



**Response to DFO's Invitation for Feedback on  
New Initiatives to Modernize the Commercial Fisheries of Canada**

**Submitted by the Member Organizations of the  
Gulf Nova Scotia Fleet Planning Board**

**February 2012**

## Introduction

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The Gulf Nova Scotia Fleet Planning Board is an incorporated body under the Societies Act of Nova Scotia and is an amalgamation of three accredited multi-species inshore fish harvester organizations based in LFA 26 and 25 NS, namely the Gulf Nova Scotia Fishermen's Coalition, the Northumberland Fishermen's Association and the Maritime Fishermen's Union – Local 4. As its name implies, the Board focuses its efforts on a variety of policy and planning initiatives that impact the operations and performance of member fishing fleets in the aforementioned fishing areas. These initiatives include both policy and program dimensions of fisheries and oceans management, fisheries science, and economics.

This brief responds to an invitation by Fisheries and Oceans Canada to comment on material presented by senior officials at a January 17, 2012 meeting in Moncton, New Brunswick to discuss emerging challenges and opportunities associated with the future management of Canada's commercial fisheries.

*We are compelled to express our considerable frustrations with both the process and the content of the meeting. On the process side, our expectation was that DFO would speak to how it saw engaging stakeholders in future policy development based on the “inclusive approach to policy planning” as noted under Phase I of the Atlantic Fisheries Policy Review. In terms of content, we feel that the document on the Future of Canada's Commercial Fisheries lacked specificity and vision and bore little resemblance to the work identified as AFPR Phase II priorities.*

The Department has established a February 29 deadline for groups and individuals to provide their views, perspectives and recommendations in response to four specific initiatives. They include: (i) approaches for modernize fisheries management, (ii) a draft policy framework on managing bycatch and discards, (iii) draft guidelines for the development of rebuilding plans under the Precautionary Approach Framework, and, (iv) a draft ecological risk analysis framework for coldwater corals and sponge dominated communities.

The excessively tight timeframe precludes us from providing a full range of comments on all of these initiatives. We have therefore chosen to respond to the more pressing fisheries modernization initiative while hoping that further opportunities to dialogue with senior DFO officials will be forthcoming in the not-too-distant future. Comments relative to the Gulf Region's Commercial Fisheries Licensing Policy are also provided.

## Modernizing Fisheries Management

It is fair to say that since the late 1990s, DFO has embarked upon a steady and, at times, ambitious course of modernizing its fisheries management policy and regulatory frameworks. From then to today, fish harvesters have been witness to a number of new frameworks and policy initiatives that

have had a profound impact on their livelihoods, their communities, their economic performance, and on how they fish. Admittedly, new approaches were necessary in order to better protect underperforming or declining fisheries or to meet growing external demands that fisheries be managed sustainably.

On the other hand, DFO has acknowledged that some rules and requirements have had the effect of stifling progress and the ability of fish harvesters to adjust their businesses to meet ever rising costs that are seldom offset by lower operating costs and higher shore prices at dockside. If there is a criticism to be proffered from all of this, it is this:

*The timeframes between when new policies and rule changes are first hatched, stakeholders engaged, opinions assessed, advice provided to the Minister, and a decision rendered are often so protracted they diminish in value, effect and importance when finally announced.*

DFO has shown that it is capable of producing credible and forward-thinking policy; regrettably, however, it has also shown at times an institutional inability to implement changes in a timely manner. Once again, we are extremely disappointed that DFO has not followed up on implementing the significant and well-reasoned advice provided by the IPAC (2001-2002) and AFPR (2003-2004) initiatives in regards to access and allocation policy and governing principles, and in establishing a new government-industry framework of engagement and consultation in support of policy development. We acknowledge that while DFO has endorsed the findings of the IPAC Panel regarding access (to wit, DFO's New Access Framework), implementation has been inconsistent such as in the case of the 2007 decision on establishing allocation shares for the 4RST Atlantic Halibut inshore fixed gear fishery. In this case, the Minister's decision was based solely on catch history; it ignored other factors specifically recommended by the Panel (and endorsed by the Minister of the day). This is a fishery that had undergone significant increases in both resource abundance and landed value; thus, all of the factors recommended by IPAC should have played a role in the decision.

In any event, it is a given that further attempts to modernize the management of the commercial fisheries of Canada must continue to be guided by sound principles. To that end, the Board agrees with DFO's proposed principles, namely:

- Strengthened ecosystem approach
- Stable and consistent operating environments
- Enabling improved economic prosperity
- Individual accountability and shared stewardship
- Simplified and streamlined rules and processes
- Increased transparency and inclusiveness of decision-making and fisheries management practices

We note that some of the proposed principles are a necessary carry-forward from previous ones; however, some remain both poorly defined and understood or are, at times, inconsistently applied.

