

**CANADA/NEWFOUNDLAND MEMORANDUM OF UNDERSTANDING  
ON AQUACULTURE DEVELOPMENT**

THIS AGREEMENT made this Twenty second day of February 1988

BETWEEN THE GOVERNMENT OF CANADA (hereinafter referred to as  
"Canada" represented by the Minister of Fisheries and Oceans)

**OF THE FIRST PART**

AND THE GOVERNMENT OF NEWFOUNDLAND AND LABRADOR (hereinafter  
referred to as "Newfoundland") represented by the Minister of  
Fisheries and the Minister of Intergovernmental Affairs.

**OF THE SECOND PART**

WHEREAS Newfoundland and Canada wish to establish a regime governing the promotion, development and regulation of an aquaculture industry in Newfoundland;

AND WHEREAS Newfoundland and Canada wish to ensure that the application of their respective legislative jurisdictions occurs in a streamlined and efficient manner;

AND WHEREAS Newfoundland and Canada have been authorized to enter this Agreement;

THEREFORE, without prejudice to their respective constitutional powers, the Parties hereby agree:

## 1. Definitions

- a) "aquaculture" means the cultivation of aquatic plants or animals but does not include activities which the Parties agree to exempt;
- b) "cultivation" means the artificial rearing of aquatic plants or animals, but excludes the collection of natural or wild stocks for seed or brood or other purposes;
- c) "aquatic plants or animals" means plants or animals that at all stages of their development or life cycle have water as their natural habitat.

## 2. Regulatory Requirements

- a) Newfoundland, under The Aquaculture Act, shall
  - (i) enact regulations pertaining to its legislative concerns in accordance with Schedule "A" to this Agreement; and
  - (ii) authorize the Registrar of Aquaculture to perform administrative responsibilities which may be delegated to him or her by Canada pursuant to this Agreement.
- b) Canada, under federal legislation, shall enact regulations, if necessary, pertaining to its legislative concerns in accordance with Schedule "B" to this Agreement.
- c) Regulations which are drafted by Newfoundland and Canada pursuant to clauses 2(a) and 2(b) of this Agreement shall be the subject of consultation between Newfoundland and Canada prior to their enactment.
- d) Newfoundland and Canada shall make best efforts to avoid overlapping or inconsistent regulatory authority and, in particular, Newfoundland shall not pass regulations which purport to directly regulate the conservation and protection of wild stocks of fish and marine plants, the management and control of fisheries for those stocks and the protection of fish habitat.
- e) Newfoundland shall refer all applications to the Department of Fisheries and Oceans for comment prior to establishing the conditions of licences.
- f) Without restricting the generality of clause 2(e) of this Agreement, Newfoundland shall specifically consider for inclusion as a term or condition of a particular licence the recommendations of the Department of Fisheries and Oceans with respect to
  - (i) the species of fish or marine plants that are permitted to be cultivated;
  - (ii) the quantity of fish or marine plants that is permitted to be cultivated;
  - (iii) the specific location at which cultivation is permitted to take place;
  - (iv) the period during which cultivation is permitted to take place;



- (v) the type, quantity and size of gear and equipment that is permitted to be used and the manner in which it may be used;
- (vi) the specific manner, means and periods during which escaped cultivated stock is permitted to be recaptured; and
- (vii) the distance to be maintained between fishing gear and gear or equipment used for cultivation, to the extent that those recommendations relate to the conservation and protection of wild stocks of fish and marine plants, the proper management and control of fisheries for those stocks and for the protection of fish habitat.
- g) Where Newfoundland refuses to attach a term or condition recommended by the Department of Fisheries and Oceans pursuant to clause 2(f) of this Agreement, Newfoundland shall notify Canada in writing with a full rationale for that decision, and may issue a licence on an interim basis. Newfoundland and Canada shall then refer the matter to the joint direction of the Deputy Ministers pursuant to clause 2(m) of this Agreement.
- h) Notwithstanding clause 2(g) of this Agreement, Newfoundland shall make the final decision with respect to specific terms and conditions of a licence recommended by the Department of Fisheries and Oceans pursuant to clause 2(f) of this Agreement.
- i) Notwithstanding clause 2(h), Canada may take whatever measures it deems necessary to protect matters within its jurisdiction.
- j) Upon issuing a licence, Newfoundland shall forthwith send a copy of that licence to Canada.
- k) At the request of Newfoundland or Canada, Newfoundland and Canada shall discuss whether a delegation of administrative responsibilities with respect to the matters listed in clause 2(f) of this Agreement would result in a more streamlined and efficient mechanism for meeting the legislative concerns of Newfoundland and Canada.
- l) Where a court of competent jurisdiction finds a particular regulation to be ultra vires the powers of Canada or Newfoundland and neither government intends to appeal the decision or the appeal process has been exhausted, the government that has jurisdiction for the matter shall consider forthwith the passing of substantially similar regulations to replace the ones declared ultra vires by the court.
- m) Where any dispute arises between Newfoundland and Canada with respect to the application of regulations pertaining to legislative concerns covered by Schedules A and B, or other matters related to this Agreement, the Parties agree to refer the dispute to the Deputy Minister of Fisheries for Newfoundland and the Deputy Minister of Fisheries and Oceans for Canada who shall diligently attempt to resolve the dispute as quickly as possible and in accordance with the intent of this Agreement.

