

STANDING FISH PRICE-SETTING PANEL

ANNUAL REPORT 2011/12



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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 am pleased to submit the Annual Performance Report for 2011-12. 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 sixth Annual Report of the Panel, and the comments and record of activities contained herein occurred during year six 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 2011 to the end of March 2012.

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 most important industry to the Province.

The 2011 fishing season saw the introduction of two new species for collective bargaining negotiations; Whelk and Lobster. While the parties reached an understanding on Whelk that did not have to involve the Panel, there was a dispute in the Lobster negotiations which delayed the Lobster fishery for a short period. This dispute was not entirely unexpected as this was the first year that this species was subject to collective bargaining negotiations.

2011 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 Crab, Cod, Lumpfish (Roe), and Fall Shrimp. 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.



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 sixth year of operation, and the membership remained the same. The Panel members include: Joe O'Neill, Chair; Bill Wells, Vice-Chair; Max Short, 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 sixth 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 8 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 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

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 continue to focus on the sustainable development of the province's fishing and aquaculture industries. 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

Legislative Amendments

The most recent legislative amendments related to the collective bargaining framework in the fishing industry were made in December 2010, and associated changes to the Fishing Industry Collective Bargaining Regulations were published in January 2011. The current *Fishing Industry Collective Bargaining Act* (FICBA) may be viewed on-line at www.hrle.gov.nl.ca/fishpanel/index.html.

Collective Bargaining Facilitation and Hearing Results

On February 28th, 2011, the Panel advised the parties to collective bargaining of the deadlines for binding agreements on price and conditions of sale for the species crab and shrimp. On April 12th, 2011 the Panel advised the parties of the deadlines for capelin, cod, lumpfish (roe), mackerel, squid, lobster, and whelk. 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 2011, the Panel conducted a total of eight hearings, all of which were related to price and conditions of sale. Two of the hearings were related to the species shrimp, two for lobster, and one each for the species cod, lumpfish (roe), mackerel, and squid. Of the seven decisions the Panel was required to make, it accepted the position of the Fish, Food and Allied Workers union (FFAW) on three occasions and the position of the Association of Seafood Processors (ASP) on two. On two other occasions for the species cod and lumpfish (roe), the Panel accepted and confirmed agreements that had been reached between the FFAW and the ASP, or an independent processing company, making those agreements binding on all who harvested/processed the species cod and lumpfish (roe) in the province.

The Panel also received three requests to reconsider its original decisions under section 19.14 of the FICBA. On two occasions it confirmed its original decision and on another occasion it sanctioned a new agreement that had been reached by the FFAW and the Seafood Producers of Newfoundland and Labrador (SPONL). On March 9th, 2012 in advance of the 2012 fishing season, the Panel advised the parties to collective bargaining of the dates by which collective agreements must be in place for all species. In the same letter, the Panel also advised of the dates that hearings would be held for each species in the event the parties were unsuccessful in achieving binding collective agreements.

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 Labour Relations Agency Panel facilitator to ensure that the market intelligence information is as timely and relevant as possible. The DFA stepped

up its market intelligence efforts in 2011 and again in the early part of 2012 by identifying additional sources of information to provide an even more balanced perspective on international markets.

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, meaning the same objectives reported in this report will be reported in the 2012/13 and 2013/14 Annual Reports.

Issue 1: Ensure binding collective agreements are established annually for particular species.	
Objective: By March 31, 2012, 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 2011 fishing season, and advised by way of a letter to all stakeholders on February 28th, 2011, the dates by which binding collective agreements were to be in place for the species crab and shrimp. On April 12 th it advised stakeholders of the dates by which binding collective agreements were to be in place for the remaining species under consideration. This consultation was conducted just prior to the 2011-12 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. It provided similar notification to industry stakeholders in advance of the 2012 fishery on March 9th, 2012.
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 Labour Relations Agency 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 February 28 th , 2011 of the dates on which hearings would be held for two species crab and shrimp should they be necessary. On April 12 th it advised stakeholders of the dates by which binding collective agreements were to be in place for the remaining species under consideration. This consultation was conducted just prior to the 2011-12 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 2012 fishery on March 9th, 2012.
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.	Between April-September 2011, the Panel conducted a total of 8 hearings, allowing the parties to collective bargaining the opportunity to represent their respective positions. The Panel conducted hearings and established price and conditions of sale for the species mackerel, squid, lumpfish roe, cod, shrimp on two occasions (spring and summer prices) and lobster on two occasions (to establish an initial price and to reconsider its initial decision).
Following a hearing, the Panel made timely decisions that established prices and conditions of sale for the particular fish species.	For each species under consideration, the Panel made timely decisions prior to the start of the fishery for the species under consideration. Deadlines for Panel decisions were only extended if such a request came from the parties to collective bargaining.
The Panel advised all industry	For each species for which a hearing was required, the Panel notified the

