

**Department of Environment and Climate Change
Department of Fisheries, Forestry and Agriculture
Premier's Meeting with the Fish, Food and Allied Workers Union
October 31, 2024, 1:30PM
Holiday Inn Express, St John's, NL**

Attendees:

Honourable Lisa Dempster, Minister
Honourable Gerry Byrne, Minister
Greg Pretty, President - FFAW
Dwan Street, President Elect - FFAW
Jason Springle, Secretary-Treasurer - FFAW
Sherry Glynn, Inshore Director - FFAW
Courtney Glode, Director of Public Affairs - FFAW
Courtney Langille, Communications and Government Relations - FFAW
Crystal-Lynn Gorman, Executive Assistant to the President - FFAW
Kim Rose, Inshore Staff Representative-3K - FFAW
Miranda Lambert, Inshore Staff Representative-3L - FFAW
19 Council Members, Inshore Council Members - FFAW

Purpose of Meeting:

- The meeting is at the request of the Fish, Food and Allied Workers Union (FFAW-Unifor) to discuss issues related to the fishing industry.

Background:

- The FFAW is the largest private sector union in Newfoundland and Labrador, representing more than 15,000 workers, most of whom are employed in the fishing industry.
- The **Fishing Industry Collective Bargaining Act (FICBA)** regulates collective bargaining in the fishing industry. FICBA established the Standing Fish Price-Setting Panel (Panel), for the main function of setting fish prices when the negotiating parties are unable to reach an agreement. The legislation prohibits the right to strike or lockout.
- A senior mediator from Government's Labour Relations Division provides facilitation/mediation services to assist the parties in concluding a collective agreement.
- The key industry stakeholders are fish harvesters represented by the FFAW and fish processors represented by the Association of Seafood Producers (ASP).
- On an annual basis, the Panel consults with parties to negotiations to determine the fish species that will be subject to collective bargaining. Currently, the parties engage in negotiations for 13 fish species.
- The Minister of Fisheries, Forestry and Agriculture (FFA) sets dates by which price and conditions of sale must be in effect for the identified species and provides relevant market information to the parties.

Agenda Item #1 (Arbitration Process)

- The FFAW is seeking a legislative amendment to expedite the arbitration process.

Analysis

- The fish harvesting master collective agreement between the FFAW and ASP and agreements between the FFAW and private sector employers (e.g., fish processing plants) contain a grievance and arbitration procedure to address allegations of violations of that agreement. There are established timelines for the various steps in that process which the parties, by mutual agreement, can agree to alter.
- From a legislative perspective, the Minister Responsible for Labour is only engaged in the grievance/arbitration process when the parties are unable to agree on an arbitrator and one of the parties request the Minister to appoint one.
- The FFAW states that the current grievance/arbitration process takes place over multiple fishing seasons, hindering the ability for parties to successfully negotiate price agreements when they do not know the financial implications from previous seasons.

Potential Speaking Points

- The collective agreement provides a grievance procedure with established timelines to address allegations of a violation of that agreement.
- Aside from the appointment of an arbitrator, Government does not have legislative authority to intervene in this process.
- The Labour Relations Division offers grievance mediation at no cost to the parties. We encourage the parties to continue to avail of this free service.
- We will review the information and rationale you have provided with respect to this issue.

Agenda Item #2 (Role of the Province in Collection of Levies and Fees)

- The FFAW requested this item be included on the agenda for general discussion.
- The FFAW Master Collective Agreement (MCA) gives the union authority to apply union dues and assessments, such as species-specific fees and levies, and processors remit those deductions to the union.
- The fees they maintain are used to pay for activities beyond which union dues can reasonably cover. The lobster levy covers activities like fact-finding missions, quality and handling checks at the wharf and in-plant grading, and grading and sampling that is needed to open the fishery.
- The FFAW maintains that these are very important services being provided to the industry, oftentimes including initiatives that directly impact the quality of our fish and seafood products.
- While the FFAW can apply these fees and levies through the MCA and can file a grievance should a company fail to remit, they do not know how much money a company should be remitting.
- They indicate the grievance process is lengthy, citing an example of a grievance filed in May 2023 against a company that failed to remit the lobster levy, which was heard this month.
- FFAW notes that Prince Edward Island has a lobster levy which supports activities of the PEI Lobster Marketing Board. To create that Board and ensure payment of the levy, the

Government of PE has Lobster Board Marketing Regulations. Buyers deduct one cent per pound from prices paid to harvesters. Purchase slips get submitted to the province, and then go to a law firm, which calculates the amount of money each company must remit. Invoices are sent to buyers and then cheques are sent to the law firm, aggregated, and several times per year, payment is sent from the law firm to the PEI Lobster Marketing Board. The Board does not know how much lobster each company purchased but have confidence that the money being deducted from harvesters is being paid to the Board.

