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VIA Email:

Premier Dwight Ball, Liberal Party Leader
Ches Crosbie, Progressive Conservative Party Leader
Alison Coffin, New Democratic Party Leader
Graydon Pelley, NL Alliance Leader

FFAW-Unifor's Newfoundland and Labrador Election Questionnaire

Dear Party Leaders,

The Fish, Food and Allied Workers (FFAW-Unifor) 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. FFAW-Unifor members also work in the hotel, hospitality, brewing, metal fabrication and oil industries. Our members live in more than 500 coastal and rural communities around the province.

On behalf of our members, I am writing to seek commitments from the leaders of each political party on issues of importance to our members, their families and coastal communities. This election is critically important to FFAW-Unifor members, who want to clearly understand where each political party stands on these issues.

The provincial government has a critical and distinct role in the fishery. While management plans and quotas are determined by the federal government, the province does control how fish resources are managed and paid for once landed. Each year, millions of dollars in provincial tax revenue is derived from the industry from fish harvesters, plant workers, processing companies and related industries.

For FFAW-Unifor members in other sectors, the provincial government plays a direct role in advancing and protecting the rights of workers. Ensuring workers are able to join a union and that their union is respected and not undermined by employers is integral to labour harmony in Newfoundland and Labrador.

In advance of election day, FFAW-Unifor will be providing our members with an overview of the responses received from each party on issues that will influence how workers vote in the upcoming election. Please provide a response to the following:

1. Investing in the Future of the Inshore Fishery

The inshore fishery, and the jobs created as spin-offs from the industry, have always been the driver of rural economic development in Newfoundland and Labrador, employing more people in rural communities than any other sector.

The marine ecosystem is experiencing a transition; as shellfish stocks decline, groundfish species such as redfish, halibut and cod, are becoming increasingly abundant. New opportunities in groundfish can support thousands of workers in coastal communities for many years to come.

In 2015, the federal government committed to allocating the first 115,000 metric tons of northern cod to the inshore fishery. Subsequently, all three provincial parties articulated their support for the commitment. As the industry prepares for the return of northern cod, both levels of government must work together to provide necessary investments to establish a new cod fishery in Newfoundland and Labrador. This will require provincial investments in equipment, marketing, technology and infrastructure.

Recent scientific assessments of northern cod confirmed that the stock continues to grow, with the lowest fish harvesting rates in history. Northern cod, if managed responsibly and in collaboration with industry, has the potential to provide significant opportunity for a sustainable fishery. Modest increases in harvest rates can simultaneously help build markets and increase capacity without having any significant impact on the growth of the stock.

- **Will your government support FFAW-Unifor's recommendation incrementally increase northern cod harvest rates as the stock grows?**
- **Will your government continue to promote and invest in technology and infrastructure needed to establish new groundfish fisheries?**
- **Will your government continue to support the federal government's commitment to allocate the first 115,000 metric tons of northern cod to owner-operator fish harvesters and Indigenous groups?**

2. Transparency in Fish Price Negotiations

Fair collective bargaining is essential for good labour relations in the fishery and requires the sharing of information that goes to the essence of setting a per pound price for fish. This information includes products produced by plants, yields achieved from processing, and prices received from domestic and international markets.

Transparency will vastly improve collective bargaining. The current structure of the collective bargaining system is beneficial; however, the lack of accurate information being disclosed by processors undermines the credibility of the Panel's decisions. See Appendix A for additional information.

- **Will your government commit to collecting from fish processors accurate information on all product forms processed in Newfoundland and Labrador, including information on production, yield, and domestic and international prices for all species of fish, and accompanying by-products processed in Newfoundland and Labrador?**

3. Supporting Young Fish Harvesters

The growth in value of wild fisheries provides significant opportunities for growth in coastal Newfoundland and Labrador. As with many industries, the fishery in Newfoundland and Labrador is transitioning and facing demographic challenges. A recent comprehensive study conducted by the Canadian Council of Professional Fish Harvesters highlighted these opportunities and challenges.

