

# ANNUAL REPORT

## STANDING FISH PRICE-SETTING PANEL

### 2022-2023



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Photo Credit:  
Boats, St. John's  
By: Valerie George

# Message from the Chairperson

I am pleased to provide the Annual Report of the Standing Fish Price-Setting Panel for 2022-23.

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 effect 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 in the fishing industry; 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 Panel is committed to facilitating and encouraging successful collective bargaining and, where necessary, the Panel setting fish prices and conditions of sale through a well-managed, unbiased, timely, and transparent process. As Chairperson, I am grateful for the dedication, professionalism, and commitment of all Panel members in ensuring Panel decisions are evidence-based and apolitical.

In October, 2022, the Government of Newfoundland and Labrador published a report on collective bargaining in the fishing industry in this Province. Entitled, *Fishing Industry Collective Bargaining Model: Past, Present and Future*” and authored by David Conway, it is generally referred to as the “Conway Report.”

During 2023, the Panel’s composition and operations changed based on legislative changes stemming from the Conway Report. Some of these changes included:

- Retaining a three-person Panel, with the addition of two alternate chairpersons;
- Provincial Government appointing arbitrators as the chairperson and alternate chairpersons, based on input and direction from the fishing industry;
- Mandating the certified bargaining agent and the processors’ organization to each nominate one member and one alternate member for appointment to the Panel;
- Allowing, where jointly requested by the parties to collective bargaining, the chairperson alone to hear and consider the parties’ positions and issue a decision on a matter.

On behalf of the Panel, I wish to acknowledge the hard work, dedication, and professionalism of our support team, including but not limited to those who provide us with timely industry research and data for our deliberations, those who provide conciliation and negotiation services to the parties throughout the process, and those who provide us with administrative and ongoing support. We also appreciate and thank the parties themselves for their thorough submissions and participation in the process.

The Panel is a Category 3 entity under the ***Transparency and Accountability Act***. It is fully accountable for the preparation of this Report and the achievement of the objectives and results contained within. During 2022-23, the Panel was successful in meeting all its objectives.

Sincerely,

Sheilagh M. Murphy, K.C.  
Chairperson, Standing Fish Price-Setting Panel

# Overview

The legislative authority establishing the Panel's role and responsibilities is contained in Sections 19.1 to 19.17 of the **Fishing Industry Collective Bargaining Act** (the **Act**) and associated Regulations. The Panel is classified as a Category Three entity under the **Transparency and Accountability Act**

This was the Panel's seventeenth year of operation. Panel members for fiscal year 2022-2023 were:

- **Mr. David Lewis** (Chairperson)
- **Mr. Bill Carter** (Vice Chairperson)
- **Mr. Earle McCurdy** (Member)
- **Mr. Michael Dewling** (Alternate Member)
- **Mr. Bren Conlon** (Alternate Member)

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 Department of Environment and Climate Change. 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: 2<sup>nd</sup> 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 and conditions of sale when negotiations do not take place.

Through its work during the reporting period, the Panel contributed to the vision of the Department of Environment and Climate Change:

“The vision of the Department of Environment and Climate Change is a clean, sustainable and protected environment supported through effective stewardship as well as a province where employees and employers are supported to achieve a healthy, safe, and productive workplace.”

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

## Lines of Business

### 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 believes 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 January 14, 2022, the Panel advised the parties to collective bargaining of the deadlines for binding agreements on prices and conditions of sale for 2022-23 for the species lobster, snow crab, shrimp, whelk, lump roe, cod, capelin, squid, halibut, herring, sea cucumber, mackerel and turbot. The Panel also advised of the dates on which

hearings would be held for the individual species, should a binding agreement not be achieved.

During fiscal year 2022-23, 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 was one hearing for the species shrimp for each season, spring, summer and fall respectively. Additionally there was one hearing for each of the following the species: sea cucumber, lobster, squid, capelin, and turbot. Fish Food and Allied Workers Union (FFAW) and the Association of Seafood Producers (ASP) participated in all ten of the hearings. Of the ten resulting decisions, the Panel selected the position of FFAW on seven occasions, and the position of ASP on three occasions.

The parties to collective bargaining were able to successfully negotiate an agreement on the following species: halibut, lump roe, whelk, herring, and cod; there was no mackerel fishery permitted in 2022-23.

Please see Appendix A for the Species Negotiations and Results Summary – 2022-23 fishing season.

### **Amendments to the Act Resulting from the Conway Report**

On July 21, 2022, the Minister Responsible for Labour appointed David Conway to conduct a review of the collective bargaining model contained in sections 19.1 - 19.14 of the Act to determine if it is still effective and responsive to the needs of the industry.

The final report entitled "Fishing Industry Collective Bargaining Model: Past, Present and Future" contained twenty recommendations with the primary recommendation to maintain the current collective bargaining model with the three-person Panel composition. Stemming from this were a number of legislative and non-legislative recommendations designed to address identified concerns and provide improvements to the model.

Amendments to the Act passed during the fall sitting of the House of Assembly, and include:

- A five-year statutory review for the collective bargaining model outlined in the Act.
- Changes to the composition of the Panel, including:
  - retaining the three-person Panel, with the addition of two alternate chairpersons;
  - appointment of the chairperson and alternate chairpersons by the Provincial Government, with direction from industry;



- mandating the certified bargaining agent and the processors' organization to each nominate one member and one alternate member for appointment to the Panel; and
- mandating certified bargaining agent and the processors' organization to each nominate one member and one alternate member for appointment to the Panel.
- Mandating the chairperson alone to hear and consider the parties' positions and issue a decision, upon joint request of the parties to collective bargaining.