For example, what does shared stewardship mean in an environment that DFO has itself characterized as “prescriptive and interventionist”? What are appropriate shared stewardship norms and outcomes in a modern fisheries management framework?

The concept of individual accountability as espoused includes “to respect industry’s ability to make their own decisions that could increase investments and allow for the kind of strategic planning and decision-making needed to stay competitive in the global marketplace”. We are at odds to understand how this could be made to work at a time when DFO has imposed an administrative freeze on the creation of new sub-LFAs in the southern Gulf that would empower fish harvesters to design and implement new lobster conservation measures that promote greater sustainability and economic prosperity. We are troubled by the possibility that DFO might opt for a pan-Atlantic approach to new sub-LFAs as an example of where greater consistency would benefit the industry. How would that benefit the 17 lobster licence holders in LFA 25 NS who want to rebuild their fishery but are stymied by virtue of the fact that they are grouped within a large LFA along with approximately 500 other licence holders from NB and PEI who may not be so inclined to support the kind of new management measures the NS fish harvesters might want to implement to improve their meagre returns from the fishery?

The management of most Atlantic inshore commercial fisheries has evolved to include “customized” measures and rules, the majority of which are fish harvester accepted or tolerated. While we agree in principle with DFO that some rules are in place today that limit the prospects for improved viability, we are adamant that:

***The Board will not support any streamlining or simplification of any rules that would result in the weakening of the current Owner-Operator Policy, the Fleet Separation Policy and those principles and objectives that underpin the Preservation of the Independence of the Inshore Fleet (PIIFCAF).***

In other words, the Board is prepared to discuss simplifying and streamlining rules and processes that will, at the local (community) level, encourage some degree of voluntary self-adjustment and self-rationalization of the inshore fleet sector, that result in efficiencies and savings in the administration of the licensing program, and that allow enterprises to become more competitive in the marketplace and more resilient to the economic fallout from downward shifts in a fishery.

On the matter of increased transparency and inclusiveness, we acknowledge that significant progress has been made in stabilizing many commercial quota shares and allocations across the Atlantic. Stabilization supports business planning by promoting predictability and allowing fish harvesters to self-adjust to changing resource and market conditions. The Board can support DFO’s view that allocations and shares, once stabilized, should only be adjusted to respond to conservation imperatives, legal or treaty obligations or obligations to Aboriginal groups. What remains to be stabilized, however, are the factors the Minister of Fisheries and Oceans shall take into account when exercising his authority on access and allocation issues. Decisions once made should be

communicated and clearly explained. The Board maintains that all of the following factors should be weighed by the Minister when rendering decisions.

- The need to conserve and protect fish and fish habitat
- The compliance of fishers in the fishery
- The importance to fishers of secure access to the fishery and of allocation stability
- Fairness to individuals, between communities and between regions
- A fishers' adjacency to the fishery
- A fishers' historical participation in the fishery
- Economic viability in the fishery
- The best use of fish in order to fulfill the fishery's economic, social and cultural potential
- The importance of maintaining public access to the fishery

*The critical point here is this: while modernizing fisheries management practices and frameworks are an essential component for achieving long-term conservation, sustainability and viability objectives, they must also be guarantors of greater transparency, consistency and inclusiveness in decision-making where it matters most – the desk of the Minister of Fisheries and Oceans.*

In short, modernizing the fishery and its' supporting principles and policies also means modernizing the legislative framework. The Board encourages DFO to initiate consultations with stakeholders this year in advance of tabling a new *Fisheries Act*.

### Draft Policy on Managing Bycatch and Discards

The Board welcomes DFO's initiative to strengthen its 2009 Sustainable Fisheries Framework through the phasing-in of new policies and tools. We agree that both instruments will serve to strengthen the foundation for a fuller application of the Ecosystem Approach to fisheries management where *inter alia* target and non-target species impacts are accounted for in the design of Integrated Fisheries Management Plans or, alternatively, Conservation Harvest Plans.

Improvements in how bycatch and discards are managed and accounted for are being driven by the need to better understand the very impacts interceptor fishing operations have on marine resources and supporting habitat, and by groups who steadfastly maintain that conserving biodiversity must be an integral component of any resource management and sustainability plan.

