



# STANDING FISH PRICE SETTING PANEL NEWFOUNDLAND AND LABRADOR

**DFO Policy and Economics  
Seminar Series**

Presentation by Chair  
Wayne Follett  
January 26, 2022

# FISHING INDUSTRY COLLECTIVE BARGAINING ACT

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.

Creates unique situation where the FFAW and Processors must negotiate annual fish prices for all inshore harvesters

During the 1990's and 2000's stalemates resulted in tie-ups, delayed start to fisheries and sub-optimal industry value

In 2006, amendments to the Legislation were passed resulting in the creation of the Standing Fish Price-Setting Panel



# PANEL'S ROLE

The Panel's main functions include:

1. establishing the parameters for negotiations;
2. facilitating collective bargaining;
3. acting as an arbitration panel in the setting of fish prices and conditions of sale



# THE PANEL

Consists of three members; the Chair and two full time members (alternate members exists to fill temporary vacancies of full time members)

Decisions are by the majority of two of the three members

Chair and members are appointed by the Provincial Government

Tenure is by three year appointments which are subject to renewal at the discretion of Government

The current Chair and Full Time Members have been in place for the past five years



# ANNUAL CYCLE

The Minister of Fisheries, Forestry and Agriculture sets a schedule of hearings at the start of each calendar year

The schedule sets out the dates by which collective agreements on various species are to be in place

Failure to reach agreement triggers a Panel Hearing at a date prescribed by the Minister

Hearing dates are usually set in the week(s) prior to the commencement of the seasonal fishery for each species subject to collective bargaining

# 2021 SCHEDULE OF HEARINGS

	Species	Date Agreement to be in place	Potential Hearing Date	
	Halibut	March 10, 2021	March 11, 2021	
	Crab	March 22, 2021	March 23, 2021	
	Lobster	April 8, 2021	April 9, 2021	
	Spring Shrimp	April 22, 2021	April 23, 2021	
	Lumproe	April 28, 2021	April 29, 2021	
	Whelk	April 29, 2021	April 30 2021	
	Cod	May 12, 2021	May 13, 2021	
	Sea Cucumber	May 27, 2021	May 28, 2021	
	Capelin	June 9, 2021	June 10, 2021	
	Summer Shrimp	June 16, 2021	June 17, 2021	
	Turbot	June 24, 2021	June 25, 2021	
	Herring	July 7, 2021	July 8, 2021	
	Squid	July 21, 2021	July 22, 2021	
	Mackerel	August 11, 2021	August 12, 2021	
	Fall Shrimp	September 9, 2021	September 10, 2021	



# PARTIES TO NEGOTIATIONS

The FFAW is the certified bargaining agent for all inshore harvesters and is mandated to negotiate on behalf of harvesters

Where a processors organization represents processors that process the majority percentage of a particular species, that organization can negotiate an agreement that's binding on all processors that process that species.

In the past, two processor organizations were involved; The Seafood Producers Organization of Newfoundland (SPONL) and the Association of Seafood Producers (ASP)

Commencing in 2021, SPONL joined ASP resulting in ASP being the majority organization for all species under the schedule

The Act allows for multi party and individual processor negotiation where no majority processor exists. An agreement reached or decision of the Panel is binding on all processors



# 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 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.





# FINAL OFFER SELECTION

Under the Act, the Panel can only choose the final offer of one of the Parties to negotiation; cannot choose a compromise or middle ground

The Panel will set the prices and conditions of sale ( i.e., quality and size grading) as offered by one of the Parties

The Panel sets the minimum price; processor cannot pay less but may pay more

FOS should bring the Parties closer together in the submission of their final offers to the Panel



# HEARING PROCESS

The Parties must simultaneously submit their written submissions and final offers by 4:00 PM the day prior to the hearing

The Parties are also expected to disclose all facts and evidence to the each other by 12:00 noon the day prior

At the hearing, each Party is given an opportunity to present their positions and to rebut the submissions of the other Party

After the hearing, the Panel will normally issue a written decision and rationale within 3 to 5 days



# RECONSIDERATION

The Act allows the Panel to reconsider its decision

The Parties each have one opportunity per species to request the Panel to reconsider its decision

The Panel is not obliged to reconsider and under the Act can only agree to do so;

(a) where it believes the failure to do so would jeopardize the conduct of the fishery to which its decision applies; and

(b) when there has been a significant change in market price or currency since its original decision

Normally, where the Panel agrees to hear a request for Reconsideration, a new hearing is held with new submissions from each Party

# INPUTS TO BARGAINING/PANEL DECISIONS

International market studies for the major species (contracted by Province prior to negotiations)

DFO Landings Statistics (values and quantities in Atlantic Canada)

Provincial Production data

Export data (volumes and values by product type and countries)

Market price reports and indices (i.e. Urner Barry, Undercurrent)

Economic data ( exchange rates, trade agreements, economic outlook for major markets)

Industry supplied information and data (limited by commercial sensitivities)

# CHALLENGES TO BARGAINING AND PRICE SETTING

There are price to market formulas for Halibut and lobster. Shrimp prices are set by season. Otherwise fixed prices have to endure for full year (i.e., crab, cod)

Difficult to forecast market conditions/returns for the full year

'One size fits all pricing' while there are varying markets and product types (i.e., fresh, frozen and salt cod products)

Little information exists on local sales and domestic exports to other provinces

Transparency is limited by individual processor's commercial sensitivity and the industry's positioning relative to international buyers; results in a lack of information on key metrics such as yields, costs, profit margins, etc.

The unprecedented uncertainty of the Covid19 pandemic on markets and production (2020 crab anomaly)

Polarized positions of the Parties and internal pressures by members to not settle

# OUTCOMES 2017 TO 2021

There were 34 collective agreements during this 5-year period

Agreements usually involved lower value species such as Halibut, Whelk, Lumproe, Herring and Mackerel

Landed Value (vessels < 65') during the five years totaled \$2.5 Billion (Newfoundland Region of DFO)

85% to 90% of this landed value was subject to Panel decisions on price and condition of sale

There were 42 Panel hearings and price decisions

All were unanimous decisions of the Panel

Hearings most often involved the major species such as crab, lobster, shrimp, cod, and capelin

In 57% of its decisions, the Panel choose the final offer of the FFAW; with the remaining 43% of decisions in favor of the Processors

There was a total of 11 reconsideration requests to the Panel. One was denied, 8 were heard and 2 were withdrawn

# OUTCOMES 2017 TO 2021 (CONTINUED)

Fisheries have started on time and progressed without major disruption

Since 2020, there has been some public discourse on the Panel process, precipitated by the uncertainty of the pandemic, 2020 crab prices and the FFAW's concern over increasing corporate concentration

Due to emergence of Covid 19, market projections in 2020 were bleak, especially for crab. Both Parties' final offers were significantly lower than 2019. The crab market unexpectedly improved, resulting in a significant, unforeseen gain for processors in 2020. In 2021, price to harvesters was set at a record high.

FFAW is calling for a second opportunity for reconsideration of decisions and for great transparency by processors



**Thank You**  
**Questions?**