

Response of Atlantic Canada's
Independent Core fleet sector organizations
to "The Future of Canada's Commercial
Fisheries".

March 20, 2012

Contents

Introduction	2
The Process	5
The Atlantic Fisheries Policy Review	5
The content.....	7
Our Context: Resource abundance, declining price and harvester incomes	8
Responding as an Industry to the challenges of Globalization	9
Declining supply of wild fish resources in the context of rising global demand.....	10
Initiatives to improve harvester incomes	11
DFO accountability for fair, democratic and transparent consultation processes.....	12
Access to Capital and quota leasing.....	13
The economic burden of quota leasing on BC's small boat fishery	14
The persistence of over-capacity	14
The separation of quota ownership from actual fishing.....	15
Leasing costs	15
Leasing's debilitating effects on fishing as a viable occupation in BC	15
The silencing of critique	16
Streamlining fisheries management – the need for change.....	16
Improving our fisheries science through collaboration with our fleets	17
Recommendations for the way forward.....	18
Shifting from top-down management to shared stewardship with the Independent Core sector.....	18
First Recommendation.....	19
Legal entrenchment of the owner-operator and fleet separation policies	19
Second Recommendation	20
Putting into action Phase II of the Atlantic Fisheries Policy Review	20
Third Recommendation	20
<i>Establishment of an Independent Core Sector Policy Working Group</i>	20
Fourth Recommendation.....	21
<i>First task of Independent Core Sector Policy Working Group</i>	21
Fifth Recommendation	21
Organization of the first Policy Forum for the Independent Core fleet sector	21
Appendix A.....	22
Brief description of industry organizations party to this document.....	22

Introduction

This response to the Department of Fisheries and Ocean's Discussion Document: *The Future of Canada's Commercial Fisheries* is being put forward by legitimate organizations from Atlantic Canada's **Independent Core commercial fishing fleets** as a consensus position. It is a complement to our individual organizational responses to the Department. The following organizations share the positions put forward in this document:

Newfoundland

The Fish, Food and Allied Workers Union of Newfoundland (FFAW-CAW)

Nova Scotia

LFA27 Management Board

Eastern Nova Scotia 4VsW Management Board

 The Guysborough County Inshore Fishermen's Association (GCIFA)

 The Eastern Shore Fishermen's Protective Association (ESFPA)

 The Halifax West Commercial Fishermen's Association (HWCFA)

Shelburne Country Competitive Fishermen's Association (SCCFA)

Scotia Fundy Inshore Fishermen's Association (SFIFA)

LFA33 Advisory Board

LFA34 Management Board

Yarmouth County Fixed Gear Association

Yarmouth Herring Management Committee

Gulf Nova Scotia Fleet Planning Board (GNSFPB)

 Northumberland Fishermen's Association

 Maritime Fishermen's Union Local 4

 Gulf Nova Scotia Fishermen's Coalition

Gulf Bonafide Fishermen's Association

Bay of Fundy Inshore Fishermen's Association (BOFIFA)

Fundy Fixed Gear Council

New Brunswick

Maritime Fishermen's Union (MFU)

Grand Manan Fishermen's Association (GMFA)

Fundy North Fishermen's Association (FNFA)

Fédération régionale acadienne des pêcheurs professionnels (FRAPP)

 Association des crevettiers acadiens du Golfe Inc. (ACA)

 Association des pêcheurs professionnels membres d'équipages (APPME)

 Association des Pêcheurs Professionnels Crabiers Acadiens (APPCA)

Prince Edward Island

PEI Fishermen's Association

 Prince County Fishermen's Association

Acadian Fishermen's Coop

Québec

L'Alliance des pêcheurs professionnels du Québec (APPQ)

L'Association des pêcheurs professionnels des Îles de la Madeleine (APPIM)

Le Regroupement des pêcheurs professionnels du sud de la Gaspésie (RPPSG)

Le Regroupement des pêcheurs professionnels de la Haute et Moyenne Côte Nord
(RPPHMCN)

L'Association des capitaines propriétaires de la Gaspésie

Atlantic Interprovincial

Eastern Fishermen's Federation (EFF)

British Columbia

Area A Crab Association

United Fishermen and Allied Workers Union- CAW

In Atlantic Canada individually owned and operated fishing enterprises are a big business in small places.

Our fleet sector – the Independent Core - represents the vast majority of licence holders and harvesting employment in the Atlantic fishery. Because of our near exclusive harvesting of lobster and crab resources, our majority participation in the shrimp fishery and our major positions in virtually all other fisheries our sector generates the vast majority of the landed value in Atlantic Canada's commercial fisheries.

In 2010 our owner-operator fleets landed \$396 million in lobster, \$280 million in snow crab and \$163 million in shrimp. The landed value of these three species alone accounted for 63% of the total value of Atlantic Canada's fisheries. When you add in the landed value of small and large pelagic (from herring to tuna) and groundfish it is clear that our fleets are collectively the dominant stakeholders in the Atlantic fishery.

In employment terms we are Atlantic Canada's single largest private sector employer.

Our fleet sector is made up of 10, 616 individual licence holders¹, each and every one of them an owner-operator, heading up a small local business.

Year in year out, we create another 20,000 jobs for crew members on our boats and in our communities. Our fish provides thousands more direct jobs in fish processing, handling, transportation and marketing. We also create jobs in boat construction, gear supply and maintenance services.

Most importantly we create these jobs in rural, coastal Canada where jobs are scarce. Each and every one of our fishing enterprises is located in a coastal community of which there are 1300 in Atlantic Canada.

Most of the hundreds of millions of dollars in landed value that we generate described above is spent in our communities: buying in our communities, hiring in our communities and supporting them in numerous other ways. Our independent fishing enterprises create healthier local economies that are diverse and not single industry in structure. Corporate fishing fleets on the other hand tend to be centralized in a few larger harbours and tend to be vertically integrated with supply chains outside the communities from where they harvest the resource (industrial aquaculture is also increasingly adopting this approach). The negative consequences of this for rural fishing communities have been well documented.

By not mentioning coastal communities in the Discussion document we wonder whether the Department of Fisheries and Oceans is not pushing an unstated "outport resettlement" program ie. moving all the young people from both coasts off to the Alberta tar sands and encouraging rural fishing communities to disappear? We ask this because if you undermine our independent fishing fleets you undermine our coastal communities.

