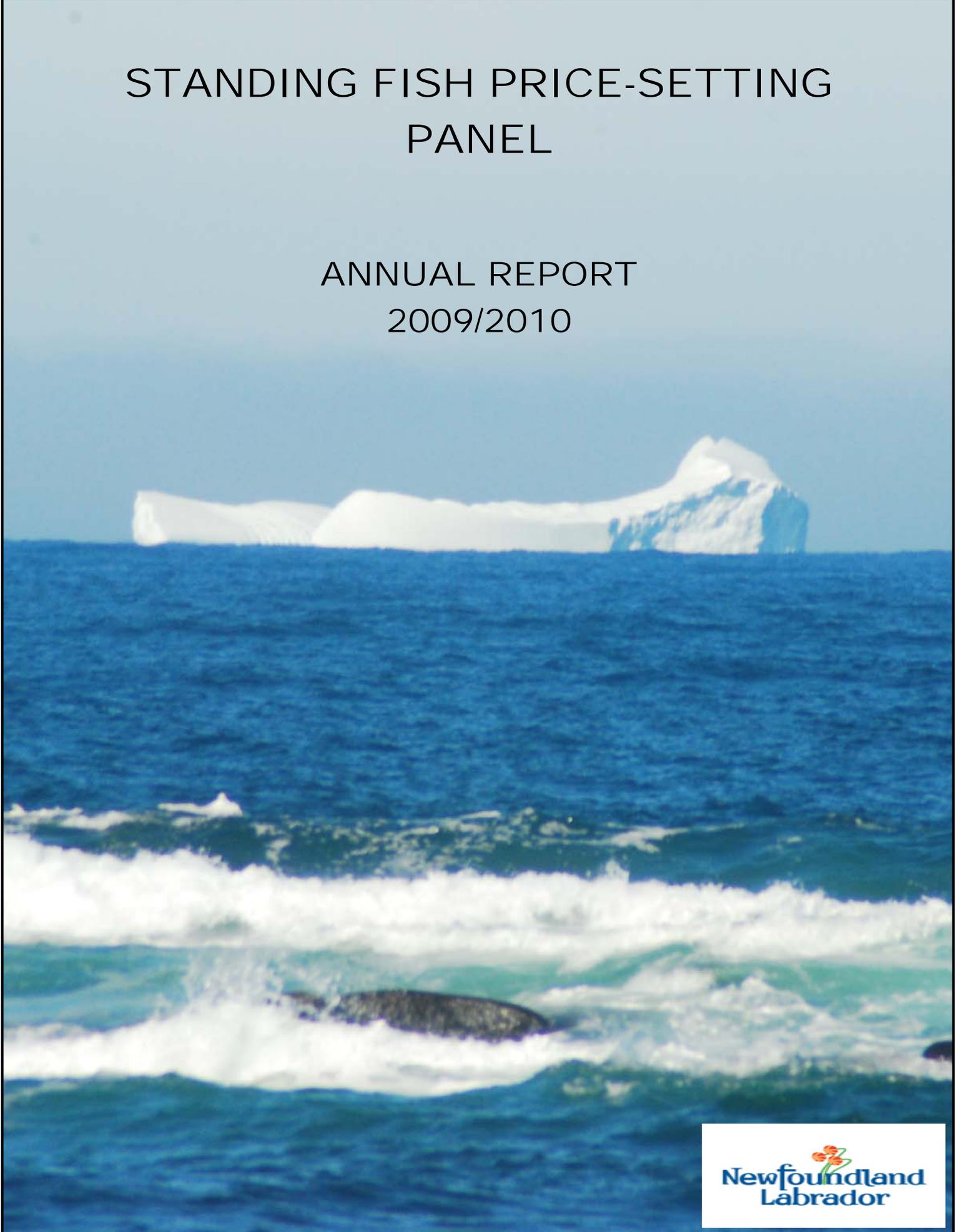


STANDING FISH PRICE-SETTING PANEL

ANNUAL REPORT
2009/2010



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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 2009-10. This report was prepared under the direction of all members of the Panel and as such, the members are accountable for the material contained in it.

This is the fourth Annual Report of the Panel, and the comments and record of activities contained herein occurred during year four of the collective bargaining regime created in 2006. This document presents outcomes of the Panel's goals and objectives, highlights achievements, and focuses on future 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 Panel activities described in this report, cover the period from April 2009 to the end of March 2010.

