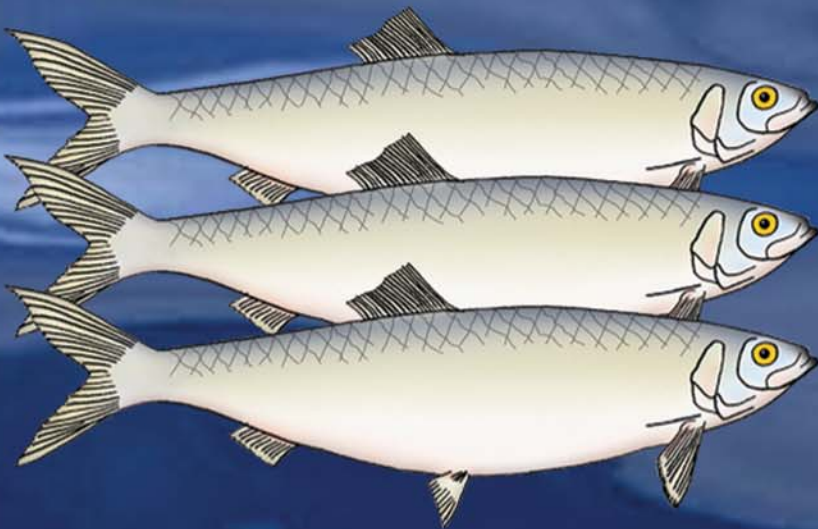


# **Conflict between mobile and fixed gear herring fishers in the southern Gulf of St. Lawrence**

An independent process identifying the issues surrounding the herring fishery, the positions of parties and options for conflict resolution

Report submitted to the  
Minister of Fisheries and Oceans

by **Allister Surette**



February 2004

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THE POSITIONS OF PARTIES,  
AND OPTIONS FOR CONFLICT RESOLUTION**

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# TABLE OF CONTENTS

<i>Open letter to the Minister of Fisheries and Oceans</i> .....	1
<i>Introduction</i> .....	2
<i>Mandate and Method</i> .....	3
<i>Consultations</i> .....	4
Maritime Fishermen’s Union (MFU) - January 8, 2004.....	5
N.B. Department of Agriculture, Fisheries and Aquaculture - January 9, 2004.....	8
Association des Seiniers du Golfe (ASG) - January 15, 2004.....	10
Fédération Régionale Acadienne des Pêcheurs Professionnels Inc. (FRAPP) - January 15, 2004.....	14
Skipper and Crew Members of the Stevianne (Small Seiner) - January 15, 2004.....	16
Association des Pêcheurs Professionnels Membres d’équipage Inc. (APPME) - January 15, 2004.....	18
NB Fish Packers Association - January 15, 2004.....	23
P.E.I. Department of Agriculture, Fisheries, Aquaculture and Forestry - January 16, 2004.....	26
P.E.I. Fishermen's Association Ltd (PEIFA) - January 16, 2004.....	33
Coalition of Inshore Fishing Families - January 21, 2004.....	38
Gulf of Nova Scotia Herring Federation - January 27, 2004.....	48
<i>General Concerns and Issues, and Options</i> .....	50
<i>Conclusion</i> .....	64
<i>References</i> .....	65
<i>Appendix A – Gillnet Fishing and Purse Seine Fishing</i> .....	67
Gillnet Fishing .....	67
Purse Seine Fishing .....	68
<i>Appendix B - Terms of Reference</i> .....	70
<i>Appendix C – News Release</i> .....	73
<i>Appendix D - MFU Proposed Closure of Miscou Bank</i> .....	75
<i>Appendix E - PEIFA’S Proposed Closure on the North Coast of P.E.I.</i> .....	76

## **OPEN LETTER TO THE MINISTER OF FISHERIES AND OCEANS**

Mr. Minister:

It is my pleasure to present this report as facilitator leading an independent process to identify issues surrounding the conflict between the inshore fleet of the southern Gulf of St. Lawrence and the seiner fleet based in N.B. and operating in the southern Gulf of St. Lawrence.

The purpose of this initiative was to frame the above problem by getting the parties to the conflict to precisely define their concerns and issues, to identify areas of consensus between the parties and to offer options that could be considered for resolving the dispute.

This report takes into consideration a number of consultations within a four week period with representatives of parties involved in the dispute between the gillnet fishery and the large seiner fishery in the Gulf.

Other interests, including DFO officials, were also consulted in order to properly understand some of the issues. Considerable effort was afforded in searching for relevant documents, including research into the reason for altering the boundary line and closure period between 1978 and 1984 in the vicinity of PEI.

This was an exercise about dialogue and determining the scope of the problem, not an exercise about allocations or access to herring. It was about identifying options that could be considered in order to achieve an orderly fishery in 2004 and in the years to come.

There were many issues and concerns presented, and the positions of the parties involved are now clearly recorded in a public document.

Mr. Minister, it is evident that there exist entrenched disagreements. There does not appear to be any hard and fast solutions, however this report may be a first step in a serious and concentrated effort to resolve this conflict. Serious consideration has to be given to proper leadership from all parties involved (fishers, provincial governments and DFO) and proper mechanisms for dealing with these disagreements.

The groups were very cooperative and supportive of this process, and hopeful that this process will lead to options that could be considered by DFO in order to achieve an orderly fishery in the years to come.

Trusting that the content of this report, including the options and suggestions presented will provide you, Mr. Minister and your Department with some framework for further decision making in order to achieve a multi-year management plan for the herring fishery in the southern Gulf of St. Lawrence.

Yours sincerely,  
Allister Surette

### INTRODUCTION

DFO has maintained from the outset that this process was not an exercise about allocations and access to herring. This clearly means that both fleets are entitled to fish herring in the southern Gulf of St. Lawrence as per the present allocations (76.83% / 23.17%). Since elimination of a fleet is not an option, fishers and DFO, supported by the provinces, must find ways of resolving disputes so that an orderly and viable fishery for both fleet sectors is the result.

It is also evident that this fishery or any fishery cannot be managed on the basis of perceptions and mistrust. Mechanisms must be established in order to overcome the mistrust that exists between the fishers and between the fishers and the Department of Fisheries and Oceans.

Furthermore, today's scientific techniques have progressed considerably since the early days of the herring fishery, but it must be recognized that there will never be an exact science regarding the fishery. It is apparent that much can and must be done by all parties in order to have open and honest dialogues relative to discussing issues and concerns.

Finally, as a result of certain media reports circulating in the public domain on the issue of the conflict between the large seiner fishery and the inshore gillnet fishers, and of certain comments made during these consultations regarding gear type and fishing methods and to the use of terms such as "trawling" and "dragging", it appeared appropriate to include an appendix explaining the purse seine fishing method as well as the gillnet fishing method (see Appendix A – Gillnet Fishing and Purse Seine Fishing, page 67).

### **MANDATE AND METHOD**

The purpose of this initiative was to establish an independent process in order to frame the problem by getting the parties involved to precisely define their concerns and issues surrounding the conflict between the P.E.I. and Eastern N.B. inshore fishers and the N.B. large seiners, to identify areas of consensus between the parties and to offer options that could be considered for resolving the dispute (see Appendix B - Terms of Reference, page 70 and Appendix C – News Release, page 73).

The facilitator met face-to-face with representatives of the "primary parties" as identified in the terms of reference and consulted with a number of other groups as is documented in the following section. Notes were taken by the facilitator during these meetings and were returned to each party in order to validate, as well as clarify, add or delete details and issues if necessary. Some parties also presented a written document. As well, some parties presented supporting documents which were reviewed and used by the facilitator during the analysis of the general concerns and issues. The facilitator also consulted DFO officials to get their points of view and to seek appropriate information and documents.

The facilitator extracted from these consultations what appeared to be key issues to this conflict and conducted further analysis of these issues in a later section of this report.

### CONSULTATIONS

This section includes what was heard and recorded from the face-to-face consultations, as well as what was presented in writing at these sessions. These reports are the views, opinions and concerns of the parties identified. Some information and details presented in this section have not been validated by the facilitator and may not be accurate. Should there be no reaction by the facilitator to some of the comments presented in this section; this does not necessarily indicate that the point is valid or factual. This report attempts to validate and clarify some of the points presented either in this section via a "*facilitator's note*" (these notes are italicized) or in later sections of this report. Given the timeframe of this process, what was considered major issues to this conflict have been isolated and are analyzed in a later section of this report.

The underline text in this section identifies key concerns and issues raised by the parties as identified by the facilitator.

**Maritime Fishermen's Union (MFU) - January 8, 2004**

**PARTICIPANTS:**

Sandy Siegel, Executive Secretary  
Ron Cormier, President  
Réginald Comeau, Provincial Coordinator  
Gary Parsons, Murray Corner  
François Beaudin, Miscou, Representative, Area 16B  
Bernard Mazerolle, Richibouctou, Representative, Area 16C and 16E  
Paul-Aimé Mallet, LeGoulet, Representative, Area 16B  
Louis-Marie Gionet, Caraquet

**SUMMARY OF DISCUSSIONS:**

There has been tension between the inshore herring fishers and the seiners for 36 years now. In the mid-1960s, DFO, by a ministerial decision, opened the way for large Pacific seiners to fish in the Atlantic Region. As the Minister of Fisheries and Oceans at the time was from Shippagan, the large seiners started fishing in this area, primarily in Chaleur Bay. Their larger capacity allowed them to fish over 180,000 tonnes of herring, while the smaller ones could only catch 20,000 tonnes a year. This fishery almost destroyed the herring stocks in the Gulf of St. Lawrence. There were some disturbances at the end of the 1960s, including demonstrations and wharves being burned.

In the early 1980s, before the herring fishery was closed, the Minister of Fisheries and Oceans, Roméo LeBlanc, changed the quotas, giving 80% of the quota to the inshore fishers and 20% to the seiners in the southern Gulf. Only six seiners remained in the southern Gulf. *(Facilitator's note: The 10 year Management Plan (1983-1993) shows a total of 16 licences in 1983, of which 11 licences remain today: 6 licences in NB and 5 in NFLD.)* The seiners from the Pacific fleet went home. Since that time, there has been a "forced co-existence" between the inshore fishers and the six herring seiners.

A gentlemen's agreement, a moral undertaking, had been reached with the seiners when they were individually owned. Everything changed once the seiners became the property of the fish processing companies. At this time, four of the six seiners belong to processors in Newfoundland and Labrador and the Acadian Peninsula. The plant owners decide on the fishing plans and not the skippers.

According to this gentlemen's agreement, the large seiners did not sell their herring to the smokehouses (except in the event of surpluses) or to the plants processing herring for roe. In 2002, the seiners started to fish roe herring, breaking the "gentlemen's agreement". *(Facilitator's note: There is a response to this issue in the section "Summary of discussions" from the Association des Seiniers du Golfe.)*



The inshore fishers partly blame the control that the processors have over some of the seiners for the deterioration in relations between the two groups. In their opinion, before the processors owned certain vessels, they could talk face-to-face with the skipper/owners of the vessels. This has now become difficult.

There was never any love lost between the two groups—they just tolerated each other. The inshore fishers do not accept:

- The fact that the seiners catch their quota on the spawning grounds. They have no problem with the quota as such, but rather with the places they fish.
- The seiners fish so close to shore that they catch lobster in their seine nets. They destroy lobster habitat by their fishing.
- The seiners are modifying their nets to fish closer to shore. If the large seiners fished in 20 fathoms of water, maybe we would be closer to an agreement.

There is room for two fleets, but the inshore fishers feel that the seiners have gone too far by fishing close to the shore where the juvenile herring is found. *(Facilitator's note: Two reports on juvenile herring reflect tracking carried out by DFO Science. LeBlanc et al. 1997 and LeBlanc et al. 1998 show that very few juveniles were caught in eastern Baie des Chaleurs and north of P.E.I. in the area concerned in the September surveys. Surveys indicate that juveniles are found in mean depths of 30-40 metres. As per the maps, main concentrations are in western Baie des Chaleurs, Shediac Valley, Northumberland Strait and southeastern of P.E.I.)*

The results:

- They are targeting immature stocks and the processors end up with small herring. The seiners catch too much small herring, which is sent to the plants to be made into fish meal. Too often this small two- to three-year old herring is full of roe that is too small for the Japanese market.
- The destruction of habitat by seiners fishing too close to the shore will change the migration patterns of herring and could subsequently affect several other species of fish.
- Every time that the seiners fish too close to the shore in the fall, we see the effects in the following spring seasons, even if it is only for 2 to 3 years. The past has given us reason to be very worried.

Questions have been raised about the quantity discarded at sea by the seiners and the amount of dead herring being dumped at sea because this has a direct impact on herring stocks.

The inshore fishers are also worried about the capacity of the seiners' gear, not only for catching fish, but also for destroying habitat. The power of their gear is simply too strong for the fragile local schools. DFO protocols miss the point of the power of their gear type and the power to destroy. And, the science is not there yet to prove it either.

The history of Trinity Ledge in Southwest Nova Scotia demonstrates the power of their gear type and their capacity to destroy a spawning ground. *(Facilitator's note: It has been noted by some that the present situation in the Gulf is much different than the Trinity Ledge situation. They point out that there were few controls in place at the time; i.e. quota limits, a large fishing effort, and a lot of misreporting of catches.)*

The inshore fishers believe that roe herring caught by the seiners is of inferior quality and showed a document from the Bill Atkinson Group that justified their concerns on this point.

MFU members feel it is important to validate perceptions with science.

The inshore fishers want the seiners to fish outside of the Miscou bank (see Appendix D - MFU Proposed Closure of Miscou Bank, page 75) and farther out than 20 fathoms in depth. In addition, they would like to push the seiner season back to early October, as had been the case earlier.

As for meetings with the large seiners and their owners, we did initiate two meetings with them in 2003. These meetings were not very profitable because both sides refused to budge from their respective positions. We are still ready to continue our discussions with the large seiners but it is also about time that they also move in this direction. We know that there is no magic solution and that there will be none as long as the large seiners fish too close to the shore.

**N.B. Department of Agriculture, Fisheries and Aquaculture - January 9, 2004**

**PARTICIPANTS:**

Byron James, Deputy Minister  
Joseph Labelle, Officer, Resource Management – Commercial Fisheries  
Yvon Chiasson

**SUMMARY OF DISCUSSIONS:**

The N.B. Government supports the appointment of a facilitator and agrees with the utility of this analysis. It is important that this process sort out perceptions versus reality. The debate must revolve around facts and science, not perceptions and political statements.

The Department's position in this case supports DFO's position. The primary reason being, that DFO's decisions are based on science.

There are ways and times to make presentations and discuss issues with DFO, but once the fishing plan and allocations are announced, they have to be respected. And, those affected by the decisions have a right to fish.

The Department was disappointed with the positions of PEI's Minister of Fisheries, which went beyond good judgement. The Department was also disappointed with the role of the RCMP in PEI. Their lack of action in enforcing the law showed a bias towards the inshore fishermen's position.

A resolution to this dispute is important. The Department felt all along the debate was based on fear and fuelled by political rhetoric. PEI media was bias in support of the inshore fishers. Minister Alward's December 16, 2003 press release and DFO's November 7, 2003 technical briefing was not reported by the PEI media. Minister Alward's press release was subsequently published in the Times & Transcript on December 16, 2003.

The fleet of gill-net fishermen catch more than the NB seiners.

Regarding the effect of seiners on lobster habitat: A recent research did look into this. The conclusion was that seiners pose no threat to habitat. Seiners paid for the research cost and DFO has the results. There's more poaching damage that what seiners do.

