

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 Advanced Education, Skills and Labour. Market intelligence support was provided by staff at the Department of Fisheries and Land Resources.

Funding for the Panel is contained in budget estimates under the Department of Advanced Education, 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 and Land Resources. 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 and Land Resources, 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 and Land Resources. 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 March 1, 2018, the Panel advised the parties to collective bargaining of the deadlines for binding agreements on prices and conditions of sale for 2018-19 for the species lobster, snow crab, shrimp, whelk, lumproe, cod, capelin, squid, halibut, 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 2018, the Panel conducted a total of eight hearings related to prices and conditions of sale. Two of the hearings were related to the species crab, the initial decision and subsequent reconsideration decision at the request of the Fish, Food and Allied Workers Union (FFAW), and one each for the species shrimp, lobster, cod, lumproe, squid, and capelin. In seven of the hearings held, participants were the FFAW and the Association of Seafood Producers (ASP). Of the seven resulting decisions, the Panel selected the position of FFAW on three occasions, and the position of ASP on four occasions. On one occasion, the participants were FFAW and Seafood Producers of Newfoundland and Labrador (SPONL), and the Panel selected the position of FFAW.

It's worth noting in particular that for the first time since the Panel's inception, the parties to collective bargaining were able to successfully negotiate an agreement on both spring and summer shrimp prices.

Please see Appendix A for the Species Negotiations and Results Summary – 2018 Fishing Season.

Changes to Rules and Procedures

The Panel consulted with industry stakeholders through a series of meetings in the fall of 2018, and issued a notice to industry stakeholders on December 21, 2018, advising of changes to the Rules and Procedures. The changes addressed two areas of concern: attendance at Panel hearings, and the process for dealing with a reconsideration request. The latest version of the Panel's Rules and Procedures may be found at <https://www.gov.nl.ca/fishpanel/publications>.

Proposed Modifications to the Fishing Industry Collective Bargaining Act and Regulations

The Panel, through consultations with industry stakeholders, identified components of the **Fishing Industry Collective Bargaining Act** and **Regulations** that could be modified and improved upon. In conjunction with the Department of Fisheries and Land Resources, and the Department of Advanced Education, Skills and Labour, the Panel completed the necessary research and analysis to develop the proposal to modify the **Fishing Industry Collective Bargaining Act** and **Regulations**. Policy work was also completed to advance the draft Bill for consideration in the House of Assembly.

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.

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

Objective: By March 31, 2019, 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 and Land Resources.

Indicators for 2018-19	Performance for 2018-19
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 2018 fishing season, and advised by way of a letter to all stakeholders on March 1, 2018, the dates by which binding collective agreements were to be in place for lobster, snow crab, shrimp, whelk, lumproe, cod, capelin, squid, halibut, and mackerel. This consultation was conducted just prior to the 2018-19 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 2019 fishery on February 25, 2019.

Indicators for 2018-19	Performance for 2018-19
<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 2018 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 March 1, 2018 of the dates on which hearings would be held for all species, should they be necessary. Consultation was conducted just prior to the 2018-19 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 2019 fishery on February 25, 2019.</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 eight hearings in 2018, 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), and one each for the species shrimp, lobster, cod, lumproe, squid, and capelin.</p> <p>Please see Appendix A for a full summary of 2018 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>

Indicators for 2018-19	Performance for 2018-19
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. Eight notifications related to decisions were distributed and posted on the website in 2018.

At the end of 2018-19, the second of 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 and Land Resources, 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, 2019, 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 2018-19	Performance for 2018-19
The collective bargaining process was monitored	Throughout the 2018-19 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	<p>The Panel made representation to the Minister of Advanced Education, Skills and Labour and the Minister of Fisheries and Land Resources on the collective bargaining framework for the fishery on possible amendments to the legislation.</p> <p>They proposed amendments:</p> <ul style="list-style-type: none"> • regarding the appointment of Panel members allowing for greater stability and continuity; • allowing the Panel to reconsider a decision upon the request of a non-majority fish processor or processor

Indicators for 2018-19	Performance for 2018-19
	<p>organization, a group that had previously been unintentionally excluded;</p> <ul style="list-style-type: none"> • extending the time period for the Panel to respond to a reconsideration request from 48 to 96 hours.