- FFAW notes that in this province there is a risk that money deducted from harvesters is not being remitted by companies and that some companies are not deducting the fees properly.
- The FFAW notes that the **Fisheries Act** provides the Minister with authority to collect a broad range of information from a fish company. They are proposing that the Minister of FFA collect purchase information on lobster, capelin, and cod to aid in the collection of levies and fees.

Analysis

s.29(1)(a)

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]

Potential Speaking Points

s.30(1)(a), s.30(1)(b)

- [REDACTED]
- [REDACTED]

s.29(1)(a)

Agenda Item #3 (Strike/Lockout Provisions in FICBA)

- The FFAW is requesting the right to strike/lockout be re-enacted. They note that the fish harvesters are dissatisfied with the Panel and indicate that Panel decisions in recent years have favoured the processing companies and that these decisions are being made without consideration being given to available market information.

Analysis

- The introduction of the FICBA in 1971 granted collective bargaining rights to harvesters including the right to strike in the absence of a negotiated collective agreement.

- Following the cod moratorium, the province's fishery became more focused on crab and shrimp. Price disputes were commonplace; strikes became increasingly prevalent, resulting in delayed openings of fisheries and unreliability in the marketplace.
- The instability, and calls for Government intervention, led to the appointment of the Vardy Task Force and subsequent implementation of a Final Offer Selection Process Pilot in 1998.
- The Pilot utilized a single arbitrator to determine price and conditions of sale for the various fisheries. In the absence of a negotiated collective agreement, the parties presented their respective positions to a single arbitrator who chose one position in its entirety: a process known as Final Offer Selection (FOS). The ability to strike or lockout was removed.
- In February 2006, in response to the Cashin report, FICBA was amended to include the establishment of an arbitration panel (Standing Fish Price-Setting Panel). The amendments made the use of FOS mandatory and strikes and lockouts were prohibited.
- Since 2006, there have been two successive reviews of the FICBA (2022 and 2023). Both reviews were initiated in response to upheaval and instability in the crab fishery. Neither review recommended a reintroduction of the right to a strike/lockout.
- A recommendation stemming from both reviews was for the parties to commence negotiations to finalize a pricing formula for crab. Negotiations occurred for the two successive years (2023 and 2024), but the parties were unsuccessful in reaching a formula. The Panel was subsequently engaged and selected ASP's position for both years. Crab tie-ups occurred in each year resulting in delays in the fishery.
- In response to the crab tie-ups of the past two years, the FFAW has called for the re-introduction of the right to strike, stating that the current regime is outdated. [REDACTED] s.29(1)(a)
- Providing the right to strike would require a return to a more traditional collective bargaining model. In the absence of a negotiated agreement, parties would proceed to the conciliation process. Submission of the conciliator's report to the Minister would trigger a countdown to the union being able to take a strike vote and the processor to lock-out.
- Once a labour dispute starts, Government would have no legislative authority to order the parties to binding arbitration, nor would there be a guarantee of an established price being set prior to the opening of the fishery. s.29(1)(a)
- [REDACTED] Over the years, job action has had adverse impact on the industry, calling into question the province's reliability as a supplier which, in turn, damages the province's market position.
- The Department of Environment and Climate Change (ECC) continues to provide support to the fishing industry to ensure prices are set and the fishery starts on time. Most recently, ECC provided the FFAW and ASP with a \$17,500 grant to assist with the end of season audit process for crab.

Potential Speaking Points

- It is in all our interests to have a fishery that starts on time and provides equitable profits to both harvesters and processors.
- Since 2022, Government has conducted two reviews of the Fishing Industry Collective Bargaining Act and neither recommended the re-introduction of the right to strike. How would such a change improve price setting in the fishery?