¹ Independent Core for 2009 <http://www.dfo-mpo.gc.ca/stats/commercial/licences-permis/fishers-pecheurs/fp09-eng.htm>.

Our view is not the view from Ottawa. It is the view from coastal Canada of the men and women who make their living on the water. It is the interests of these individuals - our membership - and the communities they live in that have led us to look closely at fisheries policy.

This is not a new exercise for us.

Our organizations have a long history of engaging constructively and pro-actively with the Department in policy development to strengthen the sustainability of our industry.

We take a back seat to no one in this regard.

That being said we are deeply disturbed by the “Discussion Paper” on the *Future of Canada’s Commercial Fisheries* and its stated objective to “modernize fisheries management” in Canada.

We have grave concerns about both the process the Department has initiated and the content of the *Discussion Document*. These concerns are outlined below.

The Process

We do not consider this document or the so called “process” it proposes to be a genuine policy development exercise as it does not respect the principles and clear commitments the Department made to our industry on how it would engage us in policy development under the *Atlantic Fisheries Policy Review* (AFPR).

In the AFPR the Government of Canada clearly spelled out how the Department is to conduct itself and engage with the fishing industry when it comes to policy discussion.

It is worth reviewing these commitments.

The Atlantic Fisheries Policy Review

The Atlantic Fisheries Policy Review was in the Government’s own words “*the most extensive public consultation process ever held by Fisheries and Oceans Canada.*”² Over five years (from 1999 to 2004) the Department engaged in broad consultations with the fishing industry, Provincial and territorial governments, First Nations and others “*to modernize the policy framework that governs how the Atlantic Fisheries are managed*”³. It also established an *External Advisory Panel* of key industry stakeholders that met periodically with AFPR officials to debate issues and provide further insights on questions that were emerging in the consultations.

² A Policy Framework for the Management of Fisheries on Canada’s Atlantic Coast, Fisheries and Oceans Canada, Ottawa, 2004 p. vii

³ Ibid. p. 1.

The sophisticated and detailed policy document that emerged from this process “*A Policy Framework for the Management of Fisheries on Canada’s Atlantic Coast*” culminated Phase I of the AFPR and, in the Department’s own words, “modernized” our management framework. This document was also abundantly clear on how the Department would put in practice the new framework under Phase II of the AFPR. It would do so by adopting “*a more inclusive approach to policy planning*”.⁴

Section 6.2.1 of the AFPR - *Adopting a more Inclusive Approach to Policy Planning*- clearly spells out what is meant by this “*more inclusive approach*”.

The Department was supposed to institute “*new advisory processes*” called ***Policy Forums*** to involve participants in “*policy dialogue on best use decisions, objectives, and strategies for conservation and sustainable use, and broad social and economic objectives.*”⁵

Furthermore, in the **AFPR Phase II**, the Department of Fisheries and Oceans was to “*work with resource users and others to determine the scope of policy forums and how they will work*”.⁶

This commitment included:

- *Developing codes of conduct for participation in policy forums;*
- *Preparing terms of reference that would specify which kinds of policy issues would be discussed in policy forums; and*
- *Establishing standards and protocols on how consultations would be undertaken and determining the structure of the process, its time lines, and the roles and responsibilities of participants.*⁷

The Department has respected none of these commitments with this most recent “policy” initiative.

Government policy is also very clear about the central role that organizations such as ours have in shaping policy. The AFPR states that “*resource users most directly involved in the exploitation of specific stocks, and **the legitimate organizations** that represent them, should have the most direct say*” in decision making.⁸ Legitimate organizations are defined as “***those that represent a significant proportion of resource users within their regions, fleets or industry sectors. They are governed by democratic procedures and are accountable to the broad membership***” (our emphasis).⁹

It is impossible to reconcile the process the Department has recently initiated with its AFPR commitments on policy development. Both the spirit and the letter of these commitments to our industry have been flagrantly violated.

⁴ Ibid. p.29.

⁵ Ibid. p. 30.

⁶ Ibid. p. 30.

⁷ Ibid. p. 30.

⁸ Ibid. p 31.

⁹ Ibid. p. 33.

- There was absolutely no previous discussion with any legitimate organizations in the Independent Core sector about any aspect of this consultation.
- The timelines for responses (6 weeks from start to finish) are ludicrous given the seriousness of the topics and do not respect the governance and decision making processes of the fish harvester organizations directly concerned by the topics.
- The exclusively electronic and individualized solicitation of responses ignores that there are legitimate organizations in the fishery and does not even recognize the category of “fisherman” or “fish harvester” in the category list of respondents.
- Questions 1 and 2 are also highly leading. They are searching for concerns about excessive rules, but they do not bother to ask if there should be more rules on any topic, or which rules are especially useful in 'competing on a global scale' or sustainably managing our fisheries. In other words, the questions are biased.
- The anonymous nature of the responses also makes a mockery of transparency in public policy processes. As fleets we intend to post our respective positions publicly. We will also establish web forums to engage in the discussions on what the Department is proposing. We encourage the Department to do the same.
- While we are not pollsters it appears to us that the consultation format and questions do not lend themselves to the generation of any quantifiable data and as such is open to subjective interpretation and complete manipulation.

In our opinion this is a perfect example of the top-down, centrally controlled, non-transparent and manipulative policy process the Department said it would move away from in the AFPR.

As such it is devoid of any legitimacy in our eyes.

By proceeding in this fashion we can only assume that the Department holds our fleet sector and our organizations in the utmost contempt.

The content

We are equally dismayed about the content of the *Discussion Document*. It is devoid of substance. Documents the Department produced under the AFPR reflected a sophisticated understanding of the complexities of fisheries management, the challenges of sustainability and the particularities of the Canadian fisheries context. For the most part they avoided rhetoric. We know, therefore, that the Department is capable of producing good quality policy documents that are pertinent, timely and sophisticated in their understanding of reality and management theory. Unfortunately this document does not come close to meeting this standard.

We consider the Discussion Document to be reductionist in its framing of the issues and, in some instances, simplistic in its understanding of best practices in fisheries management and science. We expect a much higher standard from the Department.

We find that much of the document is written in the ideological code of de-regulation. This is alarming to us as it appears as a barely veiled attack on the Owner-Operator and Fleet Separation

policies and a justification for hobbling even further our country's dwindling fisheries science capability.