There is a forum involving most of the parties involved in the dispute, with the exception of DFO, called the Table de concertation sur le hareng de la péninsule acadienne (Acadian Peninsula round table on herring). Its role is to demystify the "talk on the wharf", that is, bring out the facts concerning the fishery and herring quality. It includes representatives of the processors, inshore fishers, seiners, scientists, and the NB Department of Fisheries.

Limiting the seiners to 16 fathoms could be a viable option for all parties.

The five (5) New Brunswick seiners are:

<b>Vessel Name</b>	<b>Owner</b>
Gemini	515673 N.B. LTD.
Ocean Leader	Canadian Ocean Products Ltd.
Noroi	039761 N.B. LTEE
Appollo	Apollo III LTEE Caraquet
Nicole Daniel	Gauvin & Noel Limited

Regarding roe yield:

Inshore gill-nets: 6% roe yield  
Seiners: 9-10% roe yield (allows processing of live refrigerated fish, in better condition)

The entire industry needs a solution, because the conflict is keeping the parties from reevaluating their techniques and hampering the willingness to improve them. The industry is using only 76% of the fish. After being caught, herring produces an enzyme called histadine, which is converted into histamine. European food inspection agencies and the CFIA keep a close eye on histamine levels in marinated herring. Seine-fished herring is of better quality, while gill netting limits the quantity of herring landed. Inshore fishers could use modified seine nets, but the negative perceptions currently circulating with regard to seines are impeding any thoughts of change.

NB is a major fish processor and depends on the import of fish from other provinces. The value of fish landings is \$180 million, while that of processed marine products is \$900 million. The industry really needs resource from other provinces to survive and prosper.

The Government of New Brunswick has a great interest in this issue:

- The fish processing sector is under provincial jurisdiction;
- Fishers expect us to defend NB interests.

As for the demarcation line in P.E.I., it should not be in effect in the fall because there is no spawning during that period, no fishing by the inshore fishers and no disruption of fish habitat.

With the announcement of the 50% cap placed on the seiner fleet quota in the Baie des Chaleurs, research was supposed to be conducted as per the appropriateness of this cap. This research has not been done to date.

**Association des Seineurs du Golfe (ASG) - January 15, 2004**

**PARTICIPANTS:**

Robert Haché, Fisheries Consultant, EXMAR Inc.  
Paul-Émile Michon, Skipper-owner of the *Apollo III*  
Roméo Cormier, Canadian Ocean Products (Owner of the *Ocean Leader*)  
Fernand Friolet, Skipper of the *Ocean Leader*  
Brice Hornibrook, Barry Group (Owner of the *Gemini I*)  
Michel Gauvin, Barry Group  
Donald Haché, Skipper of the *Gemini I*  
Jos Léger, Belle-Baie Products (Owner of the *Nor-Roi*)  
Serge Chiasson, Skipper of the *Nor-Roi*  
Basile Chiasson, Legal Advisor to ASG inc. (lawyer)  
Éda Roussel, Fisheries advisor for ASG inc.

**SUMMARY OF DISCUSSIONS:**

The Association des seiners du Golfe (ASG) is in reactive mode. It is not in conflict with anyone, but considers that seiners are the victims in a situation over which it has no control. This problem was provoked by the representatives of inshore fishers' associations and has been aggravated over the years as a result of the tolerance and excessive indulgence of the Department of Fisheries and Oceans (DFO), at both the Gulf Region and Maritimes Region offices, with regard to the inshore fishers' accusations. Each year for the past 20 years, responding to the allegations of inshore fishers, the DFO (including the Minister) acquiesces to their demands, which are not based on facts. The limitations placed on seiners contributed largely to the bankruptcy of four independent fishers. Since 1990, seiners have left 92 000 tonnes of herring in the water. This conflict is now leading to absurd situations, as evidenced by the incidents that occurred on PEI last fall.

In New Brunswick, there were no serious incidents like those on the Island, because the RCMP tactical squad was on site and on the boats. That was after the incidents that occurred between the small seiner and the inshore fishers off Miscou.

It should be pointed out that elsewhere in the world, Europe for example, gillnets are no longer used for herring fishing. Pelagic stocks are increasing in the Gulf of St. Lawrence, now that cod, their predator, has been decimated. Knowing this, inshore fishers want to eliminate us to get the entire quota for themselves, and then they will modernize their vessels into small seiners. They know that their equipment and techniques need to be modernized, but there is enormous resistance to change, even though it would improve the quality of the product in the end.

The two groups have already had agreements, which the inshore fishers then refused to respect. The current imbroglio has lasted for two years and it's intolerable! There have been several meetings between the seiners and inshore fishers from PEI and Miscou to try to resolve the differences in recent years. Most of these meetings were organized and led by Fisheries and Oceans Canada-Gulf. Mr. Surette should be able to get access to the minutes of these meetings. (Facilitator's note: Formal minutes are kept for the Gulf Small Pelagics Advisory Committee and for regulatory reform (since 1988). There are no formal minutes of these "non-formal" discussions/meetings between DFO and the two herring fishing fleets. These meetings and discussions are however documented in an informal manner by DFO officials.) Several times during the meetings, the seiners made compromises and agreed to restrictive measures and/or increased surveillance in their fishery to a point where the only compromise remaining would be to withdraw completely from the fishery. That is the documented goal of the inshore fishers' associations and obviously, it is not an option for us! Under the circumstances, it would be wishful thinking to believe that the problem could be solved by sitting down at the same table as the MFU or the PEIFA: "We're past that!" The situation is more serious and more urgent than ever. A history of landings in the Gulf shows that inshore fishers overfish herring, while seiners do not reach their quota. The result has been four ruined skipper-owners. The companies that bought them out did not do it to operate at a loss.

The only thing we ask of DFO and the other parties is to be granted conditions to fish the herring quota for which we pay. We can not simply go along with those who take the law into their own hands to prevent us from doing our work. We've been making sacrifices and accepting the inshore fishers' restrictions for 20 years.

What can be done to resolve the situation? The truth must be stated, i.e. permissiveness must be denounced as such, "Call everybody to task".

- The overall quota has not been caught for 10 years.
- The lines were initially applied to prevent conflicts between fishing gear. But when the inshore fishers aren't there, there is no reason for the line to be applied. We don't want to go into such shallow water (where the lobster is) and have our seine nets touch the bottom: it damages them!
- In 4VN there is a cap because the Scotia Fundy local officers don't want us there.
- 80 % of the restrictive measures in the herring fishery are there to limit our fishing.
- Seiners are "single licence holders", they should fish first! As things stand now, we can only fish after the inshore fishers, who have already fished for lobster in addition to their herring quota.

It's gone too far this time. Nothing less than a message from the federal Cabinet to inshore fishers telling them that seiners have the legal right to fish will stop them; otherwise there will be chaos everywhere!

We don't want to take anything away from anyone: the Government of Canada has given us a licence; we have the fishing capacity, the market and the expertise. If the Government of Canada doesn't want us to fish off P.E.I., it should tell us so. The seiner fishery is subject to restrictions throughout the southern Gulf to such an extent that we can no longer catch our quotas while scientists tell us that herring (fall) is abundant and is found all along the coast of NB, PEI and Cape Breton.

Your role is not to validate ignorance, not to validate those who contradict themselves, who make demands without proof, year after year. It is intolerable that a fleet of fishers be prevented from fishing just because they're not liked. If people don't want to believe the science, it's their choice, but ignorance or an appearance of ignorance cannot be given credibility. DFO Science findings with regard to herring in the southern Gulf have credibility. In fact, Fisheries and Oceans Canada tends to under-exploit 4TVn herring.

It is difficult to understand how a Minister of the Crown (from PEI), and another one, the Solicitor General of this country, cannot take an injunction from the PEI Supreme Court that tells inshore fishers that they must let trucks and landings through seriously.

The Government of Canada "must be taken to task". Inshore fishers want us out of there completely, nothing less. We cannot negotiate with them.

The real issues:

- Respect for the law ("even if it takes a tactical squad or the army...")
- the danger of creating a precedent (re: non-compliance with an injunction)
- fishing gear
- the line
- roe
- the catch levels of the two fleets (inshore and seiners)
- the regulations

Additions to documents submitted by the ASG:

1995: Only year in which the entire quota was caught, thanks to the elimination of restrictions by Minister Mifflin.

1996: The Minister asked the 2 fleets to reduce the fishing effort in Chaleur Bay. The MFU responded that it could not, and the seiners had to bear the full brunt of the restrictions.

The seiners rationalized themselves in the 1980s. We had 11 licences and now we only have 6 seiners. And the percentages have changed. In the past seiners held 80% of the quota and the inshore fleet 20%, and now it's the contrary: 20% for the seiners and 80% for the inshore fishers.

The gentlemen's agreement: "Inshore fishers would help the seiners develop the "food fishery" (market for herring meat) by means of fishing dates, access to wharves and reasonable management measures, and in exchange, seiners would not fish for the roe market". Over the years, the multiple restrictions imposed on seiners by Fisheries and Oceans Canada at the demand of inshore fishers have led most of the seiner skipper-owners to ruin. The agreement is no longer valid since the arrival of the new seiner owners. (Facilitator's note: This is a response to the issue raised by the MFU in their section "Summary of discussions".)

The seiners' market is herring meat; that's what we want to catch. But we must first catch the herring. Now, we fish for the fish and if there's roe, there's roe... Inshore fishers can only fish for roe, they have no other option with the current equipment. One of their problems is the difference in quality between their herring and the seiners' herring. They threatened us several times in 2003, that we would "*suffer the consequences*" if we touched the roe.

The inshore fishers' market is limited. Histamine is present in the fish they unload and Europeans won't accept it. Only the Dominican Republic and Haiti will. They only catch herring for roe and bait. Japan will also react to histamine in the roe, and they will close the market afterwards. The inshore know their time is counted. They will be eliminated by the market's demands. Producers can't continue to handle the product they land and the effect will be felt all around in this area. The same happened with the mackerel. But, they have political clout, because of their numbers. There are more of them than seiners.

These are two examples of financial losses sustained by seiners last fall as a result of the conflict in PEI:

Blue Cove Group:	\$620 000
Belle Baie Products:	\$102 000

Seiners are extremely worried about the survival of their fleet. If it does not survive, it will be "*the victory of lawlessness*".

The seiners undergo all types of monitoring: observers on board, black boxes, while in the inshore fleet, only one boat in 25 is checked.

The seiners have been assaulted. They are the victims even though they complied with their licence conditions.

We believe that Mr. Surette's consultation process is important and that the time allocated is very short. We will ask the department to grant you an extension.



**Fédération Régionale Acadienne des Pêcheurs Professionnels Inc. (FRAPP) - January 15, 2004**

**PARTICIPANTS:**

Jean St-Cyr, Executive Director  
Daniel Gionet, Association des crevettiers acadiens  
Jean-Gilles Chiasson, Association des crabiers acadiens  
Marius Duguay, Association des crabiers acadiens  
Donald Haché, Association des crabiers acadiens  
Roger Vienneau, Association des pêcheurs professionnels membres d'équipage

**SUMMARY OF DISCUSSIONS:**

The crux of the problem: the MFU and PEIFA are conducting a defamation campaign.

In 2001, we agreed to talk with them about some reasonable proposals. The PEI fishers did not want fishing there. Everywhere in the Gulf, the line was at 10 fathoms, while for the Island, it was 15 fathoms. In 2001, the resource moved closer inshore, and the seiners generally had to fish nearer to the shore than usual.

In 2002, we agreed that the line north of PEI was not suitable and reached an agreement that pushed the exclusion line to 17 fathoms, on average, and under which the Vessel Monitoring System would be installed at the expense of the Department of Fisheries and Oceans so that PEI fishers could verify the fishing positions of the seiners and simultaneously check if the line agreed upon was being respected. In our opinion, this agreement worked well, and everything seemed to indicate that the 2002 agreement was going to satisfy both parties.

The Island fishers did not want the line at 15 fathoms. At its expense, DFO brought VMS to the seiners to show that the line was being respected. Despite this, the fishers did not believe them. Many of them do not even know how a seine works, since they talk about "*dragging the bottom*". The idea is to show constantly the seiners in a bad light, based on perceptions rather than facts. This is not the only fishing sector where this is happening, but it is one that is particularly frustrating for us. It's frustrating because we know the seiners are the most disciplined fleet. And then they are going to try to use the same tactic with the crabbers: the boats fish too fast, too close to the shore; it's always too much of something!

Despite VMS, the inshore fishers' bad faith continued. They want to push the line back even farther (20 to 25 fathoms). They even proposed that the landings be made in Chatham. Weather conditions in November can be extremely dangerous, especially when the temperatures go down below  $-10^{\circ}$  Celsius. At this temperature, 16 inches of ice can form on the deck in the space of 30 minutes. It is downright dangerous, because it can quickly sink a vessel.

The visibility of the vessels from the shore causes problems. If they did not see us, a big part of the problem would be eliminated. The shrimpers had the same problem in the Isle Madame and Richmond County area, in Nova Scotia. The locals protested because they could see the vessels from the shore. If they didn't see them, the quantities caught did not pose a problem!

FRAPP's role is to look after common issues affecting the member fleets and provide support to the member organizations. The seiners employ about fifty people. The impact of five vessels is nothing compared to the 50 that were fishing in the 1970s. Each vessel no longer fishes 400 tonnes a day, even if it has the capacity: currently, the seiners are fishing based on the capacity of the processing plants that are buying their fish. The entire fleet of seiners fishes about 700 tonnes a night, compared to the 2,000-2,500 tonnes a night caught by the inshore Acadian Peninsula fishers.

The quantities recorded, when the seiners are by the Island, show that it is not local herring stock.

MFU compares seining to clear-cutting. Yet, shrimp has been fished on the same banks off of Anticosti Islands since 1959.

All the MFU and PEIFA demands have always, continuously, resulted in small gains for the inshore fishers. We are always giving something up when negotiating with them; we lose ground every time. Whatever concessions we make, they are never accepted by MFU and PEIFA: it's never enough. For example, PEIFA asked that the line be pushed back to 25 fathoms where there is no herring. This amounts to not catching our quota, forcing us out of the fishery, even if our fishing activities do not affect stock status. Do they want us to go bankrupt?

In Souris, the Coast Guard refused to provide fresh water to the *Nor Roi*, because of threats from the community. This goes against the Fisheries Act! The protesters cut the lines to the *Ocean Leader* under the eyes of two RCMP officers who did nothing at all to arrest the guilty parties. We have photos as proof.

MFU and PEIFA hold part of the shrimp and crab quota, which they sell and pocket the money, and then they conduct defamation campaigns.

The truth is that they want to get rid of the seiners; they want the quota to fish it themselves.

**Skipper and Crew Members of the Stevianne (Small Seiner) - January 15, 2004**

**PARTICIPANTS:**

Yvon Noël  
Lévi Noël, skipper-owner of the Stevianne  
Paul Noël  
Guy-Paul Noël, fishing licence holder  
Tim Sutliff  
Jean-Louis Chiasson  
Luc Bourdon

**SUMMARY OF DISCUSSIONS:**

There's room for both fleets. The problem is that one group wants to take total control of the fishery. The inshore fishers have several fishing licences but don't use them all. Why do they want all the herring?

During the first dispute in Miscou, the MFU wanted a week more of fishing on the same spawning ground they believe is being endangered by the seiners' fishery.

We started fishing for herring by buying our licence at the end of August 2002, when everyone else had already finished their fishing. Our first real season was supposed to be in 2003. This year, the inshore fishers ended their season on September 13. September 14 was the first possible day of fishing for us.