The proposed changes to the Act were put forward by the Panel, after consultation with industry stakeholders, to address perceived unintended limitations in the legislation. For example, the legislated timeframe of 48 hours to address a reconsideration decision was simply not enough time to appropriately address the complexities of everything involved in the reconsideration process. The Panel must meet with both parties, seek out and review new market intelligence information, landings and production data, hold a hearing, deliberate to make a decision, compose and release that decision. As such, expanding the timeframe from 48 to 96 hours allows the Panel to appropriately address a reconsideration decision.

Another unintended consequence of the legislation was that it excluded non-majority processors or processor organizations from submitting a reconsideration request, even if they had participated in collective bargaining, or appeared before the Panel at the initial hearing. Upon consulting with stakeholders changes were proposed to allow these processors and organizations to submit a reconsideration request.

At the end of 2018-19, the second of 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 2019, a key factor once again will be the health of the resource, especially as it relates to critical species like crab and shrimp, and potential quota reductions. Both species, particularly shrimp, have seen significant quota cuts in recent years, which has presented a tremendous challenge for all industry stakeholders. This highlights a second critical factor, which is the market outlook for these species. Very fortunately over the past several years, the market has stabilized and strengthened for both species. Market prices have increased at a time when the resource has declined, stabilizing what may have otherwise been a disastrous turn of events. The expectation for 2019 is that if there are further quota reductions, they will be slight, and more manageable than the deep cuts of recent years. For the market as well, the outlook is mostly positive, and if there is a downward correction, it too should be slight, and manageable.

The outlook for another important species, cod, is both a challenge and an opportunity. The resource situation remains unpredictable. Quality standards have progressed and should present a real opportunity if the industry can continue to build on them. The market looks relatively stable. All of these things are important, given the level of investment in cod over the past several years, and relatively high expectations.

The Market Intelligence Unit of the Department of Fisheries and Land Resources will continue to provide market intelligence information for each species subject to collective bargaining. The information is used by the parties to collective bargaining, and is especially helpful to Panel members in their deliberations. The challenge for the Panel is interpreting this information, and in particular its relevance to Newfoundland and Labrador seafood exports, and ultimately the price of raw material in the province. The Market Intelligence Unit has used feedback from industry stakeholders over the years to provide direction to market consultants on the type of information that is most relevant and useful. With markets becoming increasingly complex and diverse, the role of the Market Intelligence Unit continues to be a key component in the collective bargaining process going forward.

Having legislation that is reflective of the needs of industry is an essential requirement for an effective and efficient collective bargaining process. The Panel will continually assess the legislative regime and encourage feedback from industry stakeholders regarding their experience. In 2018-19, representation was made to the Provincial Government to propose changes designed to improve the collective bargaining process. If the proposed changes are adopted and take effect in 2019-20 the components of the legislation that had been a challenge or obstacle, will become strengths. As always, it is through this sort of evaluative and collaborative approach that the collective bargaining process remains current and the fishery continues to be a major contributor to the provincial economy.

Financial Information

The following table is a summary of Panel expenditures for 2018-19.

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, 2019. 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, 2019
(Unaudited)**

Summary of Expenditures For the Year Ended March 31, 2019			
Activity – 4.1.04	Actual Expenditure \$	Amended Budget \$	Original Budget \$
Salaries	99,925	100,000	99,900
Transportation and Communication	12,106	18,000	18,000
Supplies	194	-	-
Professional Services	84,408	81,900	77,300
Purchased Services	2,212	-	0
Property, Furnishings and Equipment	805	200	200
Total	199,650	200,100	195,400

Appendix A

Species Negotiations and Results Summary – 2018 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	ASP
Shrimp (Spring)	ASP and FFAW	Yes	No	NA
Halibut	SPONL and FFAW	Yes	No	NA
Lobster	SPONL and FFAW	No	Yes	FFAW
Whelk	ASP and FFAW	Yes	No	NA
Lumpfish (roe)	ASP and FFAW	No	Yes	ASP
Cod	ASP and FFAW	No	Yes	ASP
Capelin	ASP and FFAW	No	Yes	FFAW
Shrimp (Summer)	ASP and FFAW	Yes	No	NA
Squid	ASP and FFAW	No	Yes	FFAW
Shrimp (Fall)	ASP and FFAW	No	Yes	FFAW

Definitions:

ASP: Association of Seafood Producers
 FFAW: Fish, Food and Allied Workers' Union
 SPONL: Seafood Producers of Newfoundland and Labrador



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<https://www.gov.nl.ca/fishpanel>