### 3. Compliance and Inspection

- a) Newfoundland shall ensure that the siting of licences is in accordance with due consideration to potential conflicts with fish habitat, wild fishery resources and the legitimate users of these resources.

- b) At the request of Canada, and upon Newfoundland being satisfied that the holder of a licence is not taking adequate precautions to prevent the conflicts referred to in clause 3(a) of the Agreement, Newfoundland shall take necessary remedial measures up to, and including, cancellation of the licence.
- c) Holders of an existing lease issued by Canada shall be entitled to apply for a lease issued by Newfoundland, and Newfoundland shall issue a lease which contains substantially the same terms and conditions as the lease issued by Canada.
- d) Newfoundland shall conduct periodic on-site inspections of aquaculture facilities, and Canada may conduct on-site inspections of aquaculture facilities.
- e) Where either Party conducts an inspection of an aquaculture facility, it shall send, forthwith, to the other Party a copy of the results of that inspection, including any suspected breach of relevant provincial and federal enactments.

#### 4. Aquaculture Plan

- a) Newfoundland, in consultation with Canada, shall be responsible for preparing an aquaculture plan for Newfoundland, and shall invite the participation of all appropriate federal and provincial agencies.
- b) The aquaculture plan shall guide the development of the aquaculture industry in Newfoundland and shall include:
  - (i) development of a summary of all relevant regulatory requirements;
  - (ii) designation of zonal development areas which meet the regulatory requirements and concerns of regulatory agencies; and
  - (iii) institution of a formal referral process to provide for consultation with appropriate provincial and federal agencies in conformity with their respective jurisdictions relating to aquaculture.

#### 5. Applied Research and Development

Newfoundland and Canada shall share responsibility for applied research and development as follows:

- a) Canada shall continue to carry out and sponsor scientific research and development concerning the acquisition, adaption and diffusion of technology and scientific information relating to aquaculture. This shall include research and development in areas such as fish health, disease identification, prevention and control, nutrition and diet formulations, reproductive physiology and genetics. In order to maximize the benefits of such research, Canada shall endeavour to conduct some of this research in Newfoundland.
- b) Newfoundland shall continue to carry out and sponsor studies aimed at the development of aquaculture and to make this information available to the industry. This shall include research and development in areas such as surveys of freshwater and marine coastal environments to provide data on potentially suitable commercial aquaculture sites, suitability of various species for cultivation in Newfoundland environments, genetic selection, engineering design and evaluation of new and improved cultivation systems, stock selection, growth characteristics, surveys, the optimization of biological systems aquaculture facilities and technology development and transfer.



6. Fish Health

Canada shall continue its role in the identification, prevention, control and eradication of fish diseases in Newfoundland. Canada shall also maintain both a Newfoundland and a National Registry of fish diseases as the data centres for the documentation and dissemination of information relating to fish diseases in Canada. Where applicable Canada shall apply the Fish Health Protection Regulations to aquaculture.

7. Stock Registry

To facilitate the exchange and supply of cultivated stock, Canada shall develop and maintain a National Registry of important aquaculture stocks. Canada shall make available to Newfoundland information concerning those stocks, whether or not indigenous to Newfoundland, including information about each stock's performance characteristics, ancestry and related facts.

8. Education and Training

- a) Newfoundland shall take the lead responsibility in, and shall foster and encourage education and training in aquaculture.
- b) Canada shall permit the placement of students in federally operated aquaculture establishments and promote the placement of students in federally funded aquaculture establishments, for the purpose of practical training or work terms as part of continuing education for Newfoundland students in aquaculture. Canada shall assist Newfoundland in identifying possible placement establishments for such students.

9. Aquaculture Statistics

- a) Newfoundland shall collect and annually provide to Canada, in a mutually agreed form and content, data on aquaculture.
- b) Canada shall, in consultation with Newfoundland, compile and annually publish statistics on aquaculture.

10. Co-ordination

- a) Newfoundland and Canada agree to promote a co-ordinated and consultative approach to all aspects of aquaculture in Newfoundland. This shall include the establishment of an aquaculture committee comprised of representatives of the Department of Fisheries and the Department of Fisheries and Oceans and the aquaculture industry in a form and with terms of references to be agreed to by the Parties.
- b) Newfoundland and Canada agree that they shall co-operate with other provinces through national meetings or other arrangements to review plans and prospects for aquaculture development in Canada and to promote a co-ordinated approach to all aspects of aquaculture.
- c) The Deputy Minister of Fisheries shall represent Newfoundland as the officer to implement this agreement on behalf of Newfoundland.
- d) The Deputy Minister of Fisheries and Oceans shall represent Canada as the officer to implement this Agreement on behalf of Canada.
- e) Each officer designated to implement the Agreement may delegate some or all of his or her responsibilities to other officials within the same Department.