We went out early in the evening of September 14 and we were attacked at sea by several dozen boats, of which 11 were later identified. It took about 45 minutes before the 9-1-1 emergency system responded. The boats harassed us, cut the lines to the skiff and set the skiff on fire. They damaged our boat, the M.V. Stevianne, by throwing various steel projectiles in the front and side windows. Skipper Lévi Noël was even injured by a projectile to the head. Then, in an attempt to sink us, they sprayed water in our boat and shot off flares in our seine to try to set it on fire. The arrival of the crabber Gloucester 30 (60-foot long, of fibreglass) finally scared off the last three remaining pursuers who had remained while the others were busy burning the skiff. We lost our entire fishing season.

We received no support from the RCMP or the Coast Guard, on the grounds that "no lives were in danger yet".

The next day, we went to see the Coast Guard in Shippagan, to find out the reasons for this refusal to help us. We have been informed that the Coast Guard was not authorized to intervene in such serious situations, because the lives of the men (Coast Guard employees) could be in danger.

We acquired our fishing licence by legal means and we have the right to fish like any other licensee.

## **Consultations: Skipper and Crew Members of the Steviannie (Small Seiner)**

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We would like to add that we are really frustrated, dissatisfied and angry at having been harassed in this way, because we followed the rules and it took two years before we were finally able to exercise our right to fish herring.

We were really traumatized because we, the seven crew members of the M.V. Steviannie, had the same thought: that we would lose our lives and it wasn't certain that we would return to port, because they had burned our skiff, which was our only lifeboat, and we could hear them shouting at us, telling us to stop the boat so they could come on board and throw us in the water to drown us.

If it hadn't been for the M.V. Gloucester 30, that we called to our rescue ourselves and that arrived around 2 a.m., we don't even dare think of what they would have done to us.

Their attack against us lasted from about 8:30 p.m. to about 2 a.m.

If nothing is done about such assaults, no one can be considered safe at sea. We belong to the MFU, as our vessel, M.V. Steviannie, measures less than 45 feet and this entitles us to fish with gillnets and purse seines. So we're inshore fishers like them and we were attacked by other inshore fishers.

We acquired our fishing licence by legal means and we have the right to fish.

Everything possible must be done in the future so that no one is subject to such confrontations at sea. We are fishermen from generation to generation. We love our trade and we must have the right to practice it safely. From what we remember, it is the first time such an assault takes place at sea, so please, do everything you can so that it never happens again.

Paul Noël, who was on board with us, has 40 years of experience on the water and has never seen such an attack at sea.

This experience had a deep psychological impact on us. From what I know as a fisherman, we don't have fishing licences to go harass fishers on the water. We have these licences from DFO to earn a living.

**Association des Pêcheurs Professionnels Membres d'équipage Inc. (APPME) - January 15, 2004**

**PARTICIPANTS:**

Roger Vienneau, President of the Association  
Daniel Landry, Fisheries Advisor  
15 members were present

**SUMMARY OF DISCUSSIONS:**

This group represents the 40 crew members of the five herring seiners. Some of them have over 30 years of experience on board seiners, including Pacific seiners.

Some of the people charged with disobeying a court order in Souris were only handed down fines of \$64 and ordered to keep the peace for three months. This is not a serious punishment. Furthermore, the RCMP did not do its job of having the injunction obeyed.

This dispute has several causes:

- Provincial legislation forces the inshore fishers to pay dues to MFU
- The federal government gave a crab quota to MFU, who gave part of it to inshore fishers and kept the rest to finance its operations and especially its lobbying activities. Now they want shrimp and herring but refuse a system of dockside weighing. They changed their lobster traps for two-parlour traps (i.e. two traps in one) and destroyed their own stocks in the northeast and also in southern NB.
- The same thing is happening in PEI: PEIFA will get the dues, they've been given a shrimp quota, and they have the crab. PEIFA also has a crab quota it uses to finance itself.

The crew members are the last to fish in the fall and it's their only source of income. The inshore fishers will do anything to stop them. It is not acceptable that we would need police protection to ply our trade. If nothing is done in 2004, there will be problems again. We have to go to fish off PEI because that's where the herring is!

The main threat for the inshore fishers is that their herring is of lesser quality than that of the seiners and they know it. Everyone knows it, including the processors. The seiners' herring doesn't have blood in the meat – fillets are white.

Crew members share all the vessel's expenses. Landing the fish in NB is not feasible, because of the weather and additional expenses.

The seiner fleet is the most supervised fleet of all:

- VMS
- Weighmasters
- Fishery officers

- Fish boxes
- Monitoring at the wharf and in the plant

We don't understand the inshore fishers' fears. They've always fished in the same areas as the seiners (since the 1970s) but they have the areas reduced each year, for no reason. This is only an excuse to get rid of us. Several of the inshore fishers know the seine fishery; they worked in it and made enough money to buy their own inshore fishing licences.

In PEI, herring fishing for bait is not counted. They're not supposed to sell it, and yet it's a big industry there.

Once, a few years ago, lobster was landed as a by-catch by a seiner in the Gaspé Peninsula. DFO judged that the quantity wasn't even sufficient to talk about it.

Seiners are at a disadvantage with the media because they're not "quaint enough"; their boats are modern.

There is too much permissiveness in government, too much politics in the fisheries. It's time the federal government put its foot down.

Crew members have stated their wish to see both fleets fish their quota in peace, because there is enough resource there for the two fleets. In no way do they want to harm the inshore fishers, who are fishermen like them.

**DOCUMENT SUBMITTED:**

**REMINDER OF A FEW FACTS TO BE CONSIDERED**

Although in the early 70s the large seiners had endangered herring stocks in the Gulf, there have been many changes since then that must be taken into consideration now.

- There are now only five (5) seiners, compared to the fleet of over 40 seiners in the 1970s.
- The owners are local people and are very aware of their dependence on a healthy resource, whereas in the 1970s, the owners were only passing through.
- Seiners now fish for fillet for human consumption, whereas in the 1970s, they were fishing for fishmeal.
- Herring processing makes work for 800 plant workers who use these earnings to get Employment Insurance.
- The quality of the fish caught by the seiners for herring fillets cannot be equalled by the gillnet fishing of the inshore fishers.
- The seiners' quota now represents only a fifth of the inshore fishers' quota, whereas in the 1970s, it was 4 times that of the inshore fleet.
- When a seine touches the bottom, it only drags against it as it closes; no fishing gear stays on the bottom and continues to fish, as happens with the thousands of inshore gillnets that are left on the fishing grounds each year.
- Herring is a species that moves around and is therefore not resident in the location where it is fished.

#### **OUR ANALYSIS OF THE CONFLICT**

The conflict we are experiencing, that we would like to see resolved so that everyone can happily and safely exercise his right to fish, involves various aspects, in our opinion.

#### **ECONOMIC ASPECT**

Crew members have only a few weeks of fishing in the fall in which to earn their annual income. This income is essential in order to support our families and when there are demonstrations on the wharves, it jeopardizes our ability to take the whole of the quotas we were allocated by DFO. The only year Gulf seiners were able to catch the whole of their quota was in 1995.

In addition, when there are demonstrations there are automatically financial losses for the crews. The latter, who share the fuel and food costs, see their expenses shoot up. And when the trucks are blocked on the wharves, the fish is lost; we are not paid for this fishing and, furthermore, this is part of the quota that is being thrown away and cannot be refished.

#### **POLITICAL ASPECT**

For years, Fisheries and Oceans, Gulf Region, has been responding to all the inshore fishers' demands when seiners are involved. It's become a real circus. The inshore fishers blame the seiners for all their problems. They have accused the seiners of destroying their lobster, when we all know the piracy that goes on in this resource. They have accused the seiners of not abiding by the restriction lines and we had to install "black boxes" on our boats, in addition to having observers at sea, to prove that we kept within the lines. On Prince Edward Island, we were even accused of destroying the spring fishery with our fall fishery. But the only rationale for all this making sure that as soon as seiners find the fish, a demonstration of some sort is organized to make us lose track of the fish, to make us lose time and money. What's important is making sure that the media swallow their sad tales full of lies, that the "BIG BAD SEINERS" will destroy the resource, destroy the fishing grounds, destroy their market, and on and on.

In fact, each demonstration is a political exercise. In Souris, this year, the activity had been planned since early summer and was part of PEIFA's strategy to give itself credibility so as to be given the official mandate to represent all Island fishers.

The heads of the inshore fishers' associations follow the DFO scientific meetings and have a very good knowledge of the state of herring stocks, its characteristics, such as its travels, and they also know the share of the overall quota that the seiners will have to fish, where and when they will fish and the impact on the resource.

But, not satisfied with preventing us from taking our share on the grounds that we will destroy "their" resource, they have the audacity to ask for more quota for themselves.

So, evidently, it's not the seiners' fishing that's the problem, but simply the presence of the seiners, who represent a threat by the quality of their fish.

There are too many inshore fishers; they don't want to admit it, it prevents them from modernizing their fishing methods, and their solution is to get us out of this fishery.

#### **HUMAN ASPECT**

A good number of seiner crew members have been in this fishery for many years, and most are still fishing on the same boat. We have seen our fishery evolve over the years. We are more informed about the importance of conservation and resource protection. Our quotas have been reduced and now we only fish for human consumption.

We consider ourselves to be honest fishers, practicing our trade in a professional manner. Most of us are family men, who practice this fishery, which is considered dangerous because of the speed needed to do our sets, so as to support our families and because we are professionals in this fishery, with over 30 years of experience in some cases.

Unfortunately, there has also been another evolution, that of demonstrations on the wharves and attacks at sea that have reached a level of violence never seen before.

In Souris this fall, we were called names, abused and treated like dirt, insulted, threatened with violence and death and made prisoners on our own boats by these threats. The cooks had to do their shopping under police escort, our families lived through weeks of anguish, of fear of receiving news of a fatal accident. All the crews lived in constant fear, because it was obvious that the forces of law and order were powerless and could not even get a court injunction obeyed. We had to ask for police surveillance on board the boats so we could rest. This happened in the greatest country in the world!

We can understand the threat that the quality of the seiners' product represents, but the kind of attacks we went through this fall in Souris cannot go on. If the Government of Canada, which manages the fisheries, tolerates this type of demonstration that puts our lives in danger, someone is going to get killed next year. We count on you, Mr. Surette, to make sure that our fears, based on our observation of the conflict and its escalation over the years, are conveyed to the managers in charge at the Department of Fisheries and Oceans of Canada.

#### **RESOLUTION OF THE CONFLICT**

The Department of Fisheries and Oceans must begin by confirming if it intends to manage this fishery. If that is its intention, DFO can use the following means:

- The Department must not tolerate any intervention by fishers against other fishers, and all interventions must be via the Department.
- The Department must inform all fishers that any fisher with a fishing licence issued by DFO will have that licence taken away if he prevents and/or hinders another fisher from exercising his right to fish, and/or, does not prevent his crew from doing so.



- The Department must clearly inform all fishers' organizations and associations that demonstrations by their members will have repercussions on the quota allocations they receive as a means of financial support.
- A large-scale public information campaign needs to be carried out, especially among the population of Prince Edward Island, to tell them the truth about the herring fishery.
- The Department must cease stopping the seiners from fishing simply because the inshore fishers have made accusations. The Department should review the inshore fishers' accusations and verify their reasons for making them before siding with them and disrupting our work (There are only 5 seiners and they all have black boxes)
- If the Department agrees with the inshore fishers' arguments, it should say so clearly and retire us honestly from the fishery, with sufficient compensation to enable us to rebuild our lives.

## NB Fish Packers Association - January 15, 2004

### PARTICIPANTS:

Paul-Orel Chiasson, President, Association coopérative des pêcheurs de l'Île  
Roméo Cormier, Canadian Ocean Products and owner of the *Ocean Leader*  
Joanne Cormier-Baldwin, Canadian Ocean Products

### SUMMARY OF DISCUSSIONS:

There are 14 herring processors in NB but they are not all members of this association. Approximately 70% of processed herring products (in the Atlantic Region?) come from these 14 plants.

Processors buy from both inshore fishers and seiners, and a lot from the Island. We do business with 1-2 buyers who buy directly from 15-20 Island fishers. Some fishers have been pressuring buyers to make it so that plants that process seiners' herring not be able to buy their fish. The plants process crab, shrimp, lobster and also spring herring.

At some point, there will be so much market pressure on fishers — their product will not longer sell — that things will change. If you asked them individually, many inshore fishers would not refuse a small seiner, but they know they cannot all have one. The MFU is pressuring them to keep silent on the subject. This would be one reason explaining the attack on the Stevianna (new small seiner, this skipper could prove that this type of seine works well, because after all these fishers have proven themselves — they are good fishers.)

About the Peninsula's forum (Table de concertation sur le hareng de la Peninsule):

Its goals:

1. Optimize the use of herring
2. Increase the quality of the finished product

It was set up by the Fisheries Council, at the general request of the industry. The herring issue working group (which is part of the larger forum) comprises eight representatives:

- 2 from herring roe plants
- 2 from MFU
- 1 from a fishmeal plant
- 2 from herring meat plants
- 2 from seiners

The forum includes representatives from the provincial fisheries department, DFO and the scientific research sector.

The problem with seine nets is the disparity in the size of the fish — little uniformity. The problem with gillnets is the high rate of loss, and the damage to the fish that survive: they get walked on and are refrigerated in varying amounts of ice. In Norway, gillnets are no longer used at all, not even for fishmeal. This is because of the blood in the meat and the histamine that comes from it, and the Japanese reaction is expected to be the same in the near future.

Seiners have started using RSW (refrigerated sea water), but there is still room for improvement.

Our request: That everyone's rights are respected. We are in Canada — democracy must be respected.

In every sector, NB is the most aggressive in seeking resource elsewhere. For example, we import:

1. shrimp from Nova Scotia, Newfoundland and Labrador
2. turbot
3. crab, a fishery developed by the Acadians
4. herring from seiners

NB fishers once had 100% of the shrimp quota in Nova Scotia and in Esquiman, Nfld, of which we only have 25% left. Being an extremely mobile fleet, we were the ones who went farther to fish, we were the ones who discovered the snow crab fishery, and the first to fish shrimp in the region mentioned.

Our fishers go the farthest for their resource. The fisheries are divided up by province and even by region within our own province, for example for crab. The MFU has a shrimp quota that it doesn't even fish— it finances an organization with lobbying power. We recognize the fishing rights of others. We have the right to expect that others recognize our right to fish.

Boundary changes: boundaries are becoming a problem for all fleets. There is now a fishing corridor in each small sub-area. Acadian fishers are continually losing their historic shares through these changes.

We agree with herring fishing areas. We believe, however, that PEI inshore fishers want to appropriate the rest of the herring quota. So, let DFO buy the quota and give it to them! They'll have small seiners and then large seiners.

It should be noted that seiners are the only fleet that only fish one species.

The inshore fishers:

- Sometimes fish only if prices are good
- Over \$300 million per year in undeclared lobster (in the Maritimes)
- They have asked for more quota, to fish it (in the name of resource conservation...)
- Even if their gear was more effective, it would not improve quality because the herring found in deeper water contains less roe
- The majority of them have a lobster licence first, and then a herring licence

If the inshore herring improves in quality, everyone will be happy. We could then do something with the remaining 95% of the fish. That's the biggest challenge: making optimum use of the herring.

In September 2003, 20 containers of herring (from northern PEI) were seized in Europe because the herring contained histamine. Herring fished by inshore fishers on PEI is placed in ice boxes on board the boat, which is already better than what is fished at Miscou. Despite the ice, it still does not have the quality of herring fished with seine nets.

The seiners' quota is not caught in its entirety because of numerous restrictions. Their goal is to eliminate the seiners by reducing the profitability of their fishery. The only gain the seiners made was in regard to the opening date of the fishery, which was moved from October 1 to September 1, although in the past the fishery had been open all summer.