In 2010, the member organizations of the Board collaborated with the other accredited groups and interested Aboriginal organizations in Gulf Nova Scotia to produce an ALSM Lobster Sustainability Plan that included a commitment to implement a regional bycatch and species-at-risk data collection system using E-log technology. The undertaking hinged on having a clearer understanding of what industry's future costs would be within a common regional system. In establishing this position, the

organizations also indicated that all capital costs must be borne by other parties, and all C/E data must be inputted by the buyer at the first point of sale. To our great dismay, we were informed at a Southern Gulf Lobster Advisory Committee meeting in December 2011 that DFO was not wedded to the industry's position. This was confirmed when we learned that the Quebec Region had issued a RFP for software development and testing based on an at-sea data entry system.

In view of these developments, the Board does not wish to comment on any element of the draft policy until such time as our concerns regarding the aforementioned lobster reporting and monitoring system are addressed to our satisfaction.

### Changes to Gulf Regional Licensing Policy

Representatives of the six accredited multi-species inshore fish harvester organizations in Gulf Nova Scotia, the Provincial Department of Fisheries and Aquaculture, and Fisheries and Oceans – Gulf Region met in New Glasgow on December 15, 2011 to explore opportunities for improving various elements of DFO's Commercial Licensing Policy for the commercial fisheries of the southern Gulf of St. Lawrence.

The timing of the workshop was meant to be a primer to prepare the organizations for the January 17, 2012 meeting where it was anticipated that DFO would roll-out new policy approaches in support of fisheries management modernization, including elements of commercial fisheries licensing policy.

During the workshop, participants identified a number of opportunities to strengthen the regional policy in ways that would further promote conservation, stewardship and economic viability.

### Backdrop to the Discussions

The workshop's stated theme was: *Exploring Opportunities to Strengthen Conservation, Promote Stewardship and Improve Economic Viability.*

It reflects well the Gulf Region's stated approach to licensing policy which includes "... managing the fishery in a sustainable manner and providing for an orderly harvesting of the fishery resource, including promoting viable and profitable operations for participants and preserving the independence of the inshore fleet by allowing inshore fish harvesters to maintain control over the inshore fishing licences they hold. It aims to give industry more responsibility in the decisions regarding the fisheries and to foster partnering to encourage better stewardship of the resource."<sup>1</sup>

***At the outset, all participants spoke about the considerable importance they attached to maintaining the current Owner-Operator and Fleet Separation policies as key underpinnings of the inshore commercial fisheries of the southern Gulf.***

<sup>1</sup> DFO's *Commercial Fisheries Licensing Policy as updated on October 20, 2010*, p.6



## Licensing Policy – Conservation Opportunities

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Participants noted that the regional policy contains only indirect references to the Department's conservation mandate, unlike in other departmental policy frameworks dealing with access and allocation, and sustainable fisheries for example. Participants further noted that conservation was not specifically defined in the licensing policy even though it is an important overarching principle.

Participants concluded that conservation should be explicitly referenced as one of the 9 licensing principles (Chapter 1, Section 7) and that it be defined either in the terminology section of Chapter 2 or set out at the end of the policy in the glossary section.

Editorially speaking, it was noted that the use of the verb “overfished” as it appears in sub-section 11.2 of Section 11 of Chapter 4 is rather dated and lacking in specificity. A more appropriate construct would be: *“When DFO determines that a fishery has been fully subscribed or that a fish stock has failed to meet its conservation objectives, one or more of the following measures may be adopted.”*

Participants engaged actively in examining the impacts that licence re-issuances (transfers) were having on local fisheries such as lobster. Their comments are captured in the following section.

## Licensing Policy – Economic Viability Opportunities

As with conservation, the economic viability of fish harvesters is seen as an important tenet of regional licensing policy. Participants were satisfied that its importance was properly reflected in several of the nine licensing principles of Chapter 1. However, what most concerned participants was the potential impacts that lobster licence re-issuances could have on local stock conservation requirements and harvester's economic viability outcomes in both the short and intermediate terms.

A number of organizations have recently completed lobster licence buyouts, or are awaiting a response from DFO on submissions that are proposed for implementation in 2012. In all areas where buyouts have occurred or are planned, fish harvesters have reduced their trap limits by sizeable amounts in the belief that their financial bottom lines would benefit from the resulting net reduction in fishing effort. If, however, fish harvesters who may wish to re-enter the fishery in 2012 are allowed to re-acquire a lobster licence from one area and operate it in an area where it was not previously fished, effort displacement will result and economic viability impacted.