As major industry organizations representing the Independent Core sector throughout the Atlantic region we have repeatedly expressed our concerns about the Department's commitment to the Owner-operator and Fleet Separation policies. The brief exchanges many of us have had with the Department's most senior Policy officials over the last few weeks have done nothing to diminish our concerns.

Since the extensive public consultations held under the Atlantic Fisheries Policy Review is has been abundantly clear that there is wide spread and deep support for the Owner-Operator and Fleet Separation policies in the inshore sector across the Atlantic Region and amongst the general public.

We are very concerned that despite the overwhelming support for these policies we constantly have to re-iterate our support for them and to fend off maneuvers from the Department to hollow them out. We are also concerned that these policies do not have the force of law and can simply be ignored, undermined or overturned by officials leaving those the policies were meant to protect without any legal recourse.

One of the most significant outcomes of the AFPR was the Department's adoption of the Policy to ***Protect the Independence of the Inshore Fleet in Canada's Atlantic Fisheries*** (PIIFCAF). This policy established a new licence category; that of the Independent Core. As representatives of this category of licence holders we believe that it is extremely important to get beyond the constant re-examination of the Owner-Operator and Fleet Separation policies in our policy dialogue with the Department. It is time to entrench these policies in our fisheries regulations to provide our fleets with the security we need to move on to discuss and make progress on other important issues with the Department. Below we outline a proposal on how this could be done.

Before doing so we would like to briefly offer some additional comments on the Discussion Document.

Our Context: Resource abundance, declining price and harvester incomes

For the most part we do not recognize the fishery or scenarios described in the policy document. As described above our fleets are heavily involved in the harvesting of Atlantic Canada's crustacean resources (lobster, crab and shrimp). The abundance of these species is at an all time high in historical terms thanks to highly favourable environmental factors, the collapse of groundfish predators, strong management regimes and the considerable efforts and investments our fleets have made in conservation over the last two decades.

Those of us that hold multi-species portfolios are highly conscious of the precarious state of groundfish resources in much of the Atlantic and the fragility of small pelagics. The decline in

these resources has affected us dramatically by limiting our diversification options, increasing our costs for bait and reducing our incomes. However, we note that the overfishing of these resources, particularly the groundfish resources (cod, American plaice, redfish), was not of our doing but the result of industrial fleet activity and weaknesses in our fisheries science. We also note that the more than a dozen Atlantic groundfish stocks put under moratorium since 1992 – some of which remain so – were all managed under Individual Transferable Quotas. During this period our effort-controlled lobster stocks have remained extremely robust.

We must also point out that we do not understand why the Department has not yet acted on the threat that the seal herds represent for Atlantic Canada's most fragile fisheries resources. Management of the seal herds represents one of the greatest challenges of the eco-systems approach to management and it is a challenge that the Department has yet to take on!

The biggest problem our fleets face therefore is not a lack of resource. We have abundant crustacean resources. The main problem our fleets and fishermen face is price for our products. There are two main factors affecting price: the rise in the strength of our dollar and the weak state of the economies of our main export markets -the US, Japan and the EU- which account for 78 percent of the value of our exports.¹⁰

Responding as an Industry to the challenges of Globalization

The first question in the “feedback” section of the Department's online consultation asks for suggestions on rules, policies or regulations that need to be changed to help “harvesters” compete on a global scale as if the challenge of globalization was an individual one and that the Department could somehow empower individual harvesters to better compete against other fish exporting countries by removing regulations.¹¹

There is very little our fleets let alone individual harvesters can do to affect the value of our dollar or to boost the economies of the world's three biggest markets. However, there are things that we can do and are doing to improve price for our products. Our lobster fleets, thanks to support and encouragement received from the Department and the Provinces, are all active participants in the **Lobster Council of Canada** and together with other members of the lobster value chain are grappling with the collective challenges we face (product quality, over-supply and market diversification) to improve the price we receive for our lobster products.

This type of concerted strategic industry approach – fostered under the Department's *Ocean to Plate* initiative - is what is required for our industry to deal effectively with the challenges of globalization. At present we lack these kind of full value chain structures in other fisheries or an over-arching fishing industry marketing council focused on maximizing the value from our fisheries resources. Our main competitors (e.g. Norway, Alaska) recognize the need for full value chain cooperation and, with the help of their governments, have created value chain partnerships with harvesters as full partners in the endeavor, to pursue strategic marketing

¹⁰ Export values for 2011 DFO: <http://www.dfo-mpo.gc.ca/stats/trade-commerce/can/export/export-eng>.

¹¹ “What current rules, policies or regulations, aside from those in place to conserve the resource, are preventing harvesters from competing on a global scale?” <http://www.isdm-gdsi.gc.ca/fm-gp/future-avenir/say-opinion-eng.htm>

initiatives. The fact that the Department's Discussion document raises the challenges of globalization but does not mention the need for such strategic approaches is inexplicable to us and a serious omission.

We would like to point out that many of our fleets are involved in processes of sustainability certification for our fisheries including eco-certification to enhance their marketing value and that our understanding of sustainability includes socio-economic criteria.

We also note that our competing fleets in various jurisdictions in the EU and US have benefitted greatly from government sponsored fleet decommissioning programs that have reduced capacity without increasing debt for remaining participants. With the exception of the recent Atlantic Lobster Sustainability Measures program our fleets have had to "self-rationalize" at the cost of significantly increased enterprise debt load.

Declining supply of wild fish resources in the context of rising global demand

Canada's strength and future as a fishing nation and major fish exporter rests in our opinion on two pillars: the abundance of high quality and high value wild fishery resources and the strength of our fisheries management regime. Global marine wild fish production was maximized almost two decades ago and the current production levels in many countries are not sustainable. There will be no growth in global wild fishery production going forward as the last decade of FAO analyses clearly demonstrate.¹²

Demand for high quality fish products, however, will continue to increase as hundreds of millions of people enter the middle class in emerging economies (China, India, Russia and Brazil). We do not believe that this gap between global supply and demand will be met by industrial aquaculture despite the spectacular growth in production over the last two decades. This growth is not sustainable. Future growth in the industrial farming of carnivorous species (shrimp and salmon) is already severely constrained by their dependence on wild fish inputs of fishmeal and fishoil both of which are maxed out. Industrial aquaculture in developed countries, particularly of salmon, is also caught in a downward spiral of competition with low wage economies with weak or non-existent environmental protection. Into the future we foresee increased differentiation between wild and aquaculture products as consumers become more aware of the negative environmental impacts (pesticide use, eutrophication, foreign species introduction, disease) and human health issues (pharmaceutical use) associated with industrial aquaculture. We also see increased conflict domestically as the practices of the aquaculture industry (e.g. pesticide use) come into conflict with our own environmental protection laws and the interests of the wild fishery.