If the inshore fishers' argument is that seiners want to fish for roe, they are shooting themselves in the foot. Even if the inshore fishers have improved their boats, this does not mean they have improved the quality of the fish landed. We do not foresee a positive future for this market. The Japanese will set such strict purchasing conditions that the market will shut down.

We believe that some basic rules must be respected by everyone:

1. Each party's quota (an entire industry depends on it).
2. Each individual/fisher has the right to fish were the resource is.
3. Processors have a right to process the fish delivered to them at the plant, regardless of the finished product.
4. There are no barriers to transportation, fishing and purchases of the product in the Maritimes. It has to stay that way.

**P.E.I. Department of Agriculture, Fisheries, Aquaculture and Forestry - January 16, 2004**

**PARTICIPANTS:**

Minister Kevin MacAdam  
Deputy Minister Lewis Creed  
David Younker, Director – Fisheries and Aquaculture Division

**SUMMARY OF DISCUSSIONS:**

- At the heart of the conflict is the issue of the administrative error which resulted in changing the boundary of the seiner exclusion zone in the vicinity of Prince Edward Island. The changes to the Fisheries Regulations were made abruptly and without any consultation with industry or affected parties. Identifying the rationale for this change is critical to this dispute.
- The 50% cap imposed on the seiner fleet in the Baie des Chaleurs was implemented without serious thought or foresight with respect to where the remaining 50% of the seiner quota would be fished. As per the present regulations, it is possible that 100% of the seiner quota be fished in the vicinity of P.E.I. A 50% cap imposed in the Baie des Chaleur for fear of its effect on the herring stock. This rationale applies to other areas where exclusion zones exist. Similar attention must be applied to P.E.I.
- Along with the cap implemented in the Baie des Chaleurs for precautionary reasons, further research was to be carried out by DFO with respect to local stocks in the Baie des Chaleurs. There is no knowledge of any major research having been undertaken by DFO in this regard. In general, there is little science and hence conclusive evidence of the effect of fishing effort on local stocks and herring biomass. This lack of evidence should invoke the precautionary principle that would see local stocks protected.
- There is no conclusive science with respect to herring and the herring fishery. The power of the seiner fleet to take large amounts of fish in short periods of time in concentrated areas raises serious concerns and fear as to its effect on local stocks. Its effect on the lobster fishery is also of major concern. P.E.I. cannot afford any negative impact on this industry as lobster is the central fishery to the Island. Unfortunately, P.E.I. does not have a well diversified fishery; hence the existing fisheries must be protected.
- DFO must improve its leadership and communication strategies in order to progress such disputes. Regarding the incidents last fall in Souris, DFO was well aware of the level of frustration of the inshore fishers and of the possibility of confrontations. DFO should have implemented strategies and measures long before the incidents on the wharf rather than with a response of plans for RCMP presence. No DFO enforcement officers were seen during the confrontations. The P.E.I. Government dealt more with the RCMP than DFO during these incidents.

**FOUR KEY POINTS:**

1. The minimum size of herring in the Southern Gulf is set by regulation at 26.5 cm. However, by Variation Order, on an annual basis, that minimum size is reduced for the seiner fleet to 24.5 cm, and this appears to have been done in order to accommodate the seiner fleet meeting the objective of no more than 10% undersized fish. *(Facilitator's note: Science defines immature fish as fish with gonad stages 1 and 2. They say these fish are usually two years old and less and information from the December 1995 juvenile survey indicated they are usually less than 26cm total length. Regulations are applied in fork length and no more than 10% of the catch is permitted to be less than 24.5cm fork length. They say this length corresponds to about 27 cm total length.)*
2. In our discussions about the former exclusion zone and the length of time that it was a closed area in former negotiations, it is our understanding that from 1978-1983, the 25 fathom closure area applied from mid-August to mid-September. However, beginning in 1983, the exclusion zone was for a full year period for vessels greater than 15.2 m.
3. In our discussion concerning fishing activities in 4Vn being curtailed on the basis of 1 day's survey results, the exact reference is the fact that as a result of catch data for December 3<sup>rd</sup> and 4<sup>th</sup>, 1996, there was concern expressed about local stocks in the Bras d'Or Lakes. As a result of this, the seiner fleets were henceforth moved to North of Smokey. Our point being there was a clear effort to protect local stocks in that area. Our fishermen raised concern that the same protection of local stocks is not apparent in PEI.
4. From 1983 until 1997, the inshore fleet received 80% of the Southern Gulf herring quota and the herring seiners 20%. When the decision was made in 1997 to allow the 4Vn quota to be fished in 4T, there was a transfer of 4200 metric tonnes which had been the seiners' quota in 4Vn rather than have the quota returned to the 4T pool. Therefore the percentage changed to 23.17% for the seiners from 20%. *(Facilitator's note: A 1986 News Release states that " a quota of 4,200t is also being provided for the midshore purse seiners in Division 4Vn west of Point Aconi". A 1996 document further explains this issue as "in area 16, the TAC's were allocated 80% to the inshore fishers and 20% to the large seiners. However, when you factor in the 4Vn 4,200t quota which was deducted from the top prior to the allocation, the inshore fishers were in reality getting 76.83% and the large seiners 23.17% of the TAC's".)*

**DOCUMENT PRESENTED:**

Issues surrounding the large Herring Seiner Fishery in the southern Gulf of St. Lawrence

**MAIN ISSUE**

The New Brunswick large seiner herring fleet fishing in near-shore waters around PEI.

**BACKGROUND:**

The Province of Prince Edward Island is heavily dependent on fishing, agriculture, and tourism as the mainstays of its' economy. Other industries such as manufacturing, mining and large forestry operations present in the other Atlantic Provinces are not available here.

On PEI, the fishing, seafood processing and aquaculture industries, directly employ, approximately 9500 individuals. It is estimated that those industries combined with their resulting spin off activities, annually contribute, \$350 million dollars to the economy of PEI. The PEI government, industry members and general public grow very concerned should any circumstance threaten this sector of the economy. Of the \$152 million landed value in 2002, \$105 million (or 69%) was derived from lobster while herring contributed \$5.3 million and tuna \$2.3 million.

Fishermen on the north shore of the Province were alarmed by the arrival of the large seiner fleet in the fall of 1999. Most fishermen were under the impression a seiner exclusion zone existed on the eastern and western shores of PEI. Their level of concern and frustration has grown each year since then, culminating in the events on the Souris wharf in 2003. Their concerns are centered around the conservation of local herring spawning stock, possible damage to the lobster bottom and the removal of food fish for tuna and other species.

**HISTORY:**

Prior to 1967, southern Gulf of St. Lawrence herring were exploited mainly by gillnets and average landings from 1935 to 1966 were 34,000 tonnes. In the mid 60's, a purse seine fishery was introduced and average landings were 166,000 tonnes from 1967 to 1972. The purse seine fleet consisted of vessels from all over the Atlantic Provinces. Quotas were introduced in 1972 at 166,000 tonnes and reduced to 40,000 tonnes in 1973.

During the 1970's, over 80% of the landings in the Gulf were made by purse seine vessels, until the stock collapse in 1981. The management of the herring fishery was then changed and a redistribution of quota by DFO, resulted in the gillnet or inshore fleet receiving 80% of the southern Gulf of St. Lawrence herring allocation.

In 1983, DFO undertook a rationalization of the Atlantic herring purse seine fleet. Scotia-Fundy seiners were denied access to the Gulf fishery and the size of the Gulf fleet dropped from 40 vessels to 16. At that time, the Gulf seiners were guaranteed 20% of the TAC as part of the fleet restructuring plan.

In 1987, a regulatory amendment was made which subdivided Area 16 into 7 Herring Fishing Areas (HFA) aligned with the main spawning beds. Inshore quotas were established in accordance with these new management areas. HFA's were established to prevent the over exploitation of spawning beds by distributing the fishing effort over all major spawning beds and with an aim to provide an equitable allocation of the resource. The introduction of the HFA's also resulted in facilitating the application of management measures specific to local communities (seasons, weekend closures, trip limits, etc.).

From 1978 to present day, there are several key inshore herring areas in the Southern Gulf of St. Lawrence that have been restricted to the seiner fleet and are now closed areas. Closed areas include: adjacent waters in eastern and western PEI; the Northumberland Strait; near shore areas in the Bay of Chaleur; waters adjacent to the Gaspé coast; and inshore waters around the Magdalen Islands. These restrictions have been put in place to protect local herring stocks (conservation) to help ensure that resources remain into the future thus contributing to the viability of inshore fishermen.

In 1995, at the annual Small Pelagics Advisory Committee Meeting, Magdalen Island (16D) fishermen's representatives asked for, and received, an amendment to their closed area to increase their protected inshore spawning beds from seiner activity. The amended area expanded part of the area to as far as 25 miles from the shoreline.

In 1996, DFO imposed a cap of 50% of the 4TVn quota on fall spawning herring that the large seiners could catch in the Bay of Chaleur, "*until DFO has a better understanding of the abundance of the stock in that area.*"

This restriction remains today. *It is our understanding that DFO has to date not greatly improved its knowledge of the abundance of stock in the Bay of Chaleur nor has it begun a major scientific program to seek an answer to this question.*

A major change in the seiner fishery from 1997 to 1998 was the low catch of herring caught in the 4Vn overwintering fishery. It was reported that herring were "close to the bottom" and were inaccessible to the gear, which contributed to these low catches. Since 1998, with a quota of 4,200 M.T. in place, there has been little or no effort in the 4Vn fishing area.

#### **SEINER ACTIVITY OFF PEI**

In the fall of 1999, large seiners landed in Souris, PEI for the first time in recent years with herring caught off the north-side of PEI. 166 MT was landed that year by the seiner fleet.

In 2000, NB seiners landed over 900 MT into Souris from fish caught off the same area of PEI.

In 2001, all five NB seiners fished off the PEI shoreline. Total fall landings were 10,823 MT with 3,021 MT caught close to PEI. Many PEI fishers reported observing the seiners in very close proximity to the PEI shoreline. Fishermen protests occurred at the Souris wharf. The PEI industry requested that the seiners be removed to 10 miles offshore.

In January 2002, the PEI Department of Fisheries, Aquaculture, and Environment explained to DFO officials that it appeared an administrative error was made in the herring regulations in 1984 which changed the configuration of the zone. The Department asked for a review of the issue and to have the error corrected. It was acknowledged by DFO (informally) that it appeared an error had been made; however, the original zone was not reinstated.

In 2002, the PEI industry reluctantly agreed to a 17 fathom line to help protect their inshore fishing zones off north-eastern PEI. Due to natural topographical variations resulting from drawing a straight line, the restriction in part of the zone allowed seiner fishing activity in as little as 12 fathoms of water. In 2002, the seiner fleet landed 11,651 mt. with 5,104 mt. taken off PEI.



In March 2003, DFO called a meeting with PEI herring fishermen to revisit this issue. Along with the 2002, 17 fathom protected area, (as the original 1983 protected area was not on the table according to DFO Officials) PEI fisher representatives asked for a seiner quota cap of 50% of herring caught in PEI inshore waters. It appears this request was misinterpreted as 50% of the total seiner quota and not the remaining quota that was to be taken outside the Bay of Chaleur (50% of 50%) as was the intent.

In 2003, the large seiners landed 13,911 mt of the 14,222 mt fall quota (97.8%) with 5,776 mt (41.5%) being caught off PEI.

**FACTORS:**

- From at least 1983 to 1995, the New Brunswick large seiner fleet carried out their fall fishing activity near their home ports, that is, in the Bay of Chaleur. As well, this fleet had an allocation of 4,200 mt (based on historical catches) in NAFO area 4Vn, commonly referred to as Sydney Bight. This 4Vn allocation was historically fished as an overwinter-fishery with the season set from November 1<sup>st</sup> to March 1<sup>st</sup>. The relocation of the seiner fleet to the North of Smokey line in 4Vn was based on one sampling event (Dec. 3 - 4<sup>th</sup>, in 1996). In 1997 the seiner fleet was then allowed to fish this quota in Area 4T.
- In 1996, DFO restricted the large seiners' fall fishing efforts in their historical fishing grounds, that is, in the Bay of Chaleur so that only 50% of their TAC could be obtained there. To the best of our knowledge, no thought or direction was given to where the remaining 50% would be fished. (This restriction forced the seiner fleet to search for other areas in 4T, and as mentioned, they have chosen to fish primarily off PEI in late October and November. )
- DFO has imposed restrictions on seiner activity in the Bay of Chaleur and 4Vn to protect local stocks. It appears contradictory for DFO to suggest that seiner activity off northeastern PEI needs no such restriction because PEI local stocks mix with migrating spring and fall spawners from the Bay of Chaleur. DFO has not offered scientific evidence or advice regarding the percentage make up of the stock components mixing off PEI.

A precautionary approach would suggest a restriction on seiner activity off Northeastern PEI until the percentage make up of the stock components can be determined.

- The DFO science fact sheet on Atlantic Herring indicates, "*purse seiners are capable of capturing entire schools of fish in a few hours.*" (Facilitator's note: It should be noted that the next sentence reads " Gillnets may become so heavily concentrated over spawning beds that most of the herring in a run are captured before having a chance to reproduce.) DFO has reported that there is a large biomass of herring off PEI each year during the period when the large seiners are fishing, yet, as the Fact Sheet points out "*there is a real danger that small populations contributing to a large fishery might accidentally bear much more than their share. The result can be the virtual elimination of these spawning populations. It may take many years before new stocks repopulate the abandoned spawning sites.*"

- Also as previously mentioned, from 1978 to 1983, DFO created protected inshore areas from the large seiners throughout the Southern Gulf of St. Lawrence. One such area was the large inshore area off central PEI to beyond East Pt. This area protected local stocks of herring out to beyond 25 fathoms of water. With the loss of one set of co-ordinates defining this closed area, over 750 square kilometers of area was lost to this protection. In effect, the initial "closed box" was realigned to become a triangle which allowed seiners to fish in much shallower waters over lobster bottom and where the local herring stock is present.
- According to a DFO document on "Atlantic Fishing Methods", "*purse seines are used to catch many species of fish, they are most effective when used to capture fish schooling near the ocean bottom.*" The large seiners have nets with a mesh-depth of up to 30 fathom. With seiners fishing in these shallow waters, it is felt that other bottom-dwelling species such as lobster could be caught and habitat destroyed.
- Contrary to some recent DFO literature and the position by some DFO officials, (as is inferred in recent correspondence to the fishing industry from DFO) the 1983 protected area was closed to large seiner fishing year round, and not from August 15<sup>th</sup> to September 15<sup>th</sup> as suggested by DFO officials.
- In recent years, since the presence of the large seiners off PEI waters, PEI inshore fishers are having greater difficulty in catching herring in the spring fishery on the north-east coast. In 2003, an 800 mt quota, inshore fishers landed 267 mt from mid-July to mid-August. In 2001, 1065 mt were landed in this same period.
- There is concern over the decline in the spring spawning biomass. Inshore fishermen and the seiner fleet have access to both spring and fall fisheries. The participation of the seiner fleet in the spring fishery has been minimal. The seine fleet transfers this spring quota to the fall, as set out in the management plan. Samples are collected by DFO staff to determine the percentage of spring stock contained in the landings. PEI inshore fishermen are concerned that DFO has been underestimating the percentage of the spring component in those fall catches. A miscalculation could potentially contribute to a rapid decline in the local spring spawning biomass (Something the local fishermen are currently seeing). In recent years they have unable to catch 25% of their spring TAC on PEI's North Shore, despite an equivalent effort, as in previous years.