11. Removal of Impediments

Newfoundland and Canada agree that they shall remove or alter expeditiously their respective legislation, regulations and administrative policies that may impede the implementation of this Agreement.

12. Duration of Agreement

- a) This Agreement shall come into force on the date of signature.
- b) This Agreement shall continue in force until one year after one Party notifies the other Party in writing of its intention to terminate the Agreement.

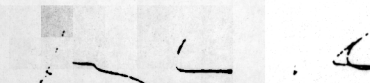
13. Amendments to Agreement


- a) This Agreement may be amended by mutual consent of both Parties.
- b) Notice of a proposal by one Party to amend this Agreement shall be submitted in writing to the other Party which shall respond within three (3) months.
- c) Failure to respond within three (3) months shall be deemed to be an approval of the amendment proposal.

IN WITNESS WHEREOF this Agreement has been executed on behalf of Canada by the Minister of Fisheries and Oceans and on behalf of the Province by the Minister of Fisheries and the Minister of Intergovernmental Affairs.

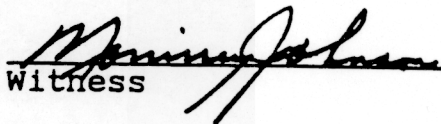
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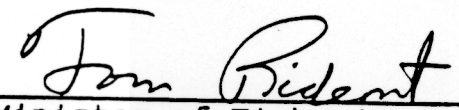
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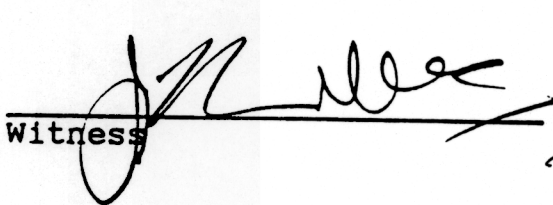
  
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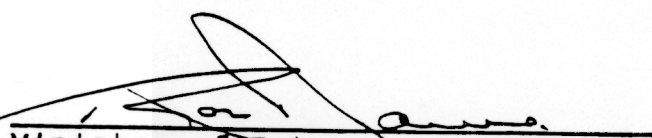
  
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Minister of Fisheries and Oceans

GOVERNMENT OF NEWFOUNDLAND AND  
LABRADOR

  
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Minister of Intergovernmental  
Affairs



## Schedule "A"

### Areas of Provincial Legislative Concerns

#### 1. Procedures

- Method of applying for licences
- Referral process to relevant governmental agencies
- Public hearing format
- Forms to be appended to licence
  - Application (General)
  - Notification of Disease
  - Transport
- Fees to be applied

#### 2. Classes of Licences

- Research
  - finfish
  - shellfish
  - other species
- Development
  - finfish
  - shellfish
  - other species
- Commercial
  - finfish
  - shellfish
  - other species
- Duration - suspension & cancellation conditions

#### 3. Registry

- Creation of Registry
- Office of Registrar
- Classification of Documents on file
  - public records
  - confidentiality
- Duties of Registrar.

## Schedule "A" (Continued)

### 4. Inspection

- Creation of Aquiculture Inspector positions
- Duties of Inspector
- Scope of Inspection
- Powers of Inspector

### 5. Technical Regulations

- Sizes of sites
- Marking of Sites
- Location of sites
- Conflict with Traditional Fishery
- Performance Standards
- Listing of Notice of Use of Chemicals

### 6. Committees

- Creation of Ministerial Advisory Committee
- Mandate
- Representation

### 7. Exemption of Activities from Regulation

- Salmon Enhancement
- Holding of animals in aquariums or tanks for human consumption in restaurants, etc.

### 8. Land Tenure

- Authorization to use Crown Land for aquaculture.



## Schedule "B"

### Areas of Federal Legislative Concerns

1. Conservation and Protection of Wild Stocks
  - Protection of wild stocks
  - Protection of habitat
  - Obstruction and pollution of waters
  - Movement of fish and marine plants
2. Impact of Aquaculture on the Fisheries of Wild Stocks
  - Collections from wild stocks for aquaculture purposes
  - Displacement of traditional fisheries
  - Distance of aquaculture operations from licensed fishing gear
3. Fish Health Protection
  - Movement of fish
  - Identification of reportable diseases
  - <- Corrective requirements >
  - Reporting of significant losses of stock
  - Complete record of mortalities
4. Other
  - National Shellfish Sanitation Program
  - Products to be exported from the province (facility registration, process inspection and product inspection).