

Standing Fish Price-Setting Panel

Activity Plan

2017-2020



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Message from the Chairperson

In the province of Newfoundland and Labrador, the Fishing Industry Collective Bargaining Act regulates collective bargaining between fish harvesters and processors. This act has been in place since 1971. In 2006, amendments to the legislation were passed resulting in 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 writing of this message is timely in that I, and the other Panel members, have just recently been appointed to replace the outgoing longstanding members of the inaugural Panel established under the 2006 legislation. These outgoing members, in particular the recently deceased former chair Mr. Joseph O'Neill, and full-time members Mr. William Wells and Mr. Max Short, have done much of the heavy lifting in terms of normalizing the operations and role of the Panel in the Newfoundland and Labrador fishing industry. For the past decade, the result has been timely decisions on price and conditions of sale for the normal opening dates for most fisheries. These decisions have not meant all fisheries have commenced on time as it is an enterprise or business decision whether to commence fishing or processing. However, they have provided certainty over price and conditions of sale for all stakeholders in the industry affected by these decisions. This is in large measure a credit to the dedication and competency of the former Panel.

The fishing industry will continue to evolve. The decline of shellfish stocks and the recovery of cod stocks will establish new economic and operational realities. Challenges to industry governance models are emerging particularly in terms of harvester representation and may introduce new considerations for industry and the Panel. Extraneous market forces such as currency exchange, Brexit, new and amended free trade agreements, changing global trade relationships and growing demands for sustainability and traceability of fish and fish products may offer new opportunity but will also introduce uncertainty.

Looking forward, the Panel is cognizant of its important role and the need to discharge its mandate in an effective and efficient manner while 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.

The Panel is a Category 3 entity and considered the strategic directions of Government during the preparation of this Activity Plan, and is fully accountable for the preparation of the Plan and achievement of the objectives contained within it.



Wayne Follett, Chair

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1.0 Overview

Background

The Fishing Industry Collective Bargaining Act regulates collective bargaining between fish harvesters and processors. The collective bargaining framework was created in 1971 and has been amended several times to prohibit strikes or lockouts by providing for binding arbitration using several models: a single arbitrator; introduction of a voluntary fish auction system; and binding arbitration using a fish price-setting panel, which is the current model.

Established in 2006, the Standing Fish Price-Setting Panel (the Panel) is required to set the price and conditions of sale for fish when parties are unable to do so through the collective bargaining process. Specific duties of members are outlined in Section 19.2 of the Fishing Industry Collective Bargaining Act and include: annually identifying, in consultation with stakeholders, particular fish species for collective bargaining; collecting and disseminating market information; establishing parameters for negotiations; facilitating collective bargaining; acting as an arbitration panel for the parties in setting fish prices; setting hearing dates; and setting fish prices when the parties to the negotiations have been unwilling or unable to agree.

Current Membership

The present Panel is comprised of Mr. Wayne Follett, Chair; Mr. Bill Carter, Vice-Chair; and Ms. Rosalind Walsh, member. Alternate members include Mr. Brendan Condon and Mr. Edwin Hussey.

Financial Information

Funding to support the Panel's activities is allocated within the Department of Advanced Education, Skills and Labour. As per the Estimates of the Program Expenditure and Revenue of the Consolidated Revenue Fund 2017-18, the annual budget for the Panel in 2017-18 is \$209,400. This funding covers such areas as salaries for administrative support, facilitation, professional services, travel and accommodations for board members as required, and related office expenditures.

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2.0 Mandate

The Mandate of the Panel is to annually identify, following consultation with industry stakeholders, particular fish species for collective bargaining, and to ensure price and conditions of sale 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.

The legislative authority establishing the Panel and its role and responsibilities is contained in Sections 19.01-19.15 of the Fishing Industry Collective Bargaining Act and outlined in Appendix A.

3.0 Lines of Business

Establishing a Schedule of Hearings

The Panel will consult with parties to negotiations to determine the particular fish species to be bargained under the Fishing Industry Collective Bargaining 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 agreement(s) must be in effect; potential hearing date(s); and place(s) where the Panel will hold hearings and receive submissions in the event binding agreement(s) 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 Fishing Industry Collective Bargaining Act, for the purpose of carrying out its duties. The rules and procedures provide direction to the 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 the parties to negotiations for all species identified in the schedule of negotiations. The facilitator provides support by helping to identify outstanding issues and mediating/facilitating the collective bargaining process to assist the parties in reaching a collective agreement. The facilitator coordinates activities between the Panel, parties to negotiations, and relevant government departments.

4.0 Values

The Panel's ability to establish parameters for negotiations, facilitate collective bargaining, act as an arbitration panel in the setting of fish prices and conditions of sale, and set fish prices when the parties are unable to agree, requires Government and industry stakeholders to have a high level of trust and confidence in the independence of the Panel in its decision-making. To this end, the Panel promotes four key values:

Professionalism

Panel members are committed to the highest professional standards and attitudes in fulfilling their mandate. This is achieved by maintaining and enhancing their technical and market knowledge, focusing on good faith and objectivity in their behaviour and interactions, and ensuring decisions are made in an unbiased manner.

Respect

Panel members will treat all people with courtesy and understanding, and are committed to ensuring the views of the Panel are fairly represented in a neutral and dignified manner.

Partnership

Panel members are committed to building collaborative and constructive relationships with stakeholders. The Panel endeavors to engage industry participants in processes whose outcomes will ultimately affect them. It is the Panel's objective to foster a positive and consensus-building environment.

Confidentiality

Panel members ensure any relevant industry information provided to them on a confidential basis is respected and protected from disclosure.

5.0 Primary Clients

The Fishing Industry Collective Bargaining Act regulates collective bargaining between fish harvesters and processors.