Participants were informed that 26 A-2 is considered a sub-LFA; 25 GNS is neither a sub-LFA nor a Management Area but a component of LFA 25; and the other units – 26 B North, 26 B South, 26 A-1 and 26 A-3 are Management Areas. This hodgepodge of classifications has specific policy implications and potentially conservation and viability impacts arising from how licence re-issuances are presently dealt with by DFO. Additionally, DFO has implemented a port freeze for Inverness.

Representatives agreed that some restrictions on the future movement of lobster licences are essential in protecting existing interests and moving forward. A balance is required between what the local resource can sustain and what fish harvesters require to achieve viability. Sub-LFAs are regarded by some representatives as a responsible approach but a freeze on the establishment of new sub-LFAs is currently in effect. Should a licence re-issuance administrative freeze be implemented in the interim while DFO studies the matter? If lobster licences cannot be moved into

or out of Inverness, why not in selective other ports as an interim measure? Could DFO implement temporary sub-zones?

Participants also reviewed the criteria that fish harvesters are required to meet in order to qualify as new entrants as per Section 10 of Chapter 3 of the policy. In particular, it was noted that new entrants must have fished at least 10 weeks during each of the 2 years immediately preceding the date of application. In other regions, flexibility is provided by requiring that the minimum number of weeks be accumulated during only 2 of 5 years thus allowing individuals to work in other resource sectors and earn income to purchase an enterprise. This also facilitates inter-generational renewal and assists communities retain their economic base. While noting that it was important that new entrants continue to be required to demonstrate their commitment to the fishery, participants felt that the 2 of 5 years flexibility warranted serious consideration.

Discussions also took place on specific policy initiatives relating to self-rationalization (combining). In both instances, participants cautioned that while some policy flexibility might be a good thing, it should not lead to conservation threats at the local level; moreover, the issue of licence mobility and associated impacts would have to be dealt with first. With respect to combining, participants discussed whether upper and lower limits would be required in regards to the amount of gear that could be acquired so as to mitigate impacts on individual fish harvesters who could get squeezed off their traditional grounds.

### Licensing Policy – Stewardship Opportunities

As the regional policy does not contain a working definition of stewardship, an interpretation was found in a DFO document entitled: *The Management of Fisheries on Canada's Atlantic Coast – A Discussion Document on Policy Direction and Principles*.<sup>2</sup> Stewardship can be promoted by means of participatory processes, policies and structures. It is also defined as government, resource users and others with an interest in the fisheries sharing responsibilities for the implementation of fisheries management decisions and outcomes.

The enablers behind most successful stewardship initiatives involve parties that embrace the following components: meaningful and timely consultations, transparency and accountability for decisions and outcomes, and shared responsibilities.

The organizations in Gulf Nova Scotia have played a leadership role in advocating for, designing, and implementing a number of new measures and projects that have improved fisheries protection, science, enhancement, and conservation outcomes. For the most part, partnerships with government agencies have contributed to the positive outcomes.

Participants noted, however, that governments did not always consult them on a timely basis and that, at times, the outcomes (or expected results) were seen to be pre-determined. For example, the advice of fish harvesters was not sought in regards to the scope and guidelines of the Atlantic

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<sup>2</sup> Refer to Appendix 1 – Glossary, p.58. Stewardship is defined as the care, supervision or management of something, especially the careful and responsible management of something entrusted to one's care.



Lobster Sustainability Measures Program with the result that the income supplement component was marked by controversy and underachievement.

As a first step in strengthening stewardship, several participants suggested that a concerted effort should be directed at developing a regional policy that guides how future DFO-Industry consultations will be undertaken including roles and responsibilities, methodologies, and performance measures. This should be extended to include committee and working group deliberations. Thereafter, efforts could be focussed on establishing guidelines for building effective partnerships and a sharing of responsibilities. The current absence of such policies leaves a significant void in furthering and achieving real stewardship opportunities.

### Other Observations

Participants commented on the need to add a new section to the regional policy to set out the licensing considerations that would be required to better control the presence of invasive and nuisance species such as the green crab.

Participants also noted that sub-section 63.2 of Section 63 of Chapter 11 could better reflect the Department's commitment to transparency and stewardship if it was changed to read: DFO *will* consult rather than DFO *may* consult. Participants further noted that DFO could be more proactive in notifying members of the fishing industry of changes to licensing policy including changes that directly affect them (sub-sections 64.1 and 64.2) by expanding its existing web-based email notification system for the times and locations of advisory meetings to include licensing policy changes. Essentially, all that a fish harvester or organization would be required to do is register for this online service by providing a valid email address.