

# **STANDING FISH PRICE-SETTING PANEL**

**ANNUAL REPORT  
2010/2011**



**Newfoundland  
Labrador**

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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 2010-11. This report was prepared under the direction of all Panel members, and as such, the members are accountable for the material contained in it.

This is the fifth Annual Report of the Panel, and the comments and record of activities contained herein occurred during year five of the collective bargaining regime created in 2006. This document presents outcomes of the Panel's goals and 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 April - March. Accordingly, the report covers Panel activities for the period from April 2010 to the end of March 2011.

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.

As a result of the Association of Seafood Producers' (ASP) decision in early 2010 to remove itself from any involvement with the panel process, the Panel found itself in a position where it had to make most of its decisions on price and conditions of sale based solely on input from the Fish Food and Allied Workers Union (FFAW). While this certainly was not a tenable position for the Panel, the Panel had to carry out its legislative duty and ensure price and conditions of sale were in place for the commencement of fisheries for each fish species. On reflection, the industry performed fairly well. Market prices for the various species seemed to respond well, thereby absorbing the raw material prices set by the Panel. This was particularly the case for the snow crab industry where, following a one month delay as a result of ASP refusing to pay the price set by the Panel, the snow crab fishery enjoyed a successful season. The first quarter of 2011, which is covered by this report, has given reason for optimism in the fishing industry in 2011. The parties have been engaging in collective bargaining and have reached agreement on arguably the most important species, snow crab. The Panel will continue to encourage this kind of co-operation among the parties so that the Panel process will need to be used only in the case where the parties have exhausted all other means to achieve a settlement.



JOSEPH P. O'NEILL  
CHAIR

## **PUBLIC BODY OVERVIEW**

The legislative authority establishing the Panel's role and responsibilities are 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 fifth 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 fifth 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 2<sup>nd</sup> 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

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.

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 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 also 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/Shared Commitments

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. 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 and 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

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. Government consulted with the parties to collective bargaining, providing industry stakeholders with an opportunity to have input into the review process. The resulting changes were related primarily to the “reconsideration” component of the Panel process, which involves a party to collective bargaining making representation to the Panel in an attempt to have the Panel reconsider its original decision on a particular species. The current Fishing Industry Collective Bargaining Act (FICBA) may be viewed on-line at [www.hrle.gov.nl.ca/fishpanel/index.html](http://www.hrle.gov.nl.ca/fishpanel/index.html)

### Collective Bargaining Facilitation and Hearing Results

On January 26<sup>th</sup>, 2010, the Panel advised the parties to collective bargaining of the deadlines for binding agreements on price and conditions of sale for the species crab, shrimp, capelin, cod, lumpfish (roe), mackerel, and squid. The Panel also advised of the dates on which hearings would be held for the individual species, should a binding agreement not be achieved. On February 22<sup>nd</sup>, 2010, in advance of the 2010 fishing season, the ASP advised the Minister of Human Resources, Labour and Employment that it would not be participating in any meetings, hearings, or collective bargaining associated with the Panel. Notwithstanding ASP’s decision, the Panel, as it is compelled to do under the FICBA, proceeded as it had in previous years by holding hearings as they were required, in accordance with the schedule it released on January 26<sup>th</sup>.

In 2010, the Panel conducted a total of ten hearings, nine of which were related to price and conditions of sale, and one related to non-price matters in the shrimp fishery. Three of the hearings were related to the species shrimp, two for cod, and one each for the species crab, capelin, lumpfish (roe), mackerel, and squid. From the harvesting sector, the FFAW participated in all 10 hearings. From the processing sector, the ASP did not participate in any. One processing company, the Barry Group (a member of ASP), participated in hearings for capelin and mackerel. Of the ten decisions the Panel was required to make, it accepted the position of the FFAW on four occasions. On four other occasions it did not accept the position(s) submitted by either party, and established its own price. On two occasions for the species cod, the Panel accepted and confirmed agreements that had been reached between the FFAW and an independent processing company, making those agreements binding on all who harvested/processed the species cod in the province.

In addition to covering the period April to December of 2010, this report covers the period up to the end of March 2011. On February 28<sup>th</sup>, 2011, in advance of the 2011 fishing season, the Panel advised the parties to collective bargaining of the dates by which collective agreements must be in place for the species crab and shrimp. 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. In the first three months of 2011, the Panel conducted one hearing for the species shrimp, accepting the position of the FFAW. The more significant development was the participation of the

ASP at the hearing, and its reengagement in the collective bargaining process generally. A hearing was also scheduled for crab in the month of March, but became unnecessary when the ASP and FFAW were successful in reaching a collective agreement.

Also in 2011, the species lobster and whelk became part of the collective bargaining process when the FFAW issued its notice of intent to bargain at the beginning of the season, and added those species.

### Market Intelligence Support

The availability of accurate and timely market intelligence information was identified by all stakeholders in previous years as 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 Panel facilitator to ensure that the market intelligence information is as timely and relevant as possible. With the non-participation of the ASP in either collective bargaining or the Panel hearing process, the market intelligence provided by DFA was even more important than in previous years in providing the Panel with a broad and balanced perspective. The DFA stepped up its market intelligence efforts in 2011 by identifying additional sources of information to provide an even broader perspective on international markets.

As always, the Panel, along with the DFA, continued to provide industry stakeholders with every opportunity for meaningful and constructive input on the format and content of market intelligence reports.

## PERFORMANCE SUMMARY REPORT

In its 2008-2011 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 2008-11 Activity Plan, the objectives identified by the Panel apply to the 2008/09, 2009/10 and 2010/11 fiscal years, meaning the same objectives reported on in this report were reported on in the 2009/10 Annual Report.