Agenda Item #4 (Price Setting Panel Changes)

Panel Membership

- The FFAW has been highly critical of the Panel, and it is anticipated they will request a change in membership.

Analysis

- The Panel is comprised of three members including a chairperson, one member representing the FFAW and one member representing ASP. Members can serve for a period of up to three years and continue to serve until reappointed or replaced.
- There are two alternate chairpersons, one alternate member representing FFAW and one alternate member representing ASP. Alternate members can also serve for a period of up to three years and continue to serve until reappointed or replaced.
- The chairperson and the alternate chairpersons are selected by the FFAW and ASP through the ranking of a list of qualified candidates provided by the Minister Responsible for Labour and are appointed by the Lieutenant-Governor in Council on the recommendation of the Minister. See Annex A for the ranking process.
- The members and alternate members representing ASP and the FFAW are appointed by the Lieutenant-Governor in Council upon the recommendation of their respective party.
- The term of appointment for the chairperson expires on March 2, 2025, and the alternate chairpersons expire on March 3, 2025. The members and alternate members' terms expired on March 23, 2023. See Annex B for current membership.

Potential Speaking Points

- We will consider the information shared and suggest a follow up meeting, if required, to discuss Panel membership.

Price Setting Mechanism

- The FFAW maintains the current price-setting process is not working and that the failure of the Panel to accurately assess market information and evaluate proposals from the parties has led to delays in the opening of various species, specifically referencing the 2024 crab and capelin fisheries.
- The FFAW state that any mechanism put in place to resolve disputes should be focused on a fair share of the market for both parties.
- They maintain that the Panel seems to be preoccupied with the setting of a "minimum price", with the thinking that market forces will ensure harvesters get more if the market can support it because processors will be competing for product. This doesn't happen according to the

FFAW because there is inadequate competition, and the inability of harvesters to move from one processor to another.

- To address these issues, the FFAW state they need mechanisms where the mandate of the Panel is not setting a minimum price to get a fishery started, but rather a price based on a fair share of the market.
- To ensure they receive a greater percentage of the profit, the FFAW are asking that the Province become more involved in collecting financial information from companies in support of third-party auditing or assessment. They indicate they plan to submit a document to Government for consideration.

Analysis

- The mandate of the Panel is to set a minimum price and processors have the ability to offer higher amounts for the raw material.
- In response to concerns about lack of competition, FFA enabled to sell product outside buyers.

Potential Speaking Points

- Thank you for outlining your concerns and I look forward to receiving your document.

Agenda Item #5 (Market Research and Reporting – Provincial Role)

- The FFAW requested this item be included on the agenda for general discussion.

Analysis

- Market information is provided to the Panel, FFAW and ASP for each species to be negotiated annually. This includes export and import data, species specific market reports (i.e. in-market consultant reports), pricing information, landings and landed values, provincial aggregate production, and relevant trade media articles and reports. The table in Annex C summarizes the information that was provided for the negotiated species in 2024 and the date information was disseminated to the Panel, FFAW and ASP. The dates are agreed upon by all parties and are scheduled to align with the approximate timing of the various fisheries.
- FFA meets with the Panel, FFAW and ASP prior to the commencement of the fishery each year to discuss and review the market information for the previous fishing season, and to identify the market information needs for the coming year. This includes a review of each consultant report used for key species. Any required changes to the market information provided to the parties each year is done in consultation with the Panel, FFAW and ASP.
- All available and relevant data is utilized for this process. FFA subscribes to all key seafood market data providers and trade media outlets. Regarding in-market consultants, parties may request the addition of a consultant report; FFA works within its budget to accommodate requests, using industry and Government networks to seek suitable consultants for the work.
- Regarding snow crab negotiations, Government made changes to the FICBA regulations prior to the 2024 crab season. If the FFAW and ASP are unable to negotiate a formula, each party is required to submit a proposed formula and the Panel shall select one party's proposal. With the objective of parties trying to adopt a market-based formula linked to the weekly Urner Barry crab pricing data, the breadth and depth of information provided to the parties should be sufficient in assisting with the negotiation of a formula.

Potential Speaking Points

- Government meets with the Panel, FFAW and ASP prior to the commencement of the fishery each year to discuss and review the market information for the previous fishing season, and to identify the market information needs for the coming year. Any required changes to the market information provided to the parties each year is done in consultation with the Panel, FFAW and ASP.