Young fish harvesters often encounter barriers in purchasing their own enterprise due to processing companies who circumvent the fleet separation policy in order to control inshore licenses or due to well-established fish harvesters consolidating quotas.

In order to reduce barriers to young people getting involved in the fishery, special consideration must be given to ensure they have an opportunity to transition and become enterprise owners. There are a variety of measures government can take, including making adjustments to the provincial loan guarantee program to improve the ability for young, potential owner operators to invest in their own enterprise.

- **Will your government commit to review and invest in the future of the Newfoundland and Labrador fishery through a program that will support young harvesters to invest in their own enterprise?**

4. Fish Processing Health and Safety

The fish processing sector is amongst the largest employers in Newfoundland and Labrador, with more than six thousand people employed on an annual basis. Entire regional economies are built around the processing sector and it is not uncommon for employees to work in the same plant for twenty or thirty years. It is also common for processing facilities to not just employ locally but employ people from other regions.

Given the economic importance of the fish processing sector and the current and future demographic challenges that it faces, it is essential that all parts of the processing sector – owners, operators, employees, organized labour – all work together to provide the safest workplace possible.

Safety statistics in fish processing are alarmingly high, with lost-time and soft tissue incidence rates exceeding the provincial average by a significant margin and with high rates of shellfish asthma. For more than a decade, fish plant workers have advocated for the establishment of a fish processing sector safety council to address the unique safety concerns of their workplace that have gone unaddressed for decades. Unfortunately, at every turn, progress on the issue of workplace safety in fish plants has been undermined by fish processing companies and employer groups.

- **Will your government establish a fish processing sector safety council with or without the endorsement of employer groups?**

5. A New Model for the Aquaculture Industry

Over the last 25 years, millions of dollars in provincial and federal funding has been invested in the aquaculture industry while the sector only produces meagre, precarious employment for production workers in the industry.

Most of the province's salmon aquaculture occurs on the Connaigre Peninsula. The Harbour Breton processing plant, which processes salmon, has barely provided enough hours of work for some workers to qualify for Employment Insurance, while at the same time, farm-produced fish continues to be shipped out of the province for value-added processing. In St. Alban's, workers at the processing plant have not had any work in more than a year with little hope for increased production in the future. Government has touted aquaculture as an industry that will experience significant growth in the years to come but that growth must be coupled with strong environmental protections and consistent, secure employment for processing workers.

The provincial government can mandate, as a Condition of License, that aquaculture enterprises provide production plans however, this is rarely requested by government. In fact, when there is a loss of work due to a failure of the business, the closure of a plant or grow out, or a breach of contract between the companies and the province or companies and workers, there is no mechanism of support for workers.

- **Will your government introduce legislation that requires all aquaculture companies operating in Newfoundland and Labrador to establish, as part of a Condition of License, a yearly production plan, outlining job numbers and weeks of employment?**
- **How will your government maximize value of aquaculture development and ensure the industry offers secure, adequate work?**

6. Impact of Oil and Gas Activity on Fishing Industry

In Newfoundland and Labrador, the fishing industry must share the ocean with the petroleum sector. Co-existence of the two industries has not always been easy. Fish harvesters feel our sector is not given the consideration it is due. For example, fish harvesters continue to bear the brunt of marine closures while the oil and gas industry is permitted to continue operations in the same areas.

Record-levels of seismic testing are occurring, with the goal of doubling oil and gas extraction offshore over the next decade. Some of the effects of seismic activities on our fish stocks are still unknown. Additional scientific research is required to examine the impact of seismic testing on fish stocks and ecosystems.

Fish harvesters in Newfoundland and Labrador invest tens of millions of dollars and considerable time, annually, in science on important commercial fish species and the greater marine ecosystem.

Other ocean users, particularly the oil and gas sector, operate and impact the marine environment and are not expected to contribute to such important science in the same way.