<b>Issue 1: Ensure binding collective agreements are established annually for particular species.</b>	
<b>Objective:</b> By 2011, 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 normal opening dates of each species.	
<b>Planned Results</b>	<b>Actual Results</b>
<b>Measure 1: Ensured binding collective agreements were in place.</b>	
Industry stakeholders responsible for collective bargaining of the fish species were consulted and 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 2010 fishing season, and advised by way of a letter to all stakeholders on January 26 <sup>th</sup> , 2010, the dates by which binding collective agreements were to be in place for each species under consideration. This consultation was conducted just prior to the 2010-11 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 2011 fishery on February 28 <sup>th</sup> , 2011.
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 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.
<b>Measure 2: Ensured prices and conditions of sale were established.</b>	
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 January 26 <sup>th</sup> , 2010 of the dates on which hearings would be held for each species, should they be necessary. This consultation was conducted just prior to the 2010-11 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 2011 fishery on February 28 <sup>th</sup> , 2011.
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 2010, the Panel conducted a total of 10 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: crab, mackerel, squid, capelin, lumpfish, shrimp on three occasions (spring and summer prices, and spring non-price issues), and cod on two occasions (summer and fall prices).
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 stakeholders affected by its decision for a particular species.	For each species for which a hearing was required, the Panel notified the parties to collective bargaining (and other affected stakeholders) of its decision in a timely manner.
<b>Issue 2: Ensure that there is adequate and reliable market information available to the parties to collective bargaining.</b>	
<b>Objective:</b> By 2011, 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 1: 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.
<b>Issue 3: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.</b>	
<b>Objective:</b> By 2011, 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 1: Appropriate representation made to the responsible Minister, if necessary.	
The collective bargaining process was monitored.	Throughout the 2010-11 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.	During the Summer and Fall of 2010, the Panel made representation to the Ministers of Human Resources, Labour & Employment and Fisheries & Aquaculture on the collective bargaining framework for the fishery and on possible amendments to the legislation.

## **OPPORTUNITIES AND CHALLENGES AHEAD**

### Collective Bargaining in 2010-11

After withdrawing from the collective bargaining process in February 2010, the ASP opted to reengage in collective bargaining early in 2011, and the early results were encouraging. The ASP and the FFAW successfully negotiated a collective agreement on the price and conditions of sale for crab for the first time in years. While the parties were unsuccessful in negotiating an agreement on spring shrimp prices, both parties participated in collective bargaining and the Panel hearing process, a price was established, and the fishery began on schedule. Generally speaking, the industry is in a relatively more stable situation in 2011, especially in terms of the market outlook with most species. This, and the fact that the parties gained some early momentum by reaching an agreement on arguably the most important and challenging species bodes well for the remainder of 2011. If the parties continue to be mostly successful in achieving collective agreements among themselves in the coming months, the Panel may see its role in collective bargaining significantly reduced for the balance of the 2011 season compared to previous years, and while it is always prepared to perform its duties in accordance with its legislative obligation, the Panel 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 2011 -12.

### 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. No substantive changes were made to the Panel's Rules and Procedures for the period of this report, but as always, the Panel encourages input from all industry stakeholders, which they take under advisement when completing its review and analysis.

### Moving Forward

The Panel is encouraged with the collective bargaining climate of the moment, and is hopeful the industry will continue to build on some of the positive developments. As stated previously, the Panel's focus is, as always, to work closely with industry stakeholders and take advantage of any opportunity to improve the collective bargaining process for the benefit of the entire fishing industry.

## FINANCIAL INFORMATION

The following table is a summary of Panel expenditures for 2010-11.

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 2011. 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, 2011  
(Unaudited)**

<b>Summary of Expenditure For the Year Ended March 31, 2011</b>				
<b>Activity</b>		<b>Actual Expenditure \$</b>	<b>Amended Budget \$</b>	<b>Original Budget \$</b>
7.1.04.01	Salaries	75,480	75,500	91,400
7.1.04.02	Employee Benefits	726	900	
7.1.04.03	Transportation and Communication	2,394	3,200	11,500
7.1.04.04	Supplies	102	200	
7.1.04.05	Professional Services	73,600	75,900	120,000
7.1.04.06	Purchased Services	2,033	3,600	18,000
7.1.04.07	Property, Furnishings and Equipment	3,861	6,100	500
	<b>Total</b>	<b>158,196</b>	<b>165,400</b>	<b>241,400</b>

## APPENDIX A

### Species Negotiations and Results Summary – 2010

<b>Species</b>	<b>Parties to Negotiations</b>	<b>Agreement Reached</b>	<b>Panel Decision</b>
Shrimp (Spring) Non Price	FFAW	No	<b>Selected FFAW</b>
Shrimp (Spring)	FFAW	No	<b>Established Price</b>
Crab	FFAW	No	<b>Established Price</b>
Lumpfish (Roe)	FFAW	No	<b>Selected FFAW</b>
Cod (Summer)	FFAW & Independent	Yes	<b>Confirmed Agreement</b>
Shrimp (Summer)	FFAW	No	<b>Selected FFAW</b>
Capelin	FFAW & Barry Group	No	<b>Established Price</b>
Squid	FFAW	No	<b>Selected FFAW</b>
Mackerel	FFAW & Barry Group	No	<b>Established Price</b>
Cod (Fall)	FFAW & Independent	Yes	<b>Confirmed Agreement</b>

Note: This summary table provides a summary of activities for the previous calendar year (2010), despite the report itself covering the period of the 2010/2011 fiscal year (April 1, 2010 to March 31, 2011).