Agenda Item #6 (Update on Harvester Enterprise Loan Program)

- The FFAW has inquired if there will be an evaluation of the enhanced supports from the recently launched Harvester Enterprise Loan Program, and if there will be consideration given to build on the program to facilitate new entrants to the industry.

Analysis

- The Harvester Enterprise Loan Program, launched in July 2024, is an enhancement of the former Fisheries Loan Guarantee Program and expands supports for independent fish harvesters, positioning the sector for future success.
- Improvements include increased loan guarantee thresholds, and new components such as down payment loans and interest payment rebates to harvesters to support eligible activities. Supports are designed to ease the entry of new harvesters into the industry.
- The Department of Industry, Energy and Technology is receiving many inquiries from harvesters about the program with several in active discussions with their financial institutions.

Potential Speaking Points

- Launched three months ago, this program is a significant upgrade on the prior Fisheries Loan Guarantee Program.
- For the first time, Government is offering low interest loans with very patient repayment terms to assist harvesters in meeting down payment requirements and offering rebates on a portion of interest paid to financial institutions. These are intended to assist all harvesters, in particular new entrants.
- The Department of Industry, Energy and Technology has been engaged in intensive education efforts with financial institutions regarding the program enhancements, as well as individual harvesters interested in learning more about the program.
- Government is closely monitoring discussions between potential harvester applicants and financial institutions. Ongoing evaluation and the identification of potential barriers is a priority.

Agenda Item #7: (Investments to Assist Seafood Sector Meet Market Demands)

- The FFAW wishes to discuss investments to assist the seafood sector with meeting market demands for quality and sustainably sourced products.

Analysis

- Through the Atlantic Fisheries Fund (AFF), in 2023-24, \$1.5 million was invested by the province in over 75 harvesting projects to improve harvesting technologies, on-board handling practices and quality of landed products. Examples include insulated tubs, on-board handling systems, trawl monitoring technology, refrigerated seawater systems, slurry technology, automatic jiggers, longline technology and redfish trawl design.

- An additional \$3.5 million was leveraged from the federal government for a total investment of over \$5 million. These were all non-repayable contributions to the harvesting sector.
- In addition, in 2023-24, \$4 million was invested in 15 processing technology projects for cod, crab, lobster, salmon, mussels, seal, and value-added products to improve production efficiency, develop new products, improve quality and assist with labor challenges. An additional \$9.5 million was leveraged from the federal government for a total investment of over \$13.5 million. Over 95 percent of these investments are repayable contributions.

Potential Speaking Points

- The Atlantic Fisheries Fund supports innovative projects in the fish and seafood sector that help meet the growing global demands for seafood globally. The objective is to drive new ideas and solutions to help the seafood sector meet market demand for sustainability sourced, high quality fish and seafood products.
- We continue to not only invest provincial dollars but leverage federal funds for these important investments.

Prepared/Approved by:	Y. Scott/ V. Snow/ S. Jones/ J. Chippett
Reviewed by:	L. Power/G. Skinner, Cabinet Secretariat
Ministerial Approval:	Received from Hon. Lisa Dempster, Minister (pending) Received from Hon. Gerry Byrne, Minister (pending)

October 30, 2024

Annex A

Ranking Process

RANKING INSTRUCTIONS

Candidates for SFPSP Chairperson/Alternate Chairs: Instructions for Ranking

Please rank the candidates in the attached table from 10-1 in descending order of preference (i.e. the top candidate will be awarded 10 points, the second preferred candidate will be awarded nine points, etc.).

Please award ASP's **four** least preferred candidates a score of zero.

Upon receipt of list from each party, the combined points for each candidate will be tabulated. The Chairperson will be the candidate with the highest combined points; the Alternate Chairpersons will be the candidates with the second and third highest combined points. In the event of a tie, the Minister will conduct match ranking to identify the candidate who received consistent scores from both parties. If an exact tie occurs, the candidate will be determined by coin toss.