**POSITION:**

- The PEI government has attempted, without success, to have the closure zone reinstated.
- The PEI Department of Agriculture, Fisheries, Aquaculture and Forestry is consistent in its position, that the original closed area off northeast PEI (1983) be reinstated for vessels over 15.2 meters with the closure in place year round.

- The protection afforded to the eastern end of PEI in 1983 should also be afforded to the central and western end of the Province as well.

**INFORMATION SOURCES:**

1. *Atlantic Herring* Underwater World 1990.
2. 4T Herring Stock Status Report (SSR) 1999. (Recent catches are taken from the DFO website for the 4T herring quota reports.)
3. SSR 2003/035, SSR B3-01(2002), SSR B3-01(2001)
4. Atlantic Fishing Methods, DFO publication.
5. Assessment of the NAFO Division 4T Southern Gulf Herring Stock, 1998.
6. DFO Maritimes Regional Fisheries Status Report 98/3E

**P.E.I. Fishermen's Association Ltd (PEIFA) - January 16, 2004**

**PARTICIPANTS:**

Rory MacLellan, Executive Director  
14 other individuals, each representing Association locals

**SUMMARY OF DISCUSSIONS:**

We have a written statement for you. A few notes will be added as we go through the document. PEIFA includes six locals; each one is represented here today.

The presence of seiners on the north shore of PEI is a new phenomenon (4-5 years). Two reasons can explain this:

1. They were removed from other areas.
2. The Confederation Bridge makes it easier for transport.

They first said they were chasing fish patterns but after 2-3 years, we think there might be a little fib there.

Their gear was designed for very deep water in the pacific zone (100 fathoms and more).

The line we are asking for (exclusion of seiners from the southern Gulf of St. Lawrence zone) extends from our box to North Cape to Escuminac (as per map presented: see Appendix E).

Regarding increased scientific effort needed, it has been said that PEI herring stock doesn't mix with migrating stock. This doesn't make sense because bait herring is getting scarcer each year. On the North side, catches are down 80% from last year's (2002 vs. 2003), according to monitoring by DFO and PEI Fisheries Department.

*(Facilitator's note: The above makes reference to the bait fishery, but by comparison, DFO Statistics Branch Herring Gillnet Commercial Landings (tonnes) for North East PEI (Statistical Districts 88 and 96) by season and port of landing from dockside monitoring (DMP) and purchase slips, do not seem to indicate a substantial drop in catches and catch per trip in recent years.*

*DFO's quota monitoring database for spring and fall commercial landings for ports on the north side of PEI (eastern end) was also verified. The numbers do not indicate a substantial drop in catches and catch per trip in recent years. For the following ports: Nauffrage, Red Head, North Lake, Savage Harbour, seasonal landings were as follows:*

*Spring:*

<i>Year</i>	<i>Qty landed (t)</i>	<i>Number of landings</i>	<i>Average landing (lbs/fishers)</i>
2001	48	36	2939
2002	44	31	3129
2003	17	15	2498

*A logical conclusion from these results seems to be that the reduction in landings in the spring was the result of a reduction in fishing effort. Average landings increased slightly in 2002 and decreased slightly in 2003.*

Fall:

Year	Qty landed (t)	Number of landings	Average landing (lbs/fishers)
2001	379	200	4178
2002	341	143	5257
2003	565	195	6388

*It appears from these results that landings in the fall increased in the last three years along with the average landing per fishers.)*

Regarding the Owner Operator Policy:

- Groups from Newfoundland and Labrador either own or control some vessels through agreement.

The seiners' quota was indeed caught this year, if you don't count transfers from the spring and the 4,200 tons from 4VN (now caught in zone 16).

The Gulf's global quota for herring:

- 5 seiners catch approx. 5,600 tons on PEI north shore
- 500 inshore fishers catch approx. 320 tons on the north shore

The fish seiners catch is mostly small herring, which can't escape the seine but could through gill nets.

We feel that DFO is trying to make an issue of the 23-77 quota split. For us, the main issues are:

- Local stocks
- Sea Bottom "preservation"
- Tuna and lobster stocks

Essentially we want to conserve our livelihood. In the last 5-6 years, there's been no bait left by May 15th. Years ago it was good until June 15. We haven't fished for it in the last 5 years, the time the seiners have been coming here. Bait price has increased from \$0.30/lb to \$0.60 cents/lb. *(Facilitator's note: However, the commercial herring landings in Naufrage, Red Head, North Lake and Savage Harbour in the spring occurred in the following time periods: 2001 - May 8 to June 27; 2002 - June 5 to July 22; 2003 - April 27 to June 26, with the above recorded results.)*

If the numbers of sets and fish mortality from these sets are not a problem, there is not enough science to prove this. DFO science has only \$40,000 per year to work with.

*(Facilitator's note: Upon verification with DFO, the amount quoted is the operations budget and does not include the salaries of the two technicians and one biologist directly involved in the work, nor does it include the cost of DFO vessels used to conduct the acoustic surveys or the time of the staff that contribute to the work (i.e. port sampling technicians who obtain and measure samples of the catch throughout the fishing season, observers on fishing vessels, other biologists involved in the stock assessment, etc). However, it is noted that the team involved in the herring stock assessment is smaller than at the end of the 1990's. A research scientist who was working on herring in the late 1990's has not been replaced due to budget constraints.)*

Fishers shifted to insulated boxes (slush tanks) which resulted in extra work. They now have a 10% roe count, whilst they could get 6.6% cut roe before. If fish quality is an issue if these insulated boxes are not used, processors should inform all fishers that this is necessary.

When the quota allocation (80-20) was reversed in favour of the fishers in the 80s, there was something signed that specified what seiners could and couldn't do: You should find that document as well as the documents supporting the 1983 line change. *(Facilitator's note: This document was located. It is in the form of a News Release dated August 3, 1983 with the title "The beginning of the restructuring of the Herring Fishery Purse Seine Fleet". It makes reference to restructuring of the fleet and quota allocation. However, no documents were located explaining the line change in 1983-1984, nor were any documents found explaining the change in the closure period from August 15- September 15 (1978) to a year round closure in 1983 in northeastern PEI.)*

The reason for the line is to protect local stocks. Otherwise, the same situation as in the 60s would happen again, where they were fishing in 16 feet of water. Fisherman's Bank was nearly wiped out.

Inshore fishers are supplying the science now for north shore herring. DNA studies and tagging would tell the real status of the local stock. *(Facilitator's note: DFO has indicated that they have started a local project in 2003 in north P.E.I. partly funded by the PEIFA overage funds, as they have with 8 other boats in 4 other areas.)*

All inshore fishers are on the same page on this issue.

We don't want to rob seiners of their livelihood but we want to keep ours. Inshore fishers never asked for more quotas.

We don't believe all the herring biomass is increasing, not for both stocks.

The provincial governments have no jurisdictions over this. But New Brunswick has a lot of money invested in the seiners and they also wanted inshore seiners with a quota, in which they also invested money.

The time frame for this process is too short.

We negotiated for four years with DFO. It took the events in Souris to get their attention. At least in this process we'll know what information goes from Moncton to Ottawa.

**DOCUMENT PRESENTED:**

Inshore fishers of PEI are very concerned over the impact that fishing in inshore waters by the large seiners will have if allowed to continue.

These concerns include:

- Depletion of localized stocks through too much fishing pressure on small spawning areas.
- Damage and resulting mortality to juvenile fish and negative impact on recruitment because of the method of fishing and the non-selective small mesh size used in the purse seines.
- Potential damage to inshore habitat, particularly lobster habitat, by the dragging of heavy seiner gear (bottom skirts and pursing gear) over the bottom in the relatively shallow waters.

- Effect that depletion of local herring stocks can have on the food chain and other species dependent on herring, such as Tuna and groundfish. *(Facilitator's note: In the southern Gulf, herring is consumed by larger marine fish (cod, white hake, tuna) and mammals (grey seals). Scott and Scott (1988) report that Bluefin tuna feed on a number of demersal and pelagic species including herring, but also other species such as Atlantic saury. The study by Chase(2002), indicates that tuna are opportunistic feeders on a wide variety of finfish, cephalopods (squid, etc.) and crustaceans. In that sense, the study conducted on tuna from the New England coast (Chase 2002) showed different diets in the different areas. So, although tuna feed on herring, they are not solely dependent on that species for food. However, the distribution of tuna can be affected by changes in the available food items. Herring is also a prey item of cod (Hanson and Chouinard 2002) and grey seals in the southern Gulf (Hammill and Stenson 2002). On the other hand, herring is thought to feed on the eggs and larvae of various species including cod. (Swain and Sinclair 2000) showed a negative relationship between cod survival and pelagic (herring and mackerel) biomass in the southern Gulf.)*
- Depletion of localized stocks that fishermen depend on for bait and the local inshore gill-net fishery.

Our inshore fishermen strongly recommend the following:

- Preference is to have the large purse seiners excluded entirely from the southern Gulf of St. Lawrence.

If this cannot be implemented immediately then the following measures should be implemented:

- The exclusion line in effect in 1983, changed by DFO in 1984 through an administrative error, should be rectified immediately. In addition to this a modified line to protect the inshore grounds off the north coast of PEI should be established, as presented on the attached chart (see appendix E).
- A cap for the seiners allowable catch off the north coast of PEI should be set at a maximum of 25% of their overall quota, with an overall daily limit established.
- The dockside monitoring of the seiner catches be improved. Sampling from the holds should be a minimum of 3 dips from each hold, at the top, middle and bottom. DFO must increase checks of the sampling done by the monitoring firm to ensure compliance with the undersize fish protocol and required regulations.
- In addition to the vessel monitoring system now in place, on board observer coverage needs to be improved. There should be a minimum of at least one observer on board the vessels during fishing operations. Observers should be particularly instructed to ensure that protocols for undersize fish are being followed and that small fish are not incurring high mortalities and being dumped in a wholesale manner. These conditions should be in place before the seiners are allowed to fish at all.
- Increased scientific effort needs to be directed to this area. The status of the stocks needs to be scientifically studied more intensely to determine to what extent the local spawning stock is mixing with the seiner catches and how these stocks are being impacted by the concentrated fishing effort of the seiners.

**VIOLATION OF THE OWNER OPERATOR POLICY**

In the past, these large seiners were operated by independent owner-operators. Today these vessels are mostly owned and controlled by large companies which dictate their fishing practices. We believe this is in violation of the stated policies of Fisheries and Oceans, which are now under review due to occurrences such as this. The operational considerations of an independent captain could will differ from those of a corporately controlled operator.



**Coalition of Inshore Fishing Families - January 21, 2004**

**PARTICIPANTS:**

Jack MacAndrew – Media coordinator  
Charlie McGeoghegan  
Mike McGeoghegan  
Dennis Gaudet  
Kent Clements  
Kevin Robertson  
Bobby Jenkins  
Mark Rose

**SUMMARY OF DISCUSSIONS:**

- The Coalition was founded during the seiner demonstrations in the fall of 2003. It has no legal status and no Board of directors. A number of fishers emerged as "leaders"/spokespersons during these demonstrations and hence became part of the Coalition. Minister MacAdam identified 20 of these individuals as representatives of this group for communication purposes between the fishers and the Provincial Government.
- The Coalition recognizes that a resolution to this dispute is difficult because of conflicting values and fishing methodology between mobile (seiners) and fixed (inshore fishers) gear fleets when both fish the same shallow water for the same fish (herring), and when that same bottom is habitat for other valuable species (lobster) fished by the inshore fishers.
- Documented by scientists Worm and Myers and others, purse seining by huge offshore vessels (as well as dragging) is an outdated mode of fishing in an age when conservation is paramount because these two methods are examples of "industrial fishing" without respect for sustainability.
- Inshore fishers have "experiential evidence", but this data is not accepted as valid by DFO science. DFO rejects it as "anecdotal" evidence from the inshore fishers, and there is no effort to collect data from the inshore fishers.
- DFO leadership and credibility is an issue. DFO and fishers a master (DFO), servant (inshore fishers) relationship. And, co-management of any fishery is not working well.
- Mid-water purse seiners up to 120 feet should fish the deeper water for which they were designed and intended. Their gear type is designed for fishing 100 fathom water, not for inshore fishing at one hundred feet.
- The only stock left is inshore stock and this is the reason why the seiners are so close to shore. There is no herring outside where they used to fish because that stock has been depleted as a result of over-fishing by the seiners.
- On the issue of the vessel monitoring systems (VMS), there still should be an observer aboard each vessel because these systems are electronic and can be manipulated aboard the vessels.
- Planes monitor the scallop fleet off of P.E.I. and a similar measure should apply to the large herring seiners.

- Fishers on the north shore of P.E.I. used to depend on the "Mother's Day run" to provide bait for the lobster fishery in the spring. For the past several years, fishers on the north shore are unable to catch any herring for bait in the spring. The reason for this downturn is the arrival of the seiners fishing off of P.E.I.
- With respect to herring quality, this is a "red herring" and has nothing to do with the central issue. As a matter of fact, however, inshore fishers' herring catch is of superior quality when delivered to a processing plant. The catch is stored in icy slush in insulated boxes at sea and landed at the wharf within 4 hours. The seiners' catch landed in Souris was caught up to 18 hours earlier, was loaded into uninsulated boxes on flatbed trailers with no ice to cool them and then driven in the hot sun for up to eight hours before reaching the processing plant in N.B. Herring aboard one flatbed blockaded in Souris rotted within 12 hours.
- Based on observations in Souris, tonnage is also misreported. (One insulated box can hold 2200 lbs, however only 1875 lbs was reported for each box.)
- Other provinces have adequate exclusion zones to protect their "homing stocks". P.E.I. inshore fishers are entitled to the same protection as that enjoyed by fishers from Quebec, Magdalen Islands, N.S. and N.B.
- Tuna has all but disappeared in the Gulf of Maine and the Gulf of Mexico and Tuna fishers from these areas are taking the herring seiners to court over the depletion of herring stock in these areas.
- Inshore fishers are not interested in more quota. They are on record as recommending that the seiners' quota be left in the water as a conservation measure. This is a dispute over conservation, not quota.
- Trust in DFO's management and science is minimal. Other fisheries have collapsed. An example is the depletion of redfish in the Gulf because of poor management and corporate control of these fishers.
- DFO decisions are based on politics, not conservation. There are conflicts of interest in other parties that compromise their interest in conservation. For instance, the Government of N.B. is owed money by the owners of the five vessels who purchased the vessels from the Government and have outstanding loans to be paid off from their catches.

**DOCUMENT PRESENTED:**

**PROLOGUE**

We speak of this today, not to re-open the sorriest chapter in the history of the fishery of Prince Edward Island, but to make the point as forcefully as we can, that the protests of the Island's inshore fishermen against the depredations of the New Brunswick seiner fleet on their traditional fishing grounds, are no idle acts.

These are the acts of desperate men acting in response to an unthinking government and an unresponsive bureaucracy, because they have no other option available to them and their families in defence of their livelihood.

Government and the DFO bureaucracy will bear full responsibility for whatever deeds result should they dismiss the fishermen's demands out of hand.

#### **CONTEXT**

The conflict over herring catches on the shores of Prince Edward Island is one of thousands happening all over the world as technology based over-fishing denudes the ocean of fish.

Scientists Worm and Myers have documented the emptying of the seas worldwide. So has an international group of scientists headed by Daniel Pauly.

Richard Ellis says in his book "The Empty Ocean"... "It's an incipient disaster."

All point to the same essential reason - over fishing by technologically advanced industrial fishing fleets operating on industrial values of depletion without sustainability - what the industry terms "biomass extraction".

More than seventy percent of fish stocks in the world's oceans are now considered by scientists in the field, to be fully exploited, over fished or already collapsed.