In this context the long term perspective for Canada's wild fishery products and those that control access to them is bright.

¹² The State of World Fisheries and Aquaculture (SOFIA) <http://www.fao.org/fishery/sofia/en>

Thanks to the Owner-operator and Fleet Separation policies in Atlantic Canada access to the most valuable fishery resources is presently in the hands of the Independent Core fleet sector, the economic backbone of most of our coastal communities. We want to make sure that this situation remains well into the future.

Initiatives to improve harvester incomes

While the medium to long term perspective for our fleets looks very good in terms of the global demand for our products, the short term situation is not good. The dramatic decline in price for our main product (lobster)¹³ and increasing production costs (fuel, bait and other operating costs including fees related to fisheries management in other fisheries) have significantly reduced harvester net incomes.

To deal with this situation our fleets have embarked on fleet rationalization schemes with the support of governments both Federal and Provincial through such initiatives as the Atlantic Lobster Sustainability Measures Program. The objective of these programs was to improve harvester income through reduction in the number of participants in specific fisheries.

In our opinion the improvement of harvester net income must be the main criteria used to evaluate any fleet rationalization scheme. We do not believe that in the current economic context a strong business case can be made for increasing the debt load of individual enterprises which is why many of our organizations are exploring rationalization schemes that spread the capital costs, risks and benefits of rationalization across many participants. The Department must be open to exploring creative ways of reducing participation with our fleets beyond simple self-rationalization.

Many of our lobster fleets are currently in the midst of conducting such schemes. As these schemes evolve we look forward to evaluating their impacts with the Department and to exploring other schemes that will contribute positively to harvester net income.

Again we expect that these discussions will take place between the Department and legitimate organizations representing fleets as was spelled out in the AFPR:

- *“It is expected that new initiatives or proposed changes to existing policies will be brought forward by legitimate organizations that represent a significant proportion of resource users within their regions, fleets or industry sectors. As indicated in section 6.2.4, criteria to define the type of organizations that can legitimately participate in fisheries management processes will be established **collaboratively** (our emphasis) during **AFPR Phase II** (your emphasis). (p. 20)*
- *“Fisheries and Oceans proposes that participants in the commercial fisheries develop mechanisms to deal with situations in which their overall capacity is too large or in*

¹³ We note however that under globalization the price situation for our products can change quickly and dramatically as we have seen with shrimp where the dockside price has more than doubled over the last couple of years radically improving the economic performance of our individual shrimp enterprises and fleets.

which market conditions cannot ensure the economic viability of their operations.”
(p. 20)

- ***In AFPR Phase II, the department will work with commercial licence holders to develop self-adjustment mechanisms that are appropriate for the different fleets.*** (p. 20)

DFO accountability for fair, democratic and transparent consultation processes

Whatever means are used for rationalization in any given fishery the Department of Fisheries and Oceans must not change any policies currently in place without first conducting fair, transparent and democratic consultations with the affected licence holders. We expect that where legitimate organizations representing licence holders are in place the Department will conduct these consultation processes through these organizations and that the Department will not proceed with any changes without having received a clear mandate from the majority of licence holders to proceed with the proposed changes.

We are not alone in expecting this.

In one of the rare occasions where the Canadian courts have looked at how the Department conducts industry consultations the judge found that the Department completely manipulated the consultation process.¹⁴

In *Carpenter Fishing Corp. v. Canada* Judge Campbell said that the Department promised licence holders in the BC halibut fisheries the consultations around the introduction of ITQs would be ***“democratic and provide(s) for comprehensive and fair representation”*** and ***“that decision making would be guided by a form of licence holders' representative government”***. By making these promises Campbell said the ***“DFO assumed an obligation to ensure that the process would be democratic in nature.”***

He went on to say:

“The primary ingredient of representative government is accountability” but the DFO official responsible for the consultation did ***“nothing to see that the (process) would live up to the accountability requirement. There was no accountability built into the process. ... the process was not only undemocratic but also unreliable in reflecting the views of licence holders.”***

Campbell found that ***“DFO had broken the rules”*** of the consultation through all kinds of irregularities ***“because it was considered necessary to do so to reach the planned objective of industry support”***.¹⁵

¹⁴ The introduction of ITQs in the BC halibut fishery.

Although the situation Judge Campbell described was in B.C. it is all too familiar to us. We can provide many examples of DFO “consultation processes” in the Atlantic region- ranging from the fictitious to the highly manipulative -whose sole purpose was to justify outcomes pre-determined by the DFO. We hope that this “consultation” will not be another example in our long list of manipulated processes.

This is one of the most important things that has got to change. DFO officials must be accountable for how consultations are conducted with licence holders in the independent core fleet sector.

In our fourth recommendation below we propose jointly defining with the Department the standards and protocols on how consultations with our industry should be undertaken in the future including determining the structure of the consultation processes, their time lines, and the roles and responsibilities of participants including government officials.

Access to Capital and quota leasing

The discussion document is littered with references to the need to “*simplify the complex web of rules that govern the industry*” (p. 3, 5, 6, 12, 14 etc.) and the need to “*create a more attractive environment for investing*” in the fishing industry and that the Department has “heard” that these “*complex rules...may be inhibiting the industry’s ability to raise capital*” (p. 15). We can only assume that the Department has “heard” this from processors interested in “legally” getting their hands on valuable licences and quota that are presently allocated to the Independent Core Sector.

The *Supreme Court of Canada* decision in *Saulnier vs RBC* removed many of the obstacles for those in the fishery with a viable business plan to obtain financing from Canada’s lending institutions for legitimate purchase of licences and quota.

That being said in some fleets, particularly in the mid-shore sector, new entrants wishing to acquire enterprises face financial barriers that simply did not exist for the great majority of their predecessors. The high costs of licences for these enterprises require special attention from governments both Federal and Provincial in the form of programs designed to ensure that the productive capacity of these fleets remain in the hands of owner-operators and coastal communities for the next generation and many more to come.