Example:

		Party 1 Ranking	Party 2 Ranking	Total Score	Top Scores
1	Candidate A	10	0	10	
2	Candidate B	6	8	14	3
3	Candidate C	9	9	18	1
4	Candidate D	7	7	14	2
5	Candidate E	8	0	8	
6	Candidate F	4	10	14	4
7	Candidate G	3	6	9	
8	Candidate H	5	0	5	
9	Candidate I	1	3	4	
10	Candidate J	2	0	2	
11	Candidate K	0	5	5	
12	Candidate L	0	4	4	
13	Candidate M	0	1	1	
14	Candidate N	0	2	2	

In this scenario, Candidate C would be assigned as Chairperson. Candidate B and C would be assigned as Alternate Chairpersons as these candidates were awarded similar scores by both parties.

Annex B

Standing Fish Price Setting Panel Membership

POSITION	NAME	DATE APPOINTED	TERM
Chairperson	Sheilagh Murphy	March 2, 2023	Two Years
Alternate Chairperson	Ron McCabe	March 3, 2023	Two Years
Alternate Chairperson	John Whelan	March 3, 2023	Two Years
FFAW Representative	Earle McCurdy	March 3, 2023	One Years
FFAW Alternate Representative	Will Reid	March 3, 2023	Two Years
ASP Representative	Brian Vallis	March 3, 2023	One Years
ASP Alternate Representative	Art Dodd	March 3, 2023	One Years

Annex C
Summary of Market Information

Species	Market Information	Date provided (2024)
Halibut	- Landings and landed values (2019-2023) - Atlantic Canada halibut exports (2019-2023) - NL production (2019-2023) - USA imports (2019-2023) - Urner Barry pricing information (2019-2023)	February 28
Crab	- Articles - Atlantic Canada crab exports (2019-2024, Jan) - Japan imports (2019-2024, Jan) - Japanese snow crab market report (MEROS Consulting) - Crab market report (John Sackton) - Production (2019-2023) - USA imports (2019-2024, Jan)	March 14
Lobster	- Articles - Atlantic Canada lobster exports (2019-2024, Jan) - Landings (2019-2023) - Production (2019-2023) - Urner Barry pricing data (2019-2024, March) - Urner Barry Lobster commentary (Feb & Mar 2024) - Urner Barry Quarterly Lobster report	March 27
Shrimp (Spring)	- Articles - Atlantic Canada/QC monthly shrimp exports (2019-2024, Jan) - Atlantic Canada + QC shrimp exports (2019-2024, Jan) - Production (2019-2023) - Shrimp market report (GEMBA Consulting)	April 3
Shrimp (Summer)	- Shrimp market report (GEMBA Consulting)	June 6
Shrimp (Fall)	- Shrimp market report (GEMBA Consulting)	August 28
Lump roe	- Production (2019-2023) - Landings (2019-2023) - NL Lump Roe Exports (2019-2024, Feb)	April 17
Whelk	- Production (2019-2023) - NL whelk exports (2019-2024, Feb) - NL whelk landings (2019-2023)	April 17
Sea cucumber	- Atlantic Canada sea cucumber exports (2019-2024, Feb) - China sea cucumber imports (2019-2024, Feb) - Sea cucumber market update (MEROS Consulting) - NL monthly sea cucumber exports (2019-2024, Feb) - Sea cucumber exports by province (2019-2024, Feb) - Production (2019-2023) - USA sea cucumber imports (2019-2024, Feb)	April 24

Cod	- 2024 cod market report (John Sackton) - Articles - Atlantic Canada cod exports (2010-2024, Mar) - Production (2010-2023) - NL cod imports (2019-2024, Mar) - Urner Barry pricing data (2019-2024, April)	May 1
Turbot	- Atlantic Canada turbot exports (2019-2024, March) - Chinese market update (MEROS Consulting) - Japanese market update (MEROS Consulting) - NL turbot monthly exports (2013-2024, March)	May 15
Capelin	- Articles - Atlantic Canada capelin exports (2013-2024, March) - Production (2013-2023) - Japan capelin imports (2019-2024, March) - Japan capelin imports Q1 (2019-2024) - Japanese capelin market update (MEROS Consulting) - NL capelin monthly exports (2013-2024, March)	May 29
Herring	- Atlantic Canada bait imports (2019-2024, April) - Atlantic Canada herring exports (monthly) (2019-2024, April) - Atlantic Canada herring imports (2019-2024, April) - Production (2013-2023)	June 26
Squid	- Atlantic Canada bait imports (2019-2024, April) - Atlantic Canada squid exports (2019-2024, April) - Atlantic Canada squid imports (2019-2024, April) - Production (2013-2023)	July 3