They point to "the enduring economic (and social) costs of mismanaging marine resources."

Industrial fishing is always identified as the major culprit in the emptying of the seas. Apart from the advanced technology, which makes it easier to locate fish in the water, the industrial fishery is a non-selective fishery. It is indiscriminate in what it gobbles up in its huge nets. The by catch of undersize catch and/or species without immediate commercial value is destroyed by the fishing methodology. It is inherent in the nature of the methodology. Industrial fishing does not respect ocean habitat. It turns ocean bottom into underwater desert, devoid of almost all animal or plant life.

Thus the cod fishery, one of the most prolific known to mankind, sustained by selective fishing over five centuries, was obliterated in two generations by industrial fishing.

Worms and Myers assert..." Industrialized fisheries typically reduce community biomass by 80 per cent within fifteen years of exploitation.

It is to prevent a disaster such as this, that inshore fishermen on Prince Edward Island, will put their lives on the line to save the herring stock for future generations.

"The solution is simple", say Worms and Myers, "The question is - how do you get there."

#### **CLUPEA HARENGUS**

The Atlantic Herring ranges from Labrador and Greenland to North Carolina. The fish spawns both spring and fall, returning to the same piece of rocky bottom each season much as Atlantic Salmon return to the same river each year.

These spawning schools are called "Homing Stocks" by fishermen. Females lay their eggs amongst the rocks and gravel on the ocean floor, the same sort of bottom favoured by lobsters. The males release a covering of sperm to fertilize the eggs. Fall spawners can release up to 200,000 eggs. The resulting larvae are preyed upon by other fish and lobsters.

Sexual maturity varies between three and seven years of age.

The most important aspect of herring behaviour is that they return to the same spawning grounds each year - fish out a local stock and it can never re-generate itself.

That is the inshore fishermen's greatest fear with respect to the industrial fishing practices of the New Brunswick seiner fleet.

#### **HISTORY**

Those who do not remember history are condemned to repeat it - so goes the old aphorism. The history of the operation of seiners in the Gulf of St Lawrence and elsewhere affords no cause for comfort.

The seiners wiped out the herring in British Columbia waters, and then came to these eastern shores, where they did exactly the same thing, wherever they found the herring.

Chedabucto Bay was once filled with herring, whales and tuna were there in great numbers as they pursued their favourite meal. So were groundfish.

No more.

The last herring was unloaded in Canso half dozen years ago.

Now there are no whales in Chedabucto Bay. No tuna. No sea birds squawking for scraps. Nothing but emptiness.

#### **CONSERVATION**

There is agreement from all who recommend greater conservation measures as a means of preserving what is left in the oceans, that true conservation will occur only if control of local stocks is in the hands of local people.

It is they, and not offshore corporate owners and shareholders, who have the greatest stake in the herring fishery of the Gulf of St. Lawrence.

It is they who have the greatest interest in preserving a sustainable fishery for future generations.

It is difficult to take Department of Fisheries bureaucrats seriously when they preach conservation, given their track record at basing conservation measures on their version of "science".

As one speaker observed recently, DFO's decisions are based on 6 percent protein and 94 percent politics.

For instance, find the logic in the DFO decision limiting seiners fishing the Bay of Chaleur to 50% of their allowable catch from those waters; then sending them to the inshore waters of PEI to chase remnants of the same stock DFO says is migrating from the Bay of Chaleur to winter grounds off Cape Breton.

*It is not just the herring stocks that are placed in jeopardy - the seiners are given permission by DFO to fish on the most productive lobster bottom in the Gulf.*

The seiners were built to fish in 100 fathoms of water - not one hundred feet. In the shallow waters of PEI, the huge purse seine bounces along the bottom, aided by modern technology, destroying lobster habitat, and scooping up lobsters.

The seiners cover 4 or five acres of ocean in one set; five of them making least six sets per day. That amounts to 120 acres of ocean in shallow waters with a tiny mesh size that scoops up everything... including undersized herring. There is no escape for any part of a school of herring when seiners operate along the bottom in shallow water.

That is what happens day after day on the PEI shore when the seiners come to our traditional fishing grounds.

It is this style of fishing permitted by DFO on our lobster grounds that makes DFO protestations of conservation ring hollow.

#### **FISHING THE HERRING**

The methods used by the seiner fleet and those employed by the inshore fishermen, are radically different, especially in the effect they have on the herring stock and the habitat on the ocean bottom.

The seiners method is non selective with respect to species and size. The mesh is tiny... about a quarter of an inch. When they fish in shallow water the purse seine drags along the bottom. Fish cannot escape. The entire school, fish of every age class, is gobbled up in one set - up to 200,00 pounds of fish.

Inevitably, smaller fish are smashed together as the purse seine is pulled to the surface. There is tremendous wastage.

The inshore fishermen use gill nets with netting mesh of two and five eighths inches or two and a quarter inches, depending on whether it is a spring or fall fishery. That lets the smaller fish through unscathed.; and there is no chance of habitat damage.

#### **THE "QUEEN OF THE SEA"**

The herring (along with the capelin) is the most important fish in the food chain of the sea. Apart from its intrinsic value as a food fish for humans, the herring is a food fish for assorted ground fish and the larger pelagic species, notably Giant Bluefin Tuna. The herring is the most important bait fish used in lobster and tuna fishing in the Gulf of St Lawrence.

Some lobster and tuna fishermen set their own nets to provide themselves with bait. Others purchase it from fish buyers supplied by herring fishermen.

But since the seiners resumed their depredations on home stocks along the PEI north shore four years ago - the supply of herring to use as bait for lobsters and tuna has steadily diminished.

It is clear to our inshore fishermen that the seiners are placing both these extremely valuable fisheries in jeopardy.

It is clear as well that the operation of herring seiners on inshore lobster grounds is incompatible with the traditional rights and practices of inshore fishermen, and inimical to conservation of the herring stock.

#### **NO BAIT**

The seiners came onto the PEI shore four years ago. Since then, fishermen have noticed a new phenomenon - a shortage of herring bait because of a shortage of fish in the water.

Nobody - from East Point westward - is catching any amount of herring. A shortage of bait for lobster and tuna fishing has developed on the Prince Edward Island shore, just as it has in every other spawning ground around the Gulf of St. Lawrence where the seiners have intruded and cleaned out the home stock.

The evidence is not simply anecdotal. It is irrefutable.

The history is overwhelming: the conclusion incontrovertible.

When the seiners corner the herring in shallow waters, the stock disappears.

#### **THE GOVERNMENT AND THE DFO**

The fishermen's struggle to preserve an inshore fishery and maintain the communities that form our coastal and society, is not a new one. It goes back to the days of Romeo LeBlanc as Minister of Fisheries, and beyond.

Government policies, supported by DFO "science", has promoted the wholesale pillaging of almost every species of fish in the northern ocean, in pursuit of industrial values of "efficiency and productivity", rather than selectivity and conservation.

Technology in the pursuit of unjust ends is the ultimate weapon against nature.

Government has supported, encouraged and financed the rise of industrial fishing in a deliberate policy to destroy the inshore fishery.

Now, industrial fishing has become an outmoded and discredited model.

Now, government must preside over the demise of industrial fishing in favour of a sustainable fishery before the destructive values of industrialism make the whole matter moot.

#### **DFO "SCIENCE"**

What passes for DFO "science" is not science at all, and has no credibility with fishermen. It is under-funded and incomplete.

Rather than explain "why" things happen the way they do - DFO tries to count fish swimming in the water by haphazard sampling it then turns into guesstimates.

At the recent convention of the Prince Edward Island Fishermen's Association, a DFO official admitted that DFO scientists had no way of confirming whether conservation measures enacted under regulations, had any positive effect on the survival of fish stocks - because there were too many uncontrollable factors.

Surely, the essence of the scientific method is the necessity to screen out other factors in the pursuit of a causal relationship.

At the same time, DFO "scientists" refuse to accept what they contemptuously term "anecdotal" evidence from the people most affected - the fishermen.

In fact, DFO turns away from "experiential" evidence, the collective witness of men and women with thousands of years on the water.

"After all", the fishermen say, "we're the ones out on the water every day."

It is difficult to imagine a legal system which would bar first hand evidence from witnesses to a crime.

Fishermen do not accept the veracity of DFO "science". The track record does not instill confidence in its accuracy or its ability to forecast a fish stock.

Fishermen call it "voodoo science". They are convinced their industry is in trouble because in the past they naively believed DFO bureaucrats and the politicians.

Most importantly, they believe DFO "science" has been used as a cover for purely political decisions about the fishery, and has nothing to do with conservation.

Fishermen are determined to take control of their own future.

#### **SAVING THE HERRING FISHERY**

The Coalition of Island Fishing Families is convinced that the presence of the New Brunswick Herring Fleet poses a clear and present danger to the future of the herring fishery in Prince Edward Island waters.

The Coalition believes the seiner fishery is a destructive and outmoded model of industrial fishing based on values that are an anathema to conservation of fish stocks.

The Coalition makes common cause with inshore fishermen in Nova Scotia and New Brunswick in the conviction that seiners and inshore fishermen cannot share the same fishing grounds; that the methods of the seiners are inimical to the interests of inshore fishermen; that mid water and offshore vessels should fish those depths for which they were designed, leaving inshore waters to inshore fishermen.

The Coalition notes that the seiners are unwelcome in every port in the Gulf of St Lawrence, and can land fish only under court injunction.

The Coalition believes it unthinkable that a Canadian government would support a fishery that can only be carried on with the RCMP Riot Squad in reserve; replete with attack dogs, stun guns, shotguns and tear gas to use on fishermen defending their livelihood and their traditional rights.

Therefore; the Coalition of Island Fishing Families recommends the following options to the Minister of Fisheries:

1. Remove the seiners from Gulf of St Lawrence waters before they fish out the herring stock and remove themselves for lack of fish; or,
2. provide to the inshore fishermen of PEI, the same level of exclusion protection as that provided to the fishermen of the Magdalene Islands; or
3. as an absolute minimum, move the exclusion zone out to the 25 fathom line where it was placed prior to 1983;  
and as well:
  - a. Make the 4vn quota non-transferable to Gulf waters;
  - b. Mmake any portion of the spring quota non transferable
  - c. Provide sufficient funding for scientific assessment the biomasses in the Gulf;
  - d. Until that research is done - operate on the precautionary principle.



**POSTSCRIPT**

The Coalition of Inshore Fishing Families sincerely appreciates this opportunity to make its case for conservation of herring stocks to M. Surette.

It is a matter of vital importance to all inshore fishermen on Prince Edward Island. As was demonstrated last autumn, PEI fishermen will no longer meekly accept the dictates of the Department of Fisheries when they run counter to observed experience and old fashioned common sense.

That is especially so when DFO officials admit their "science" is suspect and without the necessary controls to justify the term - science.

A meeting held last fall to discuss the herring issue brought more than one thousand fishermen together, the largest meeting of fishermen ever held on Prince Edward Island. Fishermen from New Brunswick and Nova Scotia joined their PEI brethren on the wharf in Souris and Magdalene islanders voiced their support as well.

There is solidarity amongst inshore fishermen of all provinces bordering the Gulf of St Lawrence, in rejecting the destructive nature of industrial fishing with its inherent and endemic anti- conservation values.

It is time the Federal Government and the Department of Fisheries and Oceans heard and acted upon the will of the people who must shoulder the burden of their decisions.

Otherwise, they must bear full responsibility for what follows.

**APPENDIX "A"**

**Last Chance**

We are in a situation where DFO is taking an enormous gamble once again with a Canadian fisheries resource.

Are we to stand idly by and watch it happen?

DFO has paid lip service to the idea of taking our experience and knowledge into account when managing the fishery. It would seem they only want our input when it fits their agenda.

The inshore fishermen told DFO what was happening with the groundfish as much as 20 years in advance of the collapse. In Newfoundland the capelin were managed into oblivion and have not fully recovered to this day.

In the Gulf, Redfish are virtually gone, over fished with government blessing. In my own area, (Souris) herring were reduced to extremely low levels in the 70s by large seiners, with the blessing of DFO. The supposedly inexhaustible supply of Northern Cod was gone four years after we gained control of the stock through the creation of a 200 mile limit.

Virtually every commercial species pursued by large mobile gear boats (seiners and draggers) have been, or are being wiped out.

We have a chance here to do something to protect the stocks, if it isn't already too late.

We believe there are numerous small local stocks that return year after year to reproduce. Our fishing experience and first hand observation leads us to this conclusion.

The local stocks of herring were at low levels for many years after the seiners left. With their return, we now see tuna back in our area. The lobster fishery is making gains, and even the cod are in relative abundance again.

Inshore fishermen are already reporting a dramatic drop in the numbers of herring in our waters. We must take a precautionary approach to managing our fishery. We must not allow DFO to lead us down the wrong path as they have done so many times in the past.

Kevin Robertson, Inshore Fisherman

**Gulf of Nova Scotia Herring Federation - January 27, 2004**

**PARTICIPANTS:**

Greg Egilsson, Chairman  
Dave Crawford, Gulf of N.S. Bonifide  
Jackie Johnson, Northumberland Fishermen's Association  
Clarence Duggan, Cumberland North Fishermen's Association  
Ronnie Heighton, President, Northumberland Fishermen's Association  
Bryce Thomson, MFU local 4  
Wayne MacLellan, Inverness South Fishermen's Association  
Paul Logan, North Nova Seafoods

**SUMMARY OF DISCUSSIONS:**

The Federation includes approximately 430 herring licenses of which approximately 150 were active this year. These licenses are fished primarily in the fall, and mostly for herring roe.

Fishers from the Federation fish in zone 16F and were allocated 16.31% of the inshore quota this year, down from 20.8% in previous years.

**THREE MAIN POINTS WERE PRESENTED BY THE FEDERATION:**

1. The East Point / Sight Point line must be maintained so as to exclude fishing vessels larger than 45 feet from the inshore fishing zone.
2. The Federation can live with the 4200 mt seiner allocation in 4Vn, but no more. Since DFO does not know the percentage of mixing amongst the various herring components, fishing effort of more than 4200 mt could have a negative effect on certain components. Because herring return to original spawning grounds, it is possible that a large percentage of the 4200 mt might be taken from the same component. More than 4200 mt harvested from one component could seriously affect the component, especially if the component is small.
3. The Federation would like answers as to what component the seiners are fishing off of North Lake in October, where do these herring come from and where do they go. It is also important to know the size of this component in order to know the effect of seiner activity on this component.

**OTHER POINTS:**

- a. There are presently no limits regarding seiner activity per component. With their harvesting capacity, seiners have the potential to destroy an entire component. If seiners could diversify effort on different herring components, there would be less of an issue regarding seiner activity.
- b. The inshore fleet is willing to buy seiners out as an option to resolve the problem of the large seiner fishery in the southern Gulf of St, Lawrence.

- c. The Federation has been collecting data by acoustic for seven years. To date, this information has not been compiled and is not seriously considered by DFO. Some decisions are based on politics, not on science.
- d. There continues to be a debate between inshore fishers and seiners regarding "local stock".
- e. Fishers from the Federation are only entitled to fish within a restricted "box". If no herring migrate to this "box", then Federation fishers will not catch any fish as they are not entitled to fish outside this box. A cap of 50% was imposed on the seiner activity in the Bay of Chaleur. If the P.E.I. fishers manage to further restrict seiner activity in the vicinity of P.E.I., will the seiners move even closer to 16F?
- f. The last meeting of the Small Pelagics Committee went fairly well compared to the shouting matches during previous meetings. Topics were discussed in a reasonable manner because it was announced at the beginning of the meeting that a facilitator had been appointed to look into gear conflict, hence this was not discussed at the meeting.
- g. If this conflict could be resolved, then fishers could focus their effort on fish quality, yield, markets, science, etc.
- h. With the decline of catches in the lobster fishery, fishers are now more dependent on the herring fishery.