We are concerned however that under the guise of facilitating access to capital the Department’s intention is to remove all the obstacles that currently inhibit processors and other investors from legitimately controlling licences and quotas in Atlantic Canada’s Independent Core fishing fleets.

If this is the intention we would like to state that we are categorically opposed to it.

¹⁵ Carpenter Fishing Corp. v. Canada (T.D.) Trial Division, Campbell J."Vancouver, June 24, 25, 26, 28, July 2, 3, 4, 5; November 14, 1996.

We can think of nothing more damaging to the interests of coastal communities and working fishermen or more effective in reducing their incomes than allowing non-fishermen to control licences and quota.

The economic burden of quota leasing on BC's small boat fishery

In the spring of 2007 then Minister of Fisheries Loyola Hearn stated that **“those who work in the fishery should enjoy the wealth of the resource. Not someone sitting in a condo in Florida...”**¹⁶

Minister Hearn was opposed to licence and quota leasing in the fishery and so are we!

We are particularly opposed to the extension into Atlantic Canada of the quota leasing schemes that now characterize BC's small boat fishery. The quota and licence leasing schemes established by the Department in several Pacific fisheries is a huge economic burden for small boat owner-operators in British Columbia's commercial fisheries and we do not want to see replicated in the Atlantic.

It is worth illustrating the nature of the leasing problem for small boat fishermen in BC.

Canada's Pacific fisheries allow non-fishermen to own quota and lease it to fishermen with insufficient quota for certain species to make economically viable fishing trips. The leasing system was put in place to allow so-called “flexibility” in BC fisheries, where active, professional fishermen who do not have the capital to buy quota outright can still fish and retain species they may either be targeting or catching as by-catch. The economic theory behind this scheme is that in oversubscribed fisheries quota trading will quickly eliminate marginal operators by efficiently re-allocating fishing quotas to the most efficient operators (i.e. those already with significant quota), rationalize the fishery and lead to more viable individual enterprises.

The actual evidence from the scheme's application in BC, is that most of the landed value from fisheries operating under ITQs (e.g. halibut and sable fish) now flows to absentee investors, not to the most efficient fishermen. Moreover, the leasing system is undermining the very viability of fishing enterprises and the attractiveness of fishing as a career path for the next generation of fishermen because of poor economic returns to those who actually fish.

The persistence of over-capacity

Contrary to the theory the schemes have not eliminated over-capacity. There are still more multi-species fishing vessels with latent capacity than available quota in BC fisheries like halibut and sablefish. This situation keeps quota leasing prices for these species very high as the large pool of vessels compete amongst themselves for enough quota to go fishing. Fishermen/vessel owners with a trained crew have no choice. They need fish to make a living and if they do not enter the leasing game their boat stays tied to the dock.

¹⁶ Speaking notes for The Honourable Loyola Hearn, P.C. M.P., Minister of Fisheries and Oceans to announce a new approach to Canadian fisheries, St John's, NL April 12, 2007.

The separation of quota ownership from actual fishing

The income from quota leasing is also so lucrative that quota holders have no incentive to sell their quota to working fishermen. The purchase price for halibut quota for example is \$55 a lb and for sablefish it is \$45 a lb. (approximately 9 and 7.5 times their respective landed value)¹⁷ making it uneconomic to purchase as a business venture. Even the purchase of lingcod quota at \$7.50 per lb (5.5 times the present landed value) is not economical to purchase outright if the money has to be borrowed from a credible lending institution.

The irony of this situation is that the original quotas were allocated free of charge to active fishermen based on their share of the historical catch of the different fisheries they participated in. Most of these original quota holders no longer fish due to age etc. but retain the quota as a retirement income or have willed or sold it to others. In Canada's Pacific fisheries there are no restrictions on who can own quota because, unlike the situation in Atlantic Canada, there are no owner operator rules in place. Neither the quota nor the revenue from the quota is now attached by policy to actual fishing. By allowing quota ownership to be separated from active participation in the fishery the Department's policy in the Pacific fisheries has created a separate class of quota owners who do not necessarily fish but derive their income from those who do.

Leasing costs

The leasing costs vary from month to month and year to year but in the more valuable species, sablefish and halibut, leasing costs consistently account for at least seventy percent of the landed value. The Table below -based on actual costs for a March 2011 small boat fishing trip in BC- illustrates the problem. The leasing fees paid by the fisherman represented 75% of the landed value for his sablefish and halibut, 50% for his rockfish and 25% for his lingcod.

Species	Dockside price per lb	Leasing costs per lb	Leasing % of landed value
Halibut	\$6.00	\$4.50	75%
Sablefish	\$6.00	\$4.50	75%
Rockfish	\$1.00	.50	50%
Lingcod	\$1.35	.35	25%

Leasing's debilitating effects on fishing as a viable occupation in BC

In 2005 the Canadian Council of Professional Fish Harvesters' published a report that showed the numbers of skilled fishermen left in B.C. were declining rapidly and the workforce was much older than in the Atlantic. The impact of leasing fees on the viability of fishing was identified as a major contributor to this phenomenon.¹⁸

¹⁷ 2011 values.

¹⁸ Setting a new course: Phase II Human Resources Sector Study for the Fish Harvesting Industry in Canada, Praxis Research and Consulting for the Canadian Council of Professional Fish Harvesters, 2005.

Because of the disproportionate amounts being siphoned off of fishing operations to lease quota there is no money left over for proper capitalization of vessels, there is not enough money to pay crew a decent wage for very dangerous work. One has to wonder as well about the pressures this situation places on conservation.

The silencing of critique

The move from a fisherman driven to investor driven fishery also works to stifle any critique of the leasing system from inside the fishery.

Research has shown that it is very easy for those who control and own quota to collude to make sure that any active fisherman raising questions about the system does not get any fish to lease by blacklisting them and making it impossible for them to earn a living.¹⁹

Streamlining fisheries management – the need for change

The Discussion Document says that “fisheries management needs to change”.

We agree.

We are not defenders of the status-quo.

But we don’t seem to have the same understanding about where change is needed.

The Discussion document reveals our very different understanding of the need for change when it says that the problem is **“Canada’s fisheries management system is governed by a complex web of rules and policies... largely customized to each fishery.”**

Only someone who gets to work every morning by taking an elevator to the top floors of 200 Kent Street in Ottawa could think that having management rules “customized to each fishery” is a problem. For those of us who get to work from a wharf having rules and policies custom fit the complex reality of our fisheries is precisely what we want.