- **Will your government commit to a robust process to review the impact of offshore oil and gas development on the fishing industry?**
- **Will your government fund research on the impact of seismic testing and activities associated with oil and gas development on fish stocks?**
- **How will your government ensure other marine operators, such as the oil and gas sector, fulfil their responsibility to invest in science on commercially important fish species and the marine environment?**

7. Fairness in Labour Relations

Free and fair collective bargaining has been eroded in Newfoundland and Labrador over time. Employers engage in tactics to undermine and circumvent workers' rights and unfortunately, our labour legislation has failed to hold those employers accountable.

Large corporations have long worked to undermine the strength and success of organized labour through the use of contract-flipping, whereby contracts of unionized units at work sites are put up for tender, thus jeopardizing the job security of unionized units.

Contract-flipping is anti-worker. Not only does it threaten organized labour, it destabilizes the workplace and leaves workers and their families with no sense of security for their future. In Newfoundland and Labrador, FFAW-Unifor members at Long Harbour and our offshore tanker members have been directly impacted by this issue. As well in the offshore oil industry, from time to time, re-tendered supply contracts threaten FFAW-Unifor members' job security and collective agreements. Strengthening successor rights at worksites that utilize contract-flipping will help provide for the fair and consistent treatment of workers and the protection of collective bargaining rights.

Further eroding workers' collective bargaining rights is the use scab replacement workers in cases of lawful work stoppages is regressive and anti-worker. For years, the labour movement in Newfoundland and Labrador has called on successive government to remove the ability for employers to use scab labour from the Labour Relations Act in order to facilitate smoother labour relations and shorter labour disputes.

- **Will your government commit to amending the Labour Relations Act to address the following?**
 - i. **Ensure that, if a company re-tenders work provided by a third party, that any bargaining rights related to the contracted work is maintained, even if the third-party provider changes, as if there had been a sale of business?**

- ii. **Appoint a special mediator with the power to compel parties to meet and negotiate in good faith, after 90 days of a strike or lockout?**
- iii. **Allow either party to apply to the Labour Relations Board for an order requiring the resolution of a strike or lockout by binding arbitration and provide the Board with specific authority to make such an order, where the Board is satisfied that:**
 - a. **Based on a review of the bargaining history, the parties will not be able to conclude a collective agreement; or**
 - b. **One of the parties has committed an egregious unfair labour practice relating to collective bargaining.**
- iv. **Ban the use of scab replacement workers?**

8. Good Manufacturing Jobs

FFAW-Unifor represents hundreds of skilled trades workers in the steel fabrication industry in Newfoundland and Labrador. In years past, oil and gas companies and the provincial government have neglected to respect and enforce benefits agreements requiring steel fabrication to be conducted in Newfoundland and Labrador.

With the recently announced Bay du Nord oil development project, it is expected that more than 5,000 metric tons of metal fabrication will be required, thus providing oil and gas companies and the provincial government with an opportunity to live up to existing agreements.

- **Will your government ensure skilled trades and metal fabrication work for the Bay du Nord development and other provincial megaprojects is carried out by Newfoundland and Labrador workers and is not contracted out of the province?**

Thank you for taking the time to consider and respond to these questions, which are of significant importance to FFAW-Unifor members. We kindly request that you provide a response by **Monday, May 6th** so that we can prepare a report to our membership outlining the positions of each party.

Yours truly,



Keith Sullivan
FFAW-Unifor President

APPENDIX A

Suggested Changes to the Licensing Conditions for Fish Processing in Newfoundland and Labrador

This memo sets forth FFAW-Unifor's suggested changes to licensing conditions for fish processing. It is our position that these changes will greatly benefit the sustainability of the inshore fishery and the coastal communities from where it is based. It is also our position that these changes will vastly improve collective bargaining; the current structure of the collective bargaining system – the Standing Fish Price Setting Panel – is very good, however the lack of accurate information being disclosed by processors undermines the credibility of the Panel's decisions.

The proposed changes detailed in this memo are designed to bring back balance to the collective bargaining process. The changes are not an attempt to require each individual processing company to divulge sensitive information to FFAW. With the exception of the owner-operator requests, we are seeking industry-wide information that provides accurate data on yield and prices for the NL processing sector, and not specific information from specific processors.