stakeholders affected by its decision for a particular species.	parties to collective bargaining (and other affected stakeholders) of its decision in a timely manner.
Issue 2: Ensure that there is adequate and reliable market information available to the parties to collective bargaining.	
Objective: By March 31, 2012, 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.	
Planned Results	Actual Results
Measure: Timely market reports for the particular species under consideration were made available to the parties to collective bargaining.	
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.	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 each year identify appropriate market consultants to provide the most current and most relevant market intelligence available.
Issue 3: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.	
Objective: By March 31, 2012, 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: Appropriate representation made to the responsible Minister, if necessary.	
The collective bargaining process was monitored.	Throughout the 2011-12 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, made representation to the Minister Responsible for the Labour Relations Agency on the collective bargaining framework for the fishery and on possible amendments to the legislation.

OPPORTUNITIES AND CHALLENGES AHEAD

Collective Bargaining Outlook for 2012-13

All parties were active in collective bargaining over the reporting period, and their efforts resulted in greater success than in previous fishing seasons. The 2011 fishing season began on a very positive note, as the ASP and the FFAW had already reached agreement on the price of crab prior to the start of the season. This was an important milestone as it was the first time that the parties had reached agreement on this species. As a result of the efforts of all parties in collective bargaining, the Panel's role was slightly reduced over previous years. Generally speaking, the industry was in a relatively stable situation over the 2011 fishing season, especially in terms of the market outlook with most species.

Given these successes in collective bargaining in 2011-12, the Panel anticipates that parties may build on the momentum of the 2011 fishing season and there may be further successes in collective bargaining over the 2012-13 reporting period. If the parties continue to be mostly successful in achieving collective agreements among themselves in the forthcoming fishing season, the Panel may see its role in collective bargaining significantly reduced for the balance of the 2012 season compared to previous years. 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 2012 -13.

Panel Rules and Procedures

The Panel's Rules and Procedures have been modified slightly at various times over the years, based in part on input from industry stakeholders. Minor changes were made to the Panel's Rules and Procedures for the period of this report, mainly related to the timing and method used by the parties to collective bargaining in exchanging FOS positions prior to a Panel Hearing. The Panel continues to encourage input from all industry stakeholders, which they take under advisement when completing its review and analysis.

Moving Forward

The Panel continues to be encouraged by the results of collective bargaining in 2011/12, as more than half of the eleven sets of fish price negotiations resulted in the parties to negotiations reaching an agreement. Looking forward to 2012/13, the Panel is hopeful that its services will be required to an even lesser extent, since that would be an indicator that the parties to collective bargaining have been even more successful at the bargaining table.

FINANCIAL INFORMATION

The following table is a summary of Panel expenditures for 2011-12.

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 31 March 2012. 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, 2012
(Unaudited)**

Summary of Expenditure For the Year Ended March 31, 2012				
Activity		Actual Expenditure \$	Amended Budget \$	Original Budget \$
5.1.04.01	Salaries	81,214	94,700	94,700
5.1.04.02	Employee Benefits	820	900	-
5.1.04.03	Transportation and Communication	3,905	11,500	11,500
5.1.04.05	Professional Services	55,100	120,000	120,000
5.1.04.06	Purchased Services	517	15,800	18,000
5.1.04.07	Property, Furnishings and Equipment	1,772	1,800	500
	Total	143,328	244,700	244,700

APPENDIX A

Species Negotiations and Results Summary – 2011

Species	Parties to Negotiations	Agreement Reached	Panel Decision
Lobster	FFAW /SPONL	No	Selected FFAW
Shrimp (Spring)	FFAW /ASP	No	Selected FFAW
Crab	FFAW /ASP	Yes	Confirmed Agreement
Lumpfish (Roe)	FFAW/ASP	Yes	Confirmed Agreement
Cod	FFAW & Independent	Yes	Confirmed Agreement
Shrimp (Summer)	FFAW /ASP	No	Selected ASP
Capelin	FFAW/	Yes	Confirmed Agreement
Squid	FFAW /	No	Selected FFAW
Mackerel	FFAW/ASP	No	Selected ASP
Cod	FFAW & Independent	Yes	Confirmed Agreement
Shrimp (Fall)	FFAW / ASP	Yes	Confirmed Agreement
Whelk	FFAW /ASP	Yes	Confirmed Agreement

Note: This table provides a summary of activities for the previous calendar year (2011), despite the report itself covering the period of the 2011/2012 fiscal year (April 1, 2011 to March 31, 2012).