The Panel's primary clients include: two organizations representing fish processors, the Association of Seafood Producers and the Seafood Processors of Newfoundland and Labrador; a number of independent fish processors who are not members of either organization; and the Fish, Food and Allied Workers/Unifor which represents fish harvesters in the province.

The Panel also works in conjunction with the Department of Advanced Education, Skills and Labour, and the Department of Fisheries and Land Resources, both of which provide administrative and consultative support to the Panel.

6.0 Vision

The Panel envisions 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.

The vision of the Panel is of an optimal collective bargaining climate between fish harvesters and processors in the province to ensure binding collective agreements are in place for the timely commencement of the fisheries on an annual basis.

7.0 Issues

The Panel is a quasi-judicial government entity. The Panel reports to the Minister of Advanced Education, Skills and Labour. The Panel provides stability to the fishing industry and collective bargaining process by providing facilitative support to the parties to collective bargaining during fish price negotiations, and by acting as an arbitration panel, should the parties to collective bargaining be unsuccessful in negotiating prices and conditions of sale for particular fish species. The Panel's responsibility and obligation is to ensure prices and conditions of sale are in place for every species of fish subject to the collective bargaining process. These prices and conditions of sale are established and communicated to industry stakeholders in a timely manner, in accordance with a schedule established by the Minister of Fisheries and Land Resources. As such, the Panel's role and objectives have not changed since its inception, and are likely to remain constant as long as the Panel is in place.

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

The Panel will ensure where particular fish species are identified for collective bargaining purposes and where binding collective agreements are not achieved, Panel arbitration hearings will be conducted and prices and conditions of sale established. The following objective and indicators apply to the 2017-18, 2018-19, 2019-20 fiscal years and will be reported on in the relevant annual reports.

Objective

By March 31, 2018, 2019 and 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 and Land Resources.

Indicators

- Industry stakeholders responsible for collective bargaining of fish species were notified of the dates by which binding collective agreements were to be in effect.
- 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.
- Industry stakeholders responsible for collective bargaining of fish species were notified of hearing dates, where the parties did not achieve a collective agreement.
- 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.
- Following a hearing, the Panel made timely decisions, which established prices and conditions of sale for the particular fish species.
- The Panel advised all industry stakeholders affected by its decision for a particular species.

Issue 2: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.

In the interest of continually improving upon the collective bargaining process and the process by which the Panel makes decisions impacting all fishing industry stakeholders, the Panel regularly consults with those stakeholders to seek input on improving both. If the Panel identifies an area where changes are necessary to improve the collective bargaining and hearing process, and believes improvements may be made through legislative amendments, the Panel may then make representation to the Minister responsible for the legislation.

The following objective and indicators apply to the 2017-18, 2018-19, 2019-20 fiscal years and will be reported on in the relevant annual reports.

Objective

By March 31, 2018, 2019 and 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:

- The collective bargaining process was monitored.
- Recommendations for changes to the legislation and regulations proposed, as warranted.

8.0 Appendix A: Mandate

(Source: Fishing Industry Collective Bargaining Act)

Appointment of Panel

19.1

- (1) The Standing Fish Price-Setting Panel is established consisting of 3 members appointed by the Lieutenant-Governor in Council.
- (2) The Lieutenant-Governor in Council shall appoint one of the members of the panel as chairperson.
- (3) A member of the panel shall serve for a period of 3 years and is eligible to be reappointed.
- (4) Where a member of the panel resigns or, due to absence, incapacity or other cause, is unable to carry out his or her duties as a member, the Lieutenant-Governor in Council shall appoint a person in his or her place who shall serve for the remainder of the term of the member being replaced.
- (5) The members of the panel shall be paid remuneration and expenses related to carrying out their duties at a rate set by the Lieutenant-Governor in Council.
- (6) The members of the panel shall elect one of their number to be vice-chairperson and during the absence or incapacity of the chairperson or during a vacancy in the office of the chairperson, the vice-chairperson has and may exercise the powers of the chairperson and shall perform his or her duties.
- (7) The Lieutenant-Governor in Council may appoint as many persons as he or she considers appropriate to serve as alternate members of the panel and the persons appointed hold office for 3 years and are eligible for reappointment.
- (8) The persons appointed under subsection (7) shall be considered to be members of the panel only while serving on the panel.
- (9) Notwithstanding subsection (3), a person continues to be and may serve as a member of the panel until he or she is reappointed or replaced.
- (10) Notwithstanding subsection (3), of the members of the panel first appointed
 - (a) the chairperson shall be appointed for a term of 3 years;
 - (b) one member shall be appointed for a term of 2 years; and
 - (c) one member shall be appointed for a term of one year, and are eligible for re-appointment.

Duties of the Panel

19.2 The duties of the panel are

- (a) to facilitate access by parties to collective bargaining to market information relating to the sale of fish;
- (b) to establish criteria that are not inconsistent with this Act relating to collective bargaining under this Act;
- (c) to provide assistance to parties engaged in collective bargaining under this Act;

- (d) to set prices and conditions of sale for a fish species where parties have engaged in collective bargaining and have been unable to agree or where parties have refused to engage in collective bargaining;
- (e) to review and report on matters related to the price and conditions of sale of a fish species that may be referred to it by the minister responsible for the fisheries and aquaculture; and
- (f) to make recommendations on matters falling within its mandate to the minister responsible for fisheries and aquaculture and the minister responsible for fisheries in the Government of Canada.

Matters beyond Panel's authority

- 19.3** The panel shall not have authority with respect to
- (a) raw material shares; or
 - (b) production limits.

Procedure of the Panel

- 19.4** The panel may establish rules and procedures for the purpose of carrying out its duties under this Act.

Powers of the Panel

- 19.5** The panel has all the powers that are or may be conferred on a commissioner under the Public Inquiries Act.