While Owner-Operator and Fleet Separation policies were created by the federal government, the policies biggest impacts are felt by the province. Both policies are established to ensure that those who live closest to the resource are the primary beneficiaries of the resource. The policies are directed specifically at processing companies, as fleet separation explicitly prohibits processing companies from acquiring fishing licenses and establishing vertical integration of the inshore fishery. Owner-operator further strengthens fleet separation by requiring that the license holder be present on the vessel when the quota attached to his/her license is being fished. This policy forbids resource rent and ensures that only active harvesters benefit from the right to harvest fish.

For the past twenty-five years, processing companies have been engaged in an ongoing effort to undermine or circumvent owner-operator and fleet separation. This has been done through a variety of legal instruments, all of which have the same effect of vesting the controlling interest of an inshore fishing license to the name of the processing company. For example, the recent Elson case heard in federal court involved a fishing license under the control of the Quinlan Brothers. In this case, Quinlan Brothers retained all control over the license, including when it was fished, who fished it, and when and how the license could be sold. In fact, if Mr. Elson died, Quinlan Brothers retained control over how Mr. Elson's estate could sell the license.

Quinlan Brothers are not the only processing company engaged in this activity. It is strongly believed that OCI and Royal Greenland also have harvesters in controlling agreements. In fact, Royal Greenland is thought to have the largest number of harvesters under controlling agreement, placing a sizable percentage of the inshore crab quota under its direct control.

Processing companies are able to establish these restrictive agreements in part because they are not subject to federal jurisdiction. The companies are not required to make a sworn statement, which carries the weight of law, attesting that they do not have harvesters in controlling agreements. Other tools for enforcement, such as strict auditing rules for processing companies, should also be considered.

Harvesters, however, have no jurisdictional shelter. Most harvesters are passive actors in a controlling agreement – it provides them with the opportunity to fish and earn some income – but they are not the driving force behind the agreement, nor are they the one in control. Despite this secondary role in the agreement, harvesters are the primary target of DFO. It is the harvester that gets placed before the licensing review board and whose future to earn a living from the sea is placed into doubt.

Meanwhile the processing company remains legally unscathed and can move on to the next controlling agreement. No one questions its role in the agreement or penalizes them for contravening a regulation.

The most distressing aspect of controlling agreements is how pervasive they are now in our fishery. Processing companies control a greater share of the inshore fishery with every year that passes and they are not held to account. The impact has been terrible for the fishery – the price of licenses is incredibly inflated, creating significant barriers for new entrants. These new entrants are the future of our fishery and rural NL. The pervasiveness of controlling agreements is setting up an environment whereby the next generation of harvesters will not see the benefits of owner-operator and processing companies will control the plants and the quota in the ocean.

Compounding this problem is that controlling agreements will exist in perpetuity because the company will not die and thus will never have to relinquish control. A controlling agreement essentially removes a license from the inshore fleet, moving it to a hidden asset of the company.

When Royal Greenland sought to acquire Quin-Sea in 2016, FFAW wrote the province stressing the numerous controlling agreements held by Quin-Sea that would now belong to a crown corporation of another country. We made this point not just to single out Royal Greenland, but also to bring attention to the role that the province can take in helping eliminate controlling agreements. Our concerns were not addressed at that time, but the issue is still pressing.

As the federal government takes steps to make owner-operator and fleet separation law, it is essential that the province reciprocate and close off any jurisdictional loopholes that will allow controlling agreements to continue.

Recommendation: That all current and future holders of a license to process fish in Newfoundland and Labrador provide to the Department of Fisheries and Land Resources an affidavit, signed and sworn by the owner or CEO of the company, stating that the company and all of its subsidiaries are not a party to any controlling agreements, as defined by the Department of Fisheries and Oceans Policy for Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries. Operating licenses should also allow the province to use other tools, such as auditing, to enforce these new processing license conditions.