We certainly do not want “one size fits all” rules that fit no one.

Changing the rules and policies that govern our fisheries management to make life easier for the Department of Fisheries and Oceans, especially those who are far removed from the reality of the fishery, is not what we have in mind when we say “fisheries management needs to change”.

There are lots of complex rules that make it hard and more expensive for us to fish, the pages and pages of complicated “conditions of licence” for example. We believe that fish harvesters working closely with fisheries managers are those that should be shaping the rules that govern

¹⁹ E. Pinkerton, D.N. Edwards / Marine Policy 34 (2010) 1110–1114

their fisheries on a fishery by fishery basis. In the rare situations where this has been allowed to happen, for example in the Newfoundland inshore shrimp fishery and the Southern Gulf fixed gear herring fishery where systems of individual trip limits (caps) have been instituted by the fleets, rules have been streamlined and tailor made to suit the situation. There are other examples that we could give but unfortunately there are not enough of them.

So this has got to change. Processes need to be put in place so that licence holders on a fishery by fishery basis and working through their legitimate organizations and in collaboration with fisheries managers can review these conditions and policies and determine which ones have outlived their usefulness.

What we have in mind is spelled out, once again in the Atlantic Fisheries Policy Review. *“Resource users most directly involved in the exploitation of specific stocks, **and the legitimate organizations that represent them** (our emphasis) should have the most direct say in the day-to-day management of those activities. ...The new Atlantic fisheries management framework will therefore encourage resource users and the legitimate organizations that represent them, to assume a greater role in operational decision-making processes, in accordance with their capacity and degree of interest, and will hold them accountable for their choices.”* (p. 31)

We are not afraid of accountability. We welcome it and hope that some day the same could be said of the Department.

Improving our fisheries science through collaboration with our fleets

The Discussion Document proposes to eliminate annual stock assessments in some fisheries as a cost saving measure.

We can understand that for some long lived species costly annual stock assessments may not be necessary and some savings might be achieved by moving to multi-year assessments but the Department appears to be suggesting that by reducing resources available for science it can shrink towards excellence!

We are extremely concerned about the deteriorating funding of our fisheries science.

The resources available for the basic fisheries science needed for the proper management of our fisheries have been shrinking steadily since the Federal government austerity measures of the mid-1990s. At the same time new scientific responsibilities have been taken on because of Canada's international commitments to an eco-systems approach to fisheries management. The cumulative result is that we no longer have the science capacity we had 20 years ago to do the basics in several of our key fisheries and some of our best scientists have virtually no resources to work with.

We need to take a collective and collaborative step back and look strategically at how best to deliver on the essential scientific knowledge we need to sustainably harvest our fisheries resources and better understand the complex changes that are happening in our marine eco-system.

During AFPR Phase II the Department said it would adopt “*new and more-cost effective strategies to determine stock and ecosystem status, including increased use of traditional knowledge and expanded opportunities for collaboration between government scientists and the fishing industry.*” (p. 13)

Many of our fleets are involved in collaborative science with the Department including a strategic national initiative the NSERC (Natural Sciences and Engineering Research Council of Canada) funded Canadian Fisheries Research Network.

Clearly increased collaboration between fleets and fisheries scientists is the way of the future if we are serious about making the most of the limited resources we have for fisheries science.

Given the lack of an overall Departmental commitment to move forward in a strategic and comprehensive way with our fleets on collaborative science as was called for under the AFPR Phase II we are concerned about how the Department might proceed with “precautionary approach frameworks” as briefly spelled out in the Discussion document. We are especially concerned given the dwindling resources available to our fisheries scientists as discussed above. We know that stock assessments and modeling can have wide ranging confidence levels and are only as good as the data fed into them. We would not want to be locked into situations where pre-determined rules would kick in based on weak modeling fed by poorer and poorer data sets.

Sound fisheries management is about the management of risk. Risk to the long term health of the fisheries resource and to the social, economic and cultural benefits the harvesting of these resources generate for individual enterprises, fleets, fisheries dependent coastal communities and beyond them to the people of Canada. More than any other stakeholders in the fishery we understand those risks because we and our fishing communities are the ones that most directly suffer the consequences of mistakes. We are ready to assume those risks but to do so we need to be directly involved with fisheries scientists and managers in identifying and gathering the information needed to produce the models and then working with them to analyze the results and the risks involved. Only by being full participants in the science and management process can we determine what level of risks are appropriate. For this to happen “how” we do fisheries science and management in Canada has got to change.

This is why we propose that collaborative science be one of the priority topics for discussion between our fleet sector and the Department as part of the policy development process we propose below.

Recommendations for the way forward

Shifting from top-down management to shared stewardship with the Independent Core sector

In the Atlantic Fisheries Policy Review the Department of Fisheries and Oceans put forward a vision on how to achieve a modern fisheries management system and laid down a road map to get there that was very clear.

The Department said that it would move away from top-down management to shared stewardship with the fishing industry, give a priority voice to the legitimate organizations and engage with them in Policy Forums to define and implement the needed changes.

There is no need to revisit the AFPR process or the vision, objectives and principles that it produced. It provides us with the framework that we need to “modernize” our fisheries management system and the road map on how to get there.

However since the Phase I of the AFPR was completed in 2004 very little has been done by the Department to engage our fleet sector in the modernization process which was supposed to happen under Phase II. Although there were partial, successful initiatives like the Ocean to Plate exercise and the consultation process regarding the issuing of Independent Core licences to corporations these were piecemeal initiatives that were not part of an overall agreed to strategy. Furthermore we have not had any dealings with the Department on policy matters in more than three years i.e. since the consultations on issuing of licences to corporations ended.

This is not acceptable.

It is critical that the Department follow through with its commitments to put the AFPR framework into action by working with our fleet sector to develop and implement the specific policies and programs the AFPR spelled out.

It is also critical that the Department’s actions not exacerbate underlying tensions in the fishery, create turmoil and dissension or revive issues settled long ago.

There are two distinct fisheries in Atlantic Canada: a corporate controlled offshore fishery and an owner-operator inshore and mid-shore fishery²⁰. These two distinct fisheries must have their own separate policy processes to deal with the respective issues that concern them and only them. To bring these two fleets together in the same policy process would only revive the bitter and counterproductive allocation struggles of the past that we want no part of.