Since their appointment, the Panel members and staff have been available to industry stakeholders to facilitate collective bargaining and act, where necessary, as an arbitration panel for the parties in setting prices and conditions of sale where they were unable to achieve a resolution. This 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 fiscal year 2009-10 was particularly problematic for all players in the Newfoundland and Labrador fishing industry. These problems were primarily the result of the fallout from the global economic recession which commenced in the Fall of 2008. Faced with major market declines in practically all species, collective bargaining between the parties for prices and conditions of sale presented huge challenges. In addition, the strengthening of the Canadian dollar, against the US dollar in particular, made the prospects for mutually agreed settlements very unlikely. Accordingly, the Panel process had to be used on numerous occasions to determine a price for various fish species. As well, the rapidly changing conditions in the market and in currency led to a number of requests to the Panel for re-consideration of its decision. The Panel is hopeful that as market conditions and currency improve, so too will the prospects for greater resolution of the outstanding issues by the parties themselves.

A handwritten signature in blue ink, appearing to read "Joe O'Neill". The signature is stylized and cursive.

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 fourth 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 fourth 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 9 for more details). The Panel's office is located at 3rd 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 consults with parties to negotiations to determine and establish normal opening dates for particular fish species to be bargained for the coming season. It 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

There were no legislative amendments related to collective bargaining in the fishing industry during the period covered by this report.

Collective Bargaining Facilitation and Hearing Results

Leading up to the 2009-10 season, after consulting with the major parties to negotiations, the Panel advised the parties of the deadlines for binding agreements on price and conditions of sale on February 13, 2009, 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.

Where hearings were held and there was a majority processors organization identified under the legislation, the Panel was obligated to use Final Offer Selection (FOS) in the decision-making process. In 2009 the Panel conducted ten hearings in total, nine involving price issues, and one to deal with non-price issues in the spring shrimp fishery. Seven of these hearings involved majority processors organizations (Appendix A). On four of these seven occasions, the Panel chose the position of the Association of Seafood Producers (ASP) representing the processing sector. On three occasions, the Panel chose the final position of the Fish, Food and Allied Workers (FFAW), which represents the harvesting sector. For the species cod, which does not have majority processors organizations, the Panel held two hearings, both between the FFAW and an independent processor. On one occasion, the Panel sanctioned an agreement that had been reached between the two parties. In the other instance where an agreement had not been reached for summer cod prices, the Panel selected the position of the independent processor. The only other hearing was held for the species lumpfish. Despite being the majority processor organization for lumpfish, ASP did not attend the Panel hearing or present a final offer position. Only the FFAW presented a final offer position. The Panel did not accept the final offer position of the FFAW, but instead established a price.

On four occasions, ASP made representation to the Panel under section 19.14 of the *Fishing Industry Collective Bargaining Act* to reconsider its original decision on snow crab. On one occasion, the Panel modified its original decision and lowered the raw material price. As perhaps the best indicator of the volatility and uncertainty which permeated the fishing industry in 2009-10, the Panel was also asked by ASP to reconsider its original decision on spring shrimp prices, and its original decision had been to select the position of ASP.

On January 26, 2010, after consulting with major parties to negotiations, the Panel issued notice for hearing dates to the industry for seven fish species for the 2010 season. In a letter dated February 22, 2010, ASP advised the Minister of Human Resources, Labour, and Employment, as well as the Minister of Fisheries and Aquaculture, that it was withdrawing from all elements of collective bargaining that involved the Panel, and that it would no longer participate in meetings, hearings, or collective bargaining activities that

involved the Panel. The Panel's legislative obligation, regardless of who does or does not participate in the process, is to ensure that prices and conditions of sale are in place for each species of fish that is subject to collective bargaining, and it continued to fulfill that obligation. In fact, by March 31, 2010, the Panel had already held three hearings and issued three decisions on shrimp (non-price issues), spring shrimp prices, and crab prices.

Market Intelligence Support

As reported in previous annual reports, the Panel, through consultation with the parties to collective bargaining, determined that the availability of accurate and timely marketing information was a critical component of both the collective bargaining process and the Panel's decision-making process. The Market Intelligence Unit of the Department of Fisheries and Aquaculture 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.