Panel members were consulted during the preparation of the Conway Report and during the process to amend the Act.

### Rules and Procedures

The Panel consulted with industry stakeholders through a series of meetings in the fall of 2022, 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 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 2022-23 Annual Report represents the third 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, 2023, 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 2022-23	Performance for 2022-23
<p>Industry stakeholders responsible for collective bargaining of fish species were notified of the dates by which binding collective agreements were to be in effect</p>	<p>The Panel consulted with industry stakeholders prior to the start of the 2022-23 fishing season, and advised by way of a letter to all stakeholders on January 14, 2022 the dates which binding collective agreements were to be in place for lobster, snow crab, shrimp, sea cucumber, turbot, whelk, lump roe, cod, capelin, squid, halibut, mackerel, and herring. This consultation was conducted prior to the 2022-23 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.</p>
<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 2022-23 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 January 14, 2022 of the dates on which hearings would be held for all species, should they be necessary. Consultation was conducted just prior to the 2022-23 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>

<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 2022-23, 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). One hearing was held for each shrimp fishing season, spring, summer and fall; one hearing was also held for sea cucumber, lobster, squid, capelin, and turbot.</p> <p>Please see Appendix A for a full summary of 2022-23 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>
<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. Ten notifications related to decisions were distributed and posted on the website in 2022-23.</p>

At the end of 2022-23, the third 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, 2023, 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 2022-23	Performance for 2022-23
The collective bargaining process was monitored.	Throughout the 2022-23 fiscal year, 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. Panel members were consulted during the 2022-23 fiscal year concerning preparation of the Conway Report ( <a href="https://www.gov.nl.ca/ecc/files/FICBA-Review-Final-Report.pdf">https://www.gov.nl.ca/ecc/files/FICBA-Review-Final-Report.pdf</a> ) and subsequent changes to the Act See the Highlights and Partnerships section of our annual report for further details.

At the end of 2022-23, the Panel had ensured 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**. The Panel was consulted during the 2022-23 fiscal year during the process to amend the **Act** pursuant to findings of the Conway Report.

## Opportunities and Challenges Ahead

Looking ahead to next year’s fishery, the global pandemic will no longer be an economic driver of fish markets, with Government stimulus spending having ceased. In spring of 2022-23, crab markets were still considered strong coming off a record high raw material price for crab of \$7.60 lbs. in the previous year. However, the demand for the Newfoundland snow crab was lower than expected resulting in weaker markets in the United States. A reconsideration of snow crab resulted in the reduction of the raw material price to \$6.15/ lbs.

Studies indicated snow crab stocks were quite healthy and in 2022-23 the snow crab quota was increased by approximately 30 per cent across all fishing zones. This allowed for higher potential landings and more product entering the market. However, a downward trend in the market did not permit producers to sell all their product. This excess of inventory could continue to negatively impact the market.

The United States market is the single most important factor that drives the fishing industry in the Province. It is indicated through high inventories and reduced in demand in 2022-23 that demand for snow crab may be dramatically reduced resulting in lower prices. Asian markets are also speculated to be negatively impacted due to a flood of Russian products into Asia having lost their markets in Europe. The war in Ukraine has driven costs for the harvesters and processors upwards and demand for products across several markets in a downward trend and this will likely continue and be further exacerbated if the conflict is protracted.

The majority of fish sales to the United States market are to the food service sector; Covid-19 will no longer be an impediment to this sector of the economy. The prevalence of the vaccines in many areas of the globe indicate that social activity will normalize. This should translate to normal patterns of activity in the food service sector, and potentially create strong demand in both the food service and retail sectors.

The challenge for the industry in future will be potential market uncertainty due to the war in Ukraine. The war has contributed to a rise in inflation thereby having a negative effect on social spending.

## Financial Information

The following table is a summary of Panel expenditures for 2022-23.

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, 2023. The 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, 2023**

<b>Summary of Expenditures For the Year Ended March 31, 2023</b>			
<b>Activity – 4.1.04</b>	<b>Actual Expenditure \$</b>	<b>Amended Budget \$</b>	<b>Original Budget \$</b>
Salaries	107,509	107,600	107,500
Transportation and Communication	11,248	17,200	17,200
Supplies	177	200	200
Professional Services	192,875	192,400	77,400
Purchased Services	1,498	3,500	3,500
Property, Furnishings and Equipment	1,687	100	100
<b>Total</b>	<b>334,994</b>	<b>334,994</b>	<b>205,900</b>

# Appendix A

## Species Negotiations and Results Summary – 2022-23 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
Sea Cucumber	ASP and FFAW	No	Yes	FFAW
Shrimp (Spring)	ASP and FFAW	No	Yes	FFAW
Halibut	ASP and FFAW	Yes	No	NA
Herring	ASP and FFAW	Yes	No	NA
Lobster	ASP and FFAW	No	Yes	FFAW
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
Shrimp (Fall)	ASP and FFAW	No	Yes	FFAW
Turbot	ASP and FFAW	No	Yes	FFAW

### Abbreviations:

ASP: Association of Seafood  
Producers

FFAW: Fish, Food and Allied Workers' Union