Therefore this is how we propose the Department go forward with us.

First Recommendation

Legal entrenchment of the owner-operator and fleet separation policies

One of the underlying problems with the existing Owner-Operator and Fleet Separation policies is that they are merely government policies and do not have

²⁰ It is important to note that our Sector, the Independent Core, is made up of two distinct sub-sectors -the inshore and the mid-shore- and that fishing enterprises in the mid-shore fleets operate under IQ and ITQ regimes that create special needs that are proper to these types of fishing enterprises.

the force of law. If they were incorporated into the *General Regulations* under the Fisheries Act, their legal strength would be much greater.

We believe that regulatory and legislative entrenchment of the Fleet Separation and Owner-Operator policies is the key public policy decision to be made regarding the Atlantic fishery; a policy decision that speaks directly to access and allocation, economic viability and conservation concerns.

We therefore recommend *that the fundamental aspects of the Commercial Fisheries Licensing Policy for Eastern Canada relating to owner-operators and to fleet separation including the policy for the Preservation of the Independence of the Inshore Fleet in Canada's Atlantic Fisheries (PIIFCAF) be incorporated into the General Regulations under the Fisheries Act.*

Second Recommendation

Putting into action Phase II of the Atlantic Fisheries Policy Review

Whereas under the *Atlantic Fisheries Policy Review* the Department of Fisheries and Oceans conducted an extensive public consultation on its fisheries policy in Atlantic Canada and that this consultation culminated under the AFPR Phase I with a new policy framework that modernized Canada's approach to fisheries management in Atlantic Canada, and ;

whereas the Department of Fisheries and Oceans committed itself to put into action this new framework under Phase II of the AFPR, and;

whereas the Department has not moved to implement in any coherent and strategic way the actions outlined for the Phase II of the AFPR and;

whereas the implementation of the AFPR Phase II is long overdue;

We recommend that the Department of Fisheries and Oceans working in close collaboration with the legitimate organizations of the Independent Core fleet sector urgently begin to put into action Phase II of the Atlantic Fisheries Policy Review.

Third Recommendation

Establishment of an Independent Core Sector Policy Working Group

That the Department of Fisheries and Oceans begin immediate discussions with the legitimate harvester organizations of Atlantic Canada's Independent Core fleet sector to establish an Atlantic wide (Quebec, New Brunswick, Nova Scotia, PEI, Newfoundland) Independent Core Harvester Policy Working Group to advise the Department on how best to proceed with the implementation of Phase II of the Atlantic Fisheries Policy Review to modernize fisheries management system for the Independent Core Sector and that the Working Group be established by May 31, 2012.

Fourth Recommendation

First task of Independent Core Sector Policy Working Group

That the first task of the Independent Core Sector Policy Working Group be to work with the Department to develop consensus positions on:

- *codes of conduct for government and industry participation in policy forums for the Independent Core Sector;*
- *terms of reference that would specify which kinds of policy issues would be discussed in policy forums for the Independent Core Sector; and*
- *Establishing standards and protocols on how consultations would be undertaken and determining the structure of the process, its time lines, and the roles and responsibilities of participants in Independent Core Policy Forums.*²¹

Fifth Recommendation

Organization of the first Policy Forum for the Independent Core fleet sector

Following the establishment of the Independent Core Sector Policy Working Group that the Department of Fisheries and Oceans begin immediate discussions with the Working Group about the organization of an Atlantic wide Policy Forum between the Department and the legitimate harvester organizations for the sector to be held in the Fall of 2012. The objectives of this Policy Forum are to identify the priority policy issues for the modernization of the fisheries management system for the Independent Core Sector.

²¹ Ibid. p. 30.

Appendix A

Brief description of industry organizations party to this document

Newfoundland

Fish, Food and Allied Workers Union (FFAW-CAW)

The FFAW represents 10,000 fish harvesters - 4,500 Independent Core licence holders and approximately 5,500 crew members- and 5000 fish plant workers in the Newfoundland fishery. FFAW members fish all commercial species: crab, shrimp, groundfish, lobster, capelin, herring, and mackerel.

President: Earle McCurdy

emccurdy@ffaw.net

Nova Scotia

Eastern Nova Scotia 4VsW Management Board

The Eastern Nova Scotia 4VsW Management Board is a community management board comprised of 3 organizations, Guysborough County Inshore Fishermen's Association, Eastern Shore Fisherman's Protective Association and Halifax West Commercial Fishermen's Association. It manages fixed gear groundfish quota for 500 licence holders in NAFO area 4VsW located along the Eastern Shore of Nova Scotia.

Chair: Patrick Gray

pocket.fisheries@ns.sympatico.ca

The Guysborough County Inshore Fishermen's Association (GCIFA)

The GCIFA represents 109 Independent Core licence holders and 250 crew members in the fishery of Eastern Nova Scotia -and Guysborough County fishing lobster, snow crab, shrimp and tuna.

President: Eugene O'Leary

eugeneol@yahoo.ca

The Eastern Shore Fishermen's Protective Association

Formed by fishermen in 1957 the ESFPA is one of the longest operating Fisherman's organizations in Canada. It is accredited organization under Provincial legislation and has 250 members most of whom are owner/ operators of the fishing enterprises living in more than 100 coastal communities from Eastern Passage to Canso along Nova Scotia's Eastern Shore. ESFPA members are multispecies licence holders who fish Lobster, Snow crab, Groundfish, Herring, Mackerel, Swordfish, sea urchins as well as other species like smelt, clams and eels. The ESFPA is governed by an elected board of directors of 25 members.

President: Norma Richardson

normar@ns.sympatico.ca

The Halifax West Commercial Fishermen's Association (HWCFA)

The HWCFA is a multi species fisheries association that represents roughly 50 licence holders and 100 crew and deckhands. Our vessels range in size from < 30 foot lobster boats to 99 foot longliners that fish from the American line eastward to the Flemish Cap. The main species targeted by our fishermen are halibut, swordfish, shark, lobster, mackerel, herring and groundfish.

Representative: Donny Hart

samfish@hfx.eastlink.ca

LFA33 Advisory Board

The LFA33 Advisory Board represents the interests of 711 Independent Core licence holders and 1600 deck-hands.