The Panel, along with the Department of Fisheries and Aquaculture, 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 2008/09 Annual Report, and will also be reported on in the 2010/11 Annual Report.

Issue 1: Ensure binding collective agreements are established annually for particular species.	
Objective: By 2010, the Panel will have ensured that collective agreements are in place and prices and conditions of sale for fish species are established prior to the normal opening dates of each species.	
Planned Results	Actual Results
Measure 1: Ensured binding collective agreements were in place.	
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 2009 fishing season, and advised by way of a letter to all stakeholders on February 13, 2009, 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 2009-10 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 2010 fishery on January 26, 2010.
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.
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 13, 2009 of the dates on which hearings would be held for each species, should they be necessary. This consultation was conducted just prior to the 2009-10 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 2010 fishery on January 26, 2010.
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 2009, 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.
Issue 2: Ensure that there is adequate and reliable market information available to the parties to collective bargaining.	
Objective: By 2010, the Panel will have ensured that the parties to collective bargaining have 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.
Issue 3: Recommend legislative or regulatory amendments that provide a realistic mechanism for price setting.	
Objective: By 2010, the Panel, if necessary, will have made representation to the responsible Minister regarding the 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 2009-10 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, made representation to the Ministers of Human Resources, Labour & Employment and Fisheries & Aquaculture updating issues related to collective bargaining in the fishing industry.

OPPORTUNITIES AND CHALLENGES AHEAD

Collective Bargaining in 2010-11

The more successful the parties to collective bargaining are in achieving collective agreements on fish prices and conditions of sale amongst themselves, the more limited the Panel's role will be in collective bargaining, and the Panel's preference has always been to play as limited a role as possible. The withdrawal of ASP from the collective bargaining process in February 2010 presents a unique set of challenges, both to the collective bargaining process, and the operation of the Panel. Having said that, the Panel continued to fulfill its legislative obligation to put in place prices and conditions of sale for fish species that are subject to collective bargaining for the balance of 2009-10. It must, and it will continue to fulfill that obligation moving forward in 2010-11.

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 2010 -11.

Panel Rules and Procedures

As it has done in every year since its inception, the Panel again requested the input of the parties to collective bargaining regarding its Rules and Procedures. The Panel views this as a good opportunity for industry stakeholders to provide meaningful input and assist the Panel in its efforts to improve the collective bargaining process as it relates to the operation of the Panel. Industry stakeholders provided some input, which the Panel took under advisement, and in the end, the Panel made some minor modifications to its Rules and Procedures. For instance, the Panel modified the criteria for establishing the order of the parties' presentations at hearings, and extended the deadline for the parties to exchange final offer positions, prior to a hearing.

Moving Forward

The Panel recognizes that the fishery is a very dynamic industry with longstanding and complex issues and challenges. At the same time, there seems to be an entirely new set of challenges and opportunities every fishing season. With that in mind, the Panel's focus is, as it always has been, 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 2009-10.

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 2010. 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, 2010
(Unaudited)**

Summary of Expenditure For the Year Ended March 31, 2010				
Activity		Actual Expenditure \$	Amended Budget \$	Original Budget \$
7.1.04.01	Salaries	79,894	91,400	91,400
7.1.04.03	Transportation and Communication	781	18,300	21,500
7.1.04.04	Supplies	137	500	-
7.1.04.05	Professional Services	120,017	120,500	120,000
7.1.04.06	Purchased Services	7,952	27,000	28,000
7.1.04.07	Property, Furnishings and Equipment	949	2,000	500
	Total	209,730	259,700	261,400

APPENDIX A

Species Negotiations and Results Summary – 2009

Species	Parties to Negotiations	Agreement Reached	Panel Decision
Shrimp (Spring) Non Price	FFAW & ASP	No	Panel selected ASP
Shrimp (Spring)	FFAW & ASP	No	Panel selected ASP
Crab	FFAW & ASP	No	Panel selected FFAW
Lumpfish (Roe)	FFAW	No	Panel established price
Cod (Summer)	FFAW & Independent	No	Panel selected Independent
Shrimp (Summer)	FFAW & ASP	No	Panel selected ASP
Capelin	FFAW & ASP	No	Panel selected FFAW
Squid	FFAW & ASP	No	Panel selected FFAW
Mackerel	FFAW & ASP	No	Panel selected ASP
Cod (Fall)	FFAW & Independent	Yes	Panel sanctioned agreement