Processing Yields

The yield achieved by companies in the processing of fish is a fundamental issue for fair collective bargaining. Fish harvesters are paid a per pound price that is based both on the market and on the amount of product that a processor can produce from a pound of raw material.

For example, the yield accepted by the Panel in shrimp is 32.5%. This means that a company must process just over 3 pounds of raw material to produce one pound of shrimp for the market. The yield factors heavily into negotiations because it gets to the real cost of raw material on the processing side. Thus, it costs the processor \$4.50 (assuming a price of approximately \$1.45 per pound to harvesters) to produce a pound of shrimp. This cost makes sense in the current market where the price of shrimp to the market is over \$7.25 per pound.

The overall value of the above calculation is entirely dependent on the accuracy of the yield that is used. But the yield used in shrimp price collective bargaining is not accurate. This is a yield presumption that has been in place for almost 20 years, ignoring all advancements in processing and harvesting technology that have helped improve the yields attained by the companies in their pack-out.

The actual yield in the shrimp fishery is actually closer to 40%. This is accepted with a wink and a nod in the industry but never confirmed in any official capacity by the processors. As the processors are the only ones with this information, their refusal to disclose it means that the Standing Fish Price Setting Panel is confined to using outdated yield numbers that were agreed to by the parties in the 1990s.

Processors have been resistant to disclose any information on yield, which indicates that the yield information that is currently accepted in collective bargaining is inaccurate to their benefit (we are certain that if the yield percentages used in collective bargaining were too high the processors would seek a revision downwards).

Yields have a tremendous impact on the fairness of price negotiations and Panel decisions. To again use the example of shrimp, if the actual yield is 40%, then the cost to the processor to produce a pound a shrimp (assuming the same per pound price of \$1.45 to the harvester) decreases from \$4.50 to \$3.63. Under this scenario, which is likely fairly accurate, the harvester share of a \$7.25 marketplace is quite low. The harvester share drops from 62% in the previous example to 50% in the current example. A 50% share for harvesters has never been an acceptable benchmark in the shrimp fishery.

The impact of using inaccurate yields in collective bargaining is best understood on a macro level. In 2015, shrimp harvesters landed 80 million pounds of shrimp at an average price of \$1.76 per pound. The total landed value was \$146.2 million. The average per pound market price in 2015 was approximately \$8.06. Total exports based on 80 million pounds would be \$644 million.

At a yield of 32.5%, the raw material cost for shrimp to processors in 2015 was \$449.8 million. If a 40% yield was rightly applied, raw material costs would be \$365.5 million. The difference between the two figures based solely on yield is \$84.3 million, of which harvesters received no share despite harvester efforts over the years at improving quality and yield in the shrimp fishery.

Shrimp is just one example. Determining actual yield dominates collective bargaining in the crab fishery as well. Processors insist on a yield of 62% for snow crab, which was put in place in the 1990s. In studying crab processing in other jurisdictions where the processing equipment is similar,

we know that the yield for snow crab is in excess of 70%. The cost to harvesters because of this incorrect figure is easily tens of millions of dollars per year.

The lack of transparency on yields in the fishery is creating an unfair collective bargaining environment, which deprives harvesters of tens of millions of dollars, perhaps over a hundred million, on an annual basis. This is allowed to go on because there is nothing to compel transparency and the meaningful exchange of information in the collective bargaining process.

The Panel is frustrated by the ongoing arguments over yield, but it refuses to make a determination on the issue because it has no evidence to support making a change. Still, the Panel knows it needs to be sorted out. As one Panel member noted this year, “the yield issue has to be sorted out. This is a pretty fundamental question.”

Aside from collective bargaining, transparency on yields would be beneficial to the industry, in general. Processing companies in this province operate in secrecy from harvesters and each other. A plant has no outside benchmark upon which to gauge whether it is efficient or inefficient. The disclosure of yield information would allow plants to make comparisons against each other and develop the best practices used by other plants in achieving a strong yield.

Recommendation: That, as a condition of license, all processing companies must disclose to the provincial government on an annual basis the yield they achieve for each species of fish they process. Overall industry information on yield shall be made available to all parties in the collective bargaining process.