Co-chair: Patrick Gray

pocket.fisheries@ns.sympatico.ca

Shelburne County Competitive Fishermen's Association (SCCFA)

The Shelburne County Competitive Fishermen's Association is a member of Shelburne County Groundfish Management Board and has a membership of 94 licence holders and their crew and represents over 60 coastal communities. The SCCFA is an equal share group based on the history of our members and the sharing formula of the Management Board.

Executive Director: Pam Decker

sccfa@ns.sympatico.ca

Scotia Fundy Inshore Fishermen's Association (SFIFA)

The Scotia Fundy Inshore Fishermen's Association, has a membership of 249 fish harvesters (based on 2011 membership) including 45 longliners fishing in area 4x and Georges Bank.

Representative: Judith Maxwell

sfifaa20@eastlink.ca

LFA34 Management Board

The LFA 34 Management Board consists of 16 elected Port cluster representatives representing 981 Independent Core license holders and 2000 deck hands fishing lobster in South Western Nova Scotia.

President: Ashton Spinney

ashton@ns.sympatico.ca

Yarmouth County Fixed Gear Association

The Yarmouth County Fixed Gear Association represents 80-100 license holders and 250-400 crewmembers (depending on the year) in Yarmouth County, Nova Scotia

Manager: Bernie Berry

rambunkshus@yar.eastlink.ca

Yarmouth Herring Management Committee

The Yarmouth Herring Management Committee represents 50 – 60 members license holders 100 – 150 crew members (depending on the year) in the herring gillnet fishery.

Manager: Bernie Berry

rambunkshus@yar.eastlink.ca

Gulf Nova Scotia Fleet Planning Board (GNSFPB)

The Gulf Nova Scotia Fleet Planning Board is made up of three organizations: the **Northumberland Fishermen's Association**, the **Maritime Fishermen's Union Local 4**, and the **Gulf Nova Scotia Fishermen's Coalition**. The Fleet Planning Board represents 309 harvesters and 463 crew members from Gulf Nova Scotia. The main fisheries are lobster, crab, herring, halibut, scallops, rock crab, and mackerel.

President: Ronnie Heighton

ronald.heighton@ns.sympatico.ca

Bay of Fundy Inshore Fishermen's Association (BOFIFA) and Fundy Fixed Gear Council

The Bay of Fundy Inshore Fishermen's Association is a member of the **Fundy Fixed Gear Council** and is the management board for <45 groundfish quotas on the Nova Scotia side of the Bay of Fundy. The BOFIFA has approximately 150 members.

Office Manager : Carolea White

ffgc@ns.aliantzinc.ca

New Brunswick

Maritime Fishermen's Union (MFU)

The Maritime Fishermen's Union was founded in 1977 and represents 1500 Independent Core licence holders in New Brunswick and Nova Scotia of which 1200 are in New Brunswick's eastern shore (Gulf of Saint-Lawrence, Baie des Chaleurs and Northumberland Strait). The MFU members are multi-species harvesters fishing lobster, herring, groundfish, scallops etc. The MFU is certified every four years under New Brunswick's Inshore fisheries Representation Act.

Executive Secretary : Christian Brun

christian@mfu-upm.com

Grand Manan Fishermen's Association (GMFA)

The GMFA represents approximately 100 core license holders and 190 crew members fishing mainly lobster and scallop off of the Island of Grand Manan. The Grand Manan Fishermen's Association Inc., has been in business since 1981.

Project Manager: Melanie Sonnenberg

gmfa@nb.aibn.com

Fundy North Fishermen's Association (FNFA)

The Fundy North Fishermen's Association represents approximately 50 owner-operators and 20 crew members from Campobello to St. Martins on the Fundy Coast and inland on the Saint John River who fish mainly lobster, scallop, herring and groundfish plus shad, gaspereau and eels in the River.

President: Greg Thompson

gregt_fn@hotmail.com

Fédération régionale acadienne des pêcheurs professionnels (FRAPP)

The Fédération régionale acadienne des pêcheurs professionnels (FRAPP) is a federation of three organizations representing New Brunswick's mid-shore fishing fleets (crab and shrimp). The members are: the Associations des crevetiers acadiens du Golfe Inc. (ACA), the Association des pêcheurs professionnels membres d'équipages (APPME) and the Association des Pêcheurs Professionnels Crabiers Acadiens (APPCA).

Executive Director : Jean Lanteigne
jean.lanteigne@frapp.org

Prince Edward Island

Prince Edward Island Fishermen's Association (PEIFA)

The Prince Edward Island Fishermen's Association represents 1300 Independent Core multi-species licence holders and approximately 3900 crew members who fish Lobster, Tuna, Crab, Herring, Groundfish off of the Province of PEI including PEI LFA's 24, 25 and 26A.

President: Mike McGeoghegan -

Executive Director: Ian MacPherson

managerpeifa@pei.eastlink.ca

The Prince County Fishermen's Association (PCFA)

The Prince County Fishermen's Association is a member of the PEIFA and represents 215 Independent Core fishermen (with approx 400 crew members) in the Northeast end of Northumberland Strait of PEI in the Southern Gulf of St. Lawrence fishing Lobster, snow crab, herring, mackeral, tuna, halibut, rock crab, scallops and bar clams.

President: Lee Knox

k.knox@hotmail.com

Acadian Fishermen's Coop

The Acadian Fishermen's Coop is owned by 91 Independent Core licence holders fishing in the Northumberland Strait and Gulf of Saint-Lawrence. The Coop markets their products internationally.

President: Keith Paugh

keith.paugh@pei.sympatico.ca

Québec

L'Alliance des pêcheurs professionnels du Québec (APPQ)

The Alliance des pêcheurs professionnels du Québec (APPQ) is made up of three owner-operator fish harvester organizations: l'Association des pêcheurs professionnels des Iles de la Madeleine (APPIM), the Regroupement des pêcheurs professionnels du sud de la Gaspésie (RPPSG) and the Regroupement des pêcheurs professionnels de la Haute et Moyenne Côte Nord (RPP).

President : Clovis Poirier

appim@tlb.sympatico.ca

Interprovincial

Eastern Fishermen's Federation (EFF)

The Eastern Fishermen's Federation was formed in 1979 primarily to provide a voice for the many diverse fish harvester's organizations throughout the Gulf and Scotia Fundy Regions. The EFF currently represents 20 organizations with a membership of more than 1500 fish harvesters (licence holders and crew).

Project manager: Melanie Sonnenberg

gmfa@nb.aibn.com