Some opinions are those of members of the Federation and not necessarily those of the Federation.

## GENERAL CONCERNS AND ISSUES, AND OPTIONS

*A. This section summarizes the positions and options presented by the various parties. Careful consideration should be given to this section in preparation for future decision making.*

### MFU:

- Move the seiners further offshore, at 20 fathoms and beyond. The inshore fishers want the seiners to fish outside of the Miscou bank (see Appendix D - MFU Proposed Closure of Miscou Bank, page 75) and farther out than 20 fathoms in depth. In addition, they would like to push the seiner season back to early October, as had been the case earlier.
- No magic solution, but ready to continue discussions.

### NB Department of Agriculture, Fisheries and Aquaculture:

- Fishers given a mandate to fish should be able to exercise this privilege. Serious action should be taken by law enforcement agencies, if necessary, in order to allow fishers to fish without disruption.
- As for the demarcation line in PEI, it should not be in effect in the fall because there is no spawning during that period, no fishing by the inshore fishers, and no disruption of fish habitat.
- Limiting the seiners to 16 fathoms could be a viable option for all parties.

### Association des seiners du Golfe (ASG):

- Cannot sit at the same table as the PEIFA or the MFU as the only compromise remaining is to withdraw completely from the fishery, and that is their goal.
- There has to be a strong message from the Government of Canada to inshore fishers of the seiners' legal right to fish.

### Fédération régionale acadienne des pêcheurs professionnels inc. (FRAPP):

- In 2002, we agreed that the line north of PEI was not suitable and reached an agreement that pushed the exclusion line to 17 fathoms, on average, and under which the Vessel Monitoring System would be installed at the expense of the Department of Fisheries and Oceans, so that PEI fishers could verify the fishing positions of the seiners and simultaneously check if the line agreed upon was being respected. In our opinion, this agreement worked well, and everything seemed to indicate that the 2002 agreement was going to satisfy both parties.

### Skipper and crew members of the Stevianne:

- We acquired our fishing licence by legal means and we should have the right to fish like any other licensee.

**General Concerns and Issues, and Options:** Summary of the positions and options presented by various parties

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Association des pêcheurs professionnels membres d'équipage (APPME):

**RESOLUTION OF THE CONFLICT**

The Department of Fisheries and Oceans must begin by confirming if it intends to manage this fishery. If that is its intention, DFO can use the following means:

- The Department must not tolerate any intervention by fishers against other fishers, and all interventions must be via the Department.
- The Department must inform all fishers that any fisher with a fishing licence issued by DFO will have that licence taken away if he prevents and/or hinders another fisher from exercising his right to fish, and/or, does not prevent his crew from doing so.
- The Department must clearly inform all fishers' organizations and associations that demonstrations by their members will have repercussions on the quota allocations they receive as a means of financial support.
- A large scale public information campaign needs to be carried out, especially among the population of Prince Edward Island, to tell them the truth about the herring fishery.
- The Department must cease stopping the seiners from fishing simply because the inshore fishers have made accusations. The Department should review the inshore fishers' accusations and verify their reasons for making them before siding with them and disrupting our work (There are only 5 seiners and they all have black boxes).
- If the Department agrees with the inshore fishers' arguments, it should say so clearly and retire us honestly from the fishery, with sufficient compensation to enable us to rebuild our lives.

NB Fish Packers Association:

- Everyone rights should be respected. (They process fish from both fleets.)
- We believe that some basic rules must be respected by everyone:
  1. Each party's quota (an entire industry depends on it).
  2. Each individual/fisher has the right to fish were the resource is.
  3. Processors have a right to process the fish delivered to them at the plant, regardless of the finished product.
  4. There are no barriers to transportation, fishing and purchases of the product in the Maritimes. It has to stay that way.

PEI Department of Agriculture, Fisheries, Aquaculture and Forestry:

- To have the restriction line of 1983 reinstated along with a year round closure.
- In March 2003, DFO called a meeting with PEI herring fishermen to revisit this issue. Along with the 2002, 17 fathom protected area, (as the original 1983 protected area was not on the table according to DFO Officials) PEI fisher representatives asked for a seiner quota cap of 50% of herring caught in PEI inshore waters. It appears this request was misinterpreted as 50% of the total seiner quota and not the remaining quota that was to be taken outside the Bay of Chaleur (50% of 50%) as was the intent.

**General Concerns and Issues, and Options:** Summary of the positions and options presented by various parties

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PEIFA:

- Preference is to have the large purse seiners excluded entirely from the southern Gulf of St. Lawrence.

If this cannot be implemented immediately then the following measures should be implemented:

- The exclusion line in effect in 1983, changed by DFO in 1984 through an administrative error, should be rectified immediately. In addition to this a modified line to protect the inshore grounds off the north coast of PEI should be established, as presented on the attached chart (see Appendix E - PEIFA'S Proposed Closure on the North Coast of P.E.I, page 76).
- A cap for the seiners allowable catch off the north coast of PEI should be set at a maximum of 25% of their overall quota, with an overall daily limit established.
- The dockside monitoring of the seiner catches be improved. Sampling from the holds should be a minimum of 3 dips from each hold, at the top, middle and bottom. DFO must increase checks of the sampling done by the monitoring firm to ensure compliance with the undersize fish protocol and required regulations.
- In addition to the vessel monitoring system now in place, on board observer coverage needs to be improved. There should be a minimum of at least one observer on board the vessels during fishing operations. Observers should be particularly instructed to ensure that protocols for undersize fish are being followed and that small fish are not incurring high mortalities and being dumped in a wholesale manner. These conditions should be in place before the seiners are allowed to fish at all.
- Increased scientific effort needs to be directed to this area. The status of the stocks needs to be scientifically studied more intensely to determine to what extent the local spawning stock is mixing with the seiner catches and how these stocks are being impacted by the concentrated fishing effort of the seiners.

Coalition of Inshore Fishing Families:

1. Remove the seiners from Gulf of St Lawrence waters before they fish out the herring stock and remove themselves for lack of fish; or,
2. provide to the inshore fishermen of PEI, the same level of exclusion protection as that provided to the fishermen of the Magdalene Islands; or,
3. as an absolute minimum, move the exclusion zone out to the 25 fathom line
4. where it was placed prior to 1983;  
and as well:
  1. make the 4vn quota non-transferable to Gulf waters;
  2. make any portion of the spring quota non transferable
  3. provide sufficient funding for scientific assessment the biomasses in the Gulf;
  4. until that research is done - operate on the precautionary principle.

**General Concerns and Issues, and Options:** Summary of the positions and options presented by various parties

---

Gulf of Nova Scotia Herring Federation:

- The East Point / Sight Point line must be maintained so as to exclude fishing vessels larger than 45 feet from the inshore fishing zone.
- The Federation can live with the 4200 mt seiner allocation in 4Vn, but no more.



*B. The following is the facilitator's analysis of what appears to be key and common issues raised during the consultations.*

### **ISSUE: EXCLUSION ZONES**

Exclusion zones and boundary lines clearly emerge as the most divisive issue, with the seiners declaring boundary lines unnecessary because of the numerous measures, including closed periods, imposed on seiner activity by DFO, and the inshore fishers adamant of the importance of exclusion zones for fear of the negative impact of the seiner fishery on local stocks, herring biomass, fish habitat, lobster by-catch, as well as its potential effect on other fish species in the food chain. Confusion exists as per the rationale of exclusion zones, with the inshore fleet maintaining local stock protection as the primary reason, while seiners say the zones and lines were originally introduced to avoid conflicts between gear types.

It was a challenge to locate early documents on the herring fishery. Prior to the establishment of the "regulatory impact analysis statement (RIAS)" in 1988 which formally documents regulatory changes, it is much more challenging to find documented reasons for regulatory reform prior to this date. Furthermore, it is my understanding that the archives of some documents in Halifax were destroyed by fire in the 1980's. However, some documents were located. Considerable effort was directed into searching for documents to explain what some reference as the "administrative errors" of the 1978 to 1984 closure periods and boundary line north of P.E.I. During the timeframe of this process, no direct references to the change in the time closure from August 15-September 15 to year round in 1983 and to the change in the boundary line in 1984 were found.

However, some documents were located referencing the rationale for some restriction zones. A 1971 document entitled "A Review of Management Strategy for Canadian Atlantic Herring Fisheries" written by the Co-ordinator, Atlantic Herring Programme was obtained. Under the heading "*Protection of spawning grounds*", it makes reference to fishing measures disturbing the bottom and destroying deposited spawn and animals and plants in the spawning area. It further states that "*these factors are particularly important for shallow water inshore grounds, such as occur in the Gulf of St. Lawrence and protection of these grounds by closure to moveable gear would represent sound management policy. The use of fixed gears, such as gill nets do not result in damage of this kind to anything like the same degree, but an unlimited increase in the use of gill nets on spawning grounds is also to be avoided.*"

## **General Concerns and Issues, and Options:** Facilitator's analysis of what appears to be key and common issues

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The minutes of the first meeting of the Canadian Atlantic Herring Management Committee and Advisors of June 28, 1972 also make reference to this subject and include a section entitled "*Closing of spawning areas in the Gulf of St. Lawrence*". Here again it makes reference to "*a serious problem created in destroying spawn on the bottom of shallow spawning areas*" and that "*severe physical and biological damage can be done to the herring spawn in these shallow waters by moveable gear, and these areas should be protected from such gear during spawning periods.*" There is also a recommendation in this section which reads "*known spawning areas in the Gulf of St. Lawrence be closed to moveable gear during the spawning periods. The herring biologists are to define the areas to be closed, and the duration of the closure. There is no need to prohibit the use of fixed gear in these areas*". It also makes reference in this section that "*the seining of herring in the Trinity and Lurcher area does not interfere with the spawn on the bottom because of the depth of the water. This same condition does not exist, however, in the Gulf of St. Lawrence, where herring spawn in much shallower areas*".

A section of another document of this year again makes reference to "*the use of gears such as gill-nets is not as damaging biologically, produces a more valuable product and, unless conducted on a very much greater scale than it has in the past, should not be prevented and restricted.*"

It must be noted that these references must be placed in the context of the herring fishery in the early 1970's where many circumstances have changed including the quota percentage between the seiner and gillnet fishers. However, the point which may be of interest is the continued reference to disturbing the deposited spawn. These recorded notes suggest that exclusion zones would have been established in order to answer to this concern. Hence, restriction zones were established during the spawning periods and not year round.

Another document, the minutes of the August 24, 1979 Herring Working Group – Gulf of St. Lawrence, makes reference to "*purse seiner activity around Souris, PEI*". It reads "*the demarcation lines to create an inshore fishery in Northumberland Strait are being finalized to include Eel River to North Point and East Point to Sight Point*". It also says that "*there is no herring fishing gear conflict*" and that this area "*could be reserved for smaller purse seiners that have less mobility (some say no discrimination by size)*". A further 1980 memo states that "*the inshore fishermen of PEI who are interested in purse seining, are very upset at their inability to participate in the herring fishery in the Gulf. They have expressed their concern at meetings during 1979.*"

Three exclusion zones were often mentioned during the consultations with reference to the debate over the exclusion zone in the vicinity of P.E.I. An effort was directed into finding documents that would identify the rationale behind these specific zones in order to explore the possibility of a common rationale. The following comments are based on documented reports and discussions with DFO personnel regarding 4Vn (Eastern Cape Breton), the Magdalen Islands and Baie des Chaleurs. What follows is a summary of information found with respect to the exclusion zones.

**General Concerns and Issues, and Options:** Facilitator's analysis of what appears to be key and common issues

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4Vn:

An August 1, 1986 DFO News Release entitled "1986 Gulf (4TVn) Fall Herring Plan Announced" states that *"it was established after consultations with representatives of fishermen, producers and provincial governments, and provides a quota of 27,500t for the inshore fishery in Division 4T and a quota of 8,675t for the midshore purse seine fishery. The purse seine quota includes an 1,800t allocation which was guaranteed in the 1986 spring management plan. A quota of 4,200t is also being provided for the midshore purse seiners in Division 4Vn west of Point Aconi"*.

Later, the DFO Maritimes Regional Status Report 97/1 E entitled Decision Rules for Managing Overwintering Fisheries explains the rationale for the restrictions imposed on seiner activity in 4Vn. Based on available science, decision rules were established of which "Decision Rule 4" refers to the "fishing area" and states, *"restrict fishing to area of 4T winter distribution, position of boundary to be determined among science, management, and industry."*

Magdalen Islands:

DFO documents indicate that the inshore fishers from the Magdalen Islands requested a revision of the boundary lines of the exclusion zone of the large seiners in the vicinity of the Magdalen Islands. At the February 16, 1995 Gulf Small Pelagics Advisory Committee meeting, point 10 of the recorded summary of this meeting refers to this subject. It reads as follows: *"Closed area around the Magdalen Islands. Inshore fishers are concerned that the large seiners have access to herring spawning bed around the Island, just outside the current closed area. The large seiners sat that they do not fish at the location identified by Quebec fishers and therefore, they do not see the need to enlarge the current box. Later in the meeting, the large seiners confirm to the participants that, as a gesture of goodwill, they are in agreement with the revised box proposed by the Magdalen Islands"*. Point 7 of a June 1, 1995 News Release from DFO announces that *"the large seiner fleet has accepted an enlarged closed area around the Magdalen Islands as advocated by the inshore fishers for the past three years. A variation order has been issued to that effect."* However, no documents were located making reference to the closure period.

Baie des Chaleurs:

A 1996 internal document makes reference to a "*conflict in the Baie des Chaleurs between the inshore fishers and the large seiners*". It further states that "*in addition to the opening date of the large seiner fishery, inshore fishers have expressed serious concerns over the concentration of efforts in the Baie des Chaleurs and the small fish caught by the large seiners. The inshore fishers are advocating that the large seiners should be subject to the following: a fall fishery after the inshore roe fishery; the fall large seiner quota to be caught outside the Baie des Chaleurs and off the coast of Rivière-au-Renard; minimum fish size of 28cm fork length; purse seine fishing gear only (the large seiners should not be authorized to fish herring with mid-water trawl). For their part, the large seiners are asking the following: a year round fishery; a fall season starting on June 16 instead of July 1st; the use of a mid-water trawl by three seiners; closure of the Baie des Chaleurs for the first three weeks of August; assurances that uncaught quota in 4T be added to the 4,200t 4Vn quota*". It appears that no news release announcing DFO's decision was made public in 1996.

The following year however, in April 1997, the 1997-1998 Herring Management Plan for Area 16 was made public, and under the heading "large seiner fishery measures", it reads "*a cap of 5,734t (50% of their 4TVn fall quota of 11,468t) in the Baie des Chaleurs is maintained. This cap is imposed until DFO has a better understanding of the stock abundance in that area*". The next sentence reads "*a cap of 3,634t (up to 50% of their 4T quota) is maintained for the months of July and August because of the high incidence of spring spawners during that period*".

In discussion with DFO personnel, they further explain that the 50% cap in Baie des Chaleurs was introduced as a conservation measure in 1996 to prevent over concentration of effort by the seiners in that area and to protect the herring spawning components of the Baie des Chaleurs. The context in 1996 was a declining 4T herring stock. The rationale for this decision was based on the following elements: most herring found in that area are believed to be spawners from that area (mixing with other spawning components increases while herring exit the Gulf); the size of the fall spawners' component in the Baie des Chaleurs is estimated to be at least 50% of the total 4T fall spawners stock and the fall inshore fishery on spawners of Baie des Chaleurs is limited at approximately 50% of the total fall inshore quota while the rest of the inshore fishery is prosecuted in other areas and spawning components of the southern Gulf. Since 1996 the fall spawning component of the 4T herring stock has improved and spawning biomass has almost doubled in the fall. However, the spring spawning biomass has declined from a peak of 120,000t in 1995 to 51,000t in 2003.