Product Types

Negotiations and panel decisions are often made using one product type as being indicative of the market. For example, in crab the price is set by 5-8 ounce sections, and in shrimp it is made using 150-250 and 250-350 count shrimp. This is done year-over-year regardless of whether these product types are actually indicative of what was produced by processors over the past year.

In the snow crab and cod production reports, we are provided with a detailed breakdown of the various products and volumes produced in the province. This sort of breakdown is needed for all species.

Shrimp provides an excellent example of why detailed production reports need to be provided. In shrimp, there is an increasing price gap between larger and smaller shrimp. We have argued that our shrimp is relatively large and is used in pack outs of 125-175 count, which are much more valuable than pack outs of 250-350. The province, however, does not track this information and the processors will not disclose it. This needs to be disclosed so that harvesters can negotiate, and the Panel can deliberate, with a clear idea of the markets that are being served.

Recommendation: That, as a condition of license, all processing companies must disclose to the provincial government on an annual basis the product forms it produces and the volume of these various product forms. Overall industry information on product forms shall be made available to all parties in the collective bargaining process.

Export Prices for Various Products

In both collective bargaining and at the Panel the parties rely heavily on export values. While exports can serve as a guide to the overall value of a fishery, they do not provide a breakdown for specific products. Export identifiers often together various products under one category, which blurs the actual value achieved in the export market for valuable products.

Cod provides a good example of how this is a challenge. In 2017 the value of cod exports increased by \$8 million over 2016 from a combination of increased quantity and value. All market indications pointed to further price increases in 2018. Under such circumstances, it was reasonable to expect that harvesters would receive a price increase to account for the stronger market.

However, the export table was both vague and confusing. This province produces a lot of high value once-frozen cod loins that are exported to the UK and France, but there was no line in the export table with that product. Instead, it was lumped in with other less valuable products, which hid the increased value achieved in 2017 for once-frozen loins. Processors were completely unwilling to turn over any specific export values for various products.

The Panel was left to operate in the dark. They had no information that addressed cod prices from this province. In the end, despite a clear international forecast for increased prices, the Panel was cautious and accepted a rollover of last year's price. If the real facts on the export values were disclosed, this same decision would not have been made.

There is no reason why the actual value received for specific products in the export market should not be disclosed. The value of exports is intended to be transparent, but in the fishery the transparency is lost in categorization and product grouping. The province can rectify this problem by requiring processors to disclose export values by individual product type.

Recommendation: That, as a condition of license, all processing companies must disclose the value they receive in the export market for the various products produced by the plant. Overall industry information on export values for specific product forms shall be made available to all parties in the collective bargaining process.

The Value of Products Sold Domestically

For domestic sales, there is no information disclosed by the processing company. For certain fisheries, like mackerel, squid, and capelin, where large volumes are sold domestically, this leaves a large information gap that is very difficult to fill. Often times, we are required to make an educated guess as to the value of domestic sales, which usually results in the processing company saying there's no proof of this assertion.

The challenge from having no information on domestic sales is clear in capelin. In the capelin fishery, millions of pounds are sold domestically every year. We have long held that this capelin has a value and should be added to the export value to get an overall value for the capelin fishery.

Processing companies have fully resisted attributing any value to this capelin. In fact, at negotiations this year the companies tried to argue that this capelin actually had to value to processors and was instead sold or disposed of at a loss. This is a dubious assertion but it is impossible to disprove as no information is available.

Domestic sales information is also important with respect to bait prices in the squid and mackerel fishery. Every year at negotiations, we require harvesters to turnover bait receipts to prove to the Panel what is the actual price of bait. This is stressful for harvesters and makes no sense. The information should be disclosed so that the bait market is no longer hidden in the negotiation of prices.

Recommendation: That, as a condition of license, processing companies must disclose the quantity and value of its domestic sales. Overall industry information on domestic sales and bait prices shall be made available to all parties in the collective bargaining process.