Furthermore, DFO explained that the overall management strategy for the Southern Gulf herring fishery is to spread the fishing effort over all the major local spawning populations, and in this sense, the large purse seiner fishery off PEI is consistent with this approach. A cap in PEI is not necessary because the herring stock in this area is believed to be a mixture of spawners from different areas throughout the southern Gulf. The acoustic survey biomass on the north coast of PEI for 2003 has been estimated at 180,000t. This was approximately one week before the arrival of the large seiners on the fishing grounds of PEI.

## **General Concerns and Issues, and Options:** Facilitator's analysis of what appears to be key and common issues

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Several consultations made reference to the 50% cap in the Baie des Chaleurs and the research that was supposed to be done. DFO provided an answer to this matter in a letter dated December 11, 2003 to the Director of Fisheries and Aquaculture in P.E.I. The letter explains that "*while there is no new information that would suggest changing this 50% rule, the work started in the mid-1990's to understand local stock abundance has been continued with existing personnel and resources. Fishermen organizations and provincial governments have contributed substantially to projects using scientific sounders on fishing vessels in that regard. Some work has been published (i.e. Claytor and Allard 2001) but there is more work to be done to determine the applicability of the technique on a wider scale*". (Other published studies on this matter identified by DFO personnel were Claytor et al (1998b), Claytor and Clay (2000) and Smith et al, Symposium proceedings: Spatial Analysis of fisheries data, 17<sup>th</sup> Lowell Wakefield Conference.)

Much of the decisions regarding restriction zones are not well documented, but the above information provides some facts. Except for the extension of the restriction zone around the Magdalen Islands in 1996 and the introduction of the Northumberland Strait restriction zone, "science" seems to play the key role in justifying restriction zones in all other areas. For the Magdalen Islands, it appears that this was an agreement between the two fleets, and hence agreed to and implemented by DFO. As for the Northumberland Strait closure, it appears that the demarcation line to create an inshore fishery in this area was discussed during the August 24, 1979 meeting of the Gulf of St. Lawrence Herring Working Group. Consequently, all vessels more than 15.2m (50 feet) are not allowed to fish any species of fish in those waters (section 109 and schedule VIII, item 8 of the AFR 1985).

### OPTIONS:

- Move forward with a long term management plan similar to the 2002 agreement. If this approach is chosen, special emphasis and commitment must be given to address other key concerns and issues as raised and documented in this report, to assure all that conservation and sustainability is central to all decisions.
- Or, now that the positions, concerns and issues of the parties consulted have been documented and have been validated by the parties, and that some analysis of these issues has been done based on available documents and the restricted timeframe, a phase two "mediation" process may move this conflict to a long term solution.

### ISSUE: SCIENCE

More science and improved mechanisms for communicating and discussing science were suggested by some as potential solutions to this dispute. However, it must be recognized that with science, certain scientific studies require years of work in order to arrive to conclusions.

## **General Concerns and Issues, and Options:** Facilitator's analysis of what appears to be key and common issues

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During this process, I managed to obtain a number of research papers and documented data regarding the herring fishery in the southern Gulf of St. Lawrence as well as other information on related subjects. There appears to be a considerable amount of information available, however some information is inconclusive and there exist gaps in some research. These gaps and inconclusive studies fuel debate, disputes and conflict between herring fleets and parties involved. However, another factor which must be addressed with respect to science is the "pick and choose" approach by the parties. With respect to the conflict between the gear sectors, it is evident that the parties pick and choose the "science" that supports their positions and disregard the information that does not support their cause.

Processes and mechanisms to discuss science in a reasonable and controlled manner would be very valuable to the industry as a whole. An open forum amongst the parties involved and a collaborative effort is necessary in order to move this issue forward. This would certainly be of benefit to the herring industry. As well, some mentioned moving forward with joint research studies shared by industry and governments.

A comment was made during the consultations of how this past Gulf Small Pelagics Advisory Committee (December 10, 2003) meeting was more fruitful than previous meetings which included "shouting matches". Because of the appointment of a facilitator to explore gear type conflicts, other business was able to be discussed in an appropriate manner.

### OPTIONS:

- The Gulf Small Pelagics Advisory Committee may be one potential forum to constructively discuss science. Restructured with more workshop-type time allocated to these meetings may provide a forum to present scientific knowledge and scientific uncertainties, as well as a means to discuss research strategies and orientations.
- Establishing controlled Round Table and/or Sectorial Table formats as is the case with the fish quality pilot project in Shippagan may be another possibility to discuss isolated subjects pertinent to the herring fishery in the Gulf.
- Another process which could be explored to discuss pointed topics related to science would be to hold a peer review, or what is referred to as the "Regional Assessment Process" or RAP.

### ISSUE: LOBSTER HABITAT

The possible negative impact of purse seining activity on lobster habitat was a key concern of inshore fishers.

## **General Concerns and Issues, and Options:** Facilitator's analysis of what appears to be key and common issues

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Two reports were referenced to me on this matter. In terms of impact on habitat, of 522 studies conducted on the effect of mobile fishing gear on benthic habitats and documented by Dieter et al. (2003), none focused on the purse seine. Instead, the studies on this topic examined the impact of trawls, dredges and other gear that have regular impact with the substrate. The other report which may merit some attention is entitled "*Shifting gears: assessing collateral impacts of fishing methods in US waters*" by Chuenpagdee, Morgan, Maxwell, Norse and Pauly (2003). This study was based on answers to a questionnaire by a "wide range of fisheries stakeholders". It rated Purse seine as "low impact" and Gillnet as "high impact" with respect to the severity of collateral impacts (by-catch and habitat damage).

Furthermore, data exists within DFO regarding lobster by-catch. As an example, a 2001 document obtained shows that 73 lobsters were caught in 13 trips. In 2001, seiners made 171 trips. DFO officials further explain that as a result of this intensive monitoring, and to respond to concerns of fishers, DFO consulted with both fleets. As a result, a 10 fathom depth restriction in the Baie des Chaleurs and Cape Breton and a 15 fathom restriction along the northwestern coast of PEI were implemented in 2002 through a memorandum of agreement with the large seiners.

### OPTIONS:

- Regardless of the above information, the true resolution to debate may have to be a practical study/observation of the lobster habitats in question. In a discussion with a DFO official on the West Coast of Canada regarding seiner and gillnet activity on the West Coast, he informed me that they send divers down regularly to inspect the ocean floor following fishing activity. They have not observed any negative impact during these dives. Hence, diving may be a cost-effective method of resolving this dispute in the southern Gulf of St. Lawrence. Others suggest the use of underwater video cameras operated from a surface vessel.

## **ISSUE: HERRING MORTALITY**

Herring mortality released from purse seine sets was another key issue raised by some. It would certainly be important for debate resolution if DFO and industry could quantify herring mortality via practical studies.

No studies could be located where this has been examined for herring. A recent study explored the mortality of another pelagic species, *Sardinops sagax*. The study by Mitchell, RW et al. 2002 is entitled "*Does the mortality of released Sardinops sagax increase if rolled over the headline of a purse seine net?*" The mortality of fish taken before the seine was tightly bunted was estimated to be 8 to 20%. The mortality of fish that rolled over the headline was 11 to 55%. The authors concluded that mortality can be reduced by quickly releasing any unwanted catch.

### OPTION:

**General Concerns and Issues, and Options:** Facilitator's analysis of what appears to be key and common issues

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- The possibility of conducting a similar study in the southern Gulf of St. Lawrence with herring would provide a quantified answer to this issue. Others suggest that attention should be afforded to accurate reporting of the herring bait fishery as well as the unaccounted herring mortality from the gillnet fishery.

**ISSUE: MIXING and MIGRATORY PATTERNS**

The debate over the "mixing" of various herring stocks and herring components and herring migration will probably not be as easily resolved as some of the other issues because of the complexity of this issue. However, available research and data, enhanced by further research and data collection would certainly prove beneficial to the Herring industry.

**ISSUE: GHOST FISHING**

During the consultations, one group explained that "when a seine touches the bottom, it only drags against the bottom as it closes; no fishing gear stays on the bottom and continues to fish, as happens with the thousands of inshore gillnets that are left on the fishing grounds each year".

No direct studies exploring this matter in the southern Gulf of St. Lawrence were found. However, two papers on this subject were located. Atlantic Fisheries: Retrieval of lost gillnets and prevention of ghost fishing: Discussion paper (Oct. 5, 1992) makes reference to *"existing evidence suggests that lost gillnets continue to actively fish at a rate of approximately 15% of the commercial rate of capture. This "ghost fishing" phenomenon poses a drastic threat to fish stocks, marine mammals and birds. Consultations with government and industry personnel indicate that approximately 2% or about 8,000 active gillnets are lost annually in the waters of Atlantic Canada. It is conservatively estimated that in 1992 (due to fishing gear lost from 1982 to 1992), 3,600 tonnes of fish valued at some \$3 million will be wasted"*.

Another paper, Phase 1: Prevention of ghost fishing in Atlantic Canada from the Fisheries and Marine Institute of Memorial University of Newfoundland, concludes that *"studies and fishing reports reviewed in this phase of the project clearly confirm that loss of fishing gear is a long-standing hazard experienced by fishers worldwide. There is the added problem that, particularly in the case of gillnets and pots, lost gears continue to ghost fish. The nature of ghost fishing is uncertain. Sometimes it happens quietly over the long term and always it is difficult to assess."*

It may be important to investigate this matter a little more closely for the herring fishery in the southern Gulf of St. Lawrence. Quick calculations based on available DFO data and the statistics in these above reports (if they apply) could mean a considerable number of lost gillnets in the Gulf. (In 2003, there were 515 active spring gillnet herring licences, and data shows that they used between 25 and 30 nets. In the fall of 2003 there were 736 active gillnet licences, and they used an average of 6 to 8 nets. Based on the 2% lost rate as estimated in the above paper, this could indicate a lost of 346 to 427 gillnets?)



### **ISSUE: DFO LEADERSHIP AND CREDIBILITY**

An occurring theme expressed by most during these consultations is the general credibility of the Department of Fisheries and Oceans. The lack of trust in management, enforcement and science appears central to many of the disputes. Indications seem to suggest that these disputes will not be easily resolved until more confidence is gained. More science, and perhaps as important, mechanisms for communicating and discussing scientific research results may be crucial to resolving disputes in the long term relating to the mobile and fixed gear herring fishery.

Also, a belief which seems to be common to most involved in this dispute, is that DFO bows to political pressure, rather than managing the fishery as a function of scientific data and studies. This fuels the belief that in order to get things done, lobbying, protests, and the like, result in many cases to the desired outcome.

The above matter should be given particular attention. However, serious consideration should be given to proper leadership from all parties involved (fishers, provincial governments and DFO) and proper mechanisms for dealing with disagreements and conflicts. It is important to note another point raised during these consultations, and that is of the need of a more formal structure of industry representation in PEI.

### **ISSUE: FISH QUALITY**

Although fish quality was perhaps not seen as a major issue within this conflict, it emerged as an important issue for the industry. Some suggested that this is not to be taken lightly as the herring fishery may soon have to respond to serious market requirements regarding fish quality. If this happens, adaptations in fishing methods as well as offloading, trucking and handling practices will be required. Furthermore, if the gear type conflict could be resolved, then fishers may be able to put their effort and energy discussing value-added, fish quality and optimum use of the herring. Without any extra herring removed from the ocean, fishers and processors could benefit economically from improved yield, fish quality and value-added (by receiving more money for the same amount of herring landed).

As was pointed out during the consultations by some parties, histamine was discovered last fall above the acceptable limit in Gulf of St. Lawrence smoked herring (*clupea harengus*). Without entering into a full discussion of this matter, it remains clear that the industry has to focus effort on fish quality. A visit to the European Commission Website, Rapid Alert System for Food and Feed at "[http://europa.eu.int/comm./food/fs/sfp/ras\\_index\\_en.html](http://europa.eu.int/comm./food/fs/sfp/ras_index_en.html)" (under weeks 41, 44 and 45) will show that smoked herring from Canada received an alert notification.

OPTION:

- As fish quality would benefit all in the industry, close attention should be given to the two year pilot project at the Marine Products R&D Centre Inc. in Shippagan. In my opinion, attention should be given to this project for two reasons; one, the results of the research and development project regarding fish quality and optimum use of the herring, and two, the process being used to involve various parties of this industry (Round Table and Sectorial Table) and whether this structure could be used by the industry to discuss other matters of interest.

### CONCLUSION

During this process, many references were made with respect to the large seiner fishery having endangered the herring stock in the Gulf in the late 1960's and early 1970's. There was also some reference to the same at Trinity Ledge in southwestern Nova Scotia and Fishermen's Bank. It was also expressed that many new measures were implemented since these events, and many felt that this should always be taken into consideration. Some of the measures are: the introduction of the 7 fishing areas in the Gulf, the 80/20 quota allocation, large seiner rationalization, increased effort on science (sampling, acoustic surveys, etc.), the introduction of satellite technology (VMS), small fish protocol, fisheries observers, dockside monitoring, closed areas/weekend closures, etc.

At this point, all groups appear entrenched in their beliefs and positions. The challenge remains in exercising appropriate leadership in decision making and establishing processes and mechanisms to support this decision making.

Finally, I believe all parties are hopeful that this process will result in progressing potential solutions to this dispute. I trust that this document provides a good perspective of points of views of the various parties and that some of this information can be used in the short term and/or the long term to address important issues to the herring fishery in the Gulf of St. Lawrence.

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## APPENDIX A – GILLNET FISHING AND PURSE SEINE FISHING

### Gillnet Fishing

Gillnetting is a harvesting technique employing fine- mono or multi filament netting that are set like a giant badminton net across the path of migrating herring. In the southern Gulf of St-Lawrence herring fishery, monofilament is greatly favoured (but not exclusively used) in the spring. Many fishermen prefer multifilament in the fall since it is stronger and fishing is done at night and in deeper water. In the Southern Gulf of St.-Lawrence, the top edge of the net is held up by floats, and the bottom is pulled down by a heavy lead line forming a wall in the water that entangles fish by their gills or body.

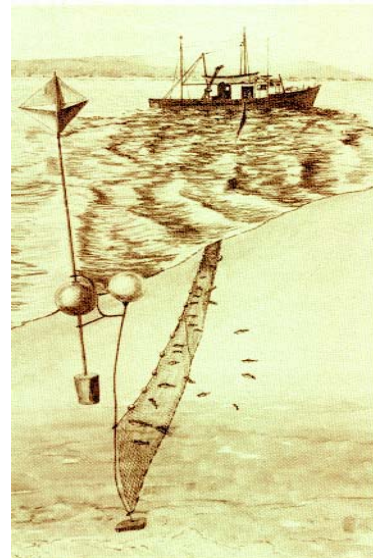


These gillnets are "set" to intercept fish during their normal migrations, either along the shore, on the spawning grounds or as they move in and out of an area. Herring nets are typically fished from the bottom up.

Type of fishing differs between the two seasons in the southern Gulf gillnet herring fishery. In the spring, much of the fishing is in shallow (< 20 feet) water; the nets typically go from the bottom to the surface and most nets are fished by anchoring overnight and

fished the next morning. In the fall, spawning grounds are searched at night using fish sounders and nets are set only when a school of sufficient size is found. Fall fishing is in much deeper water (30 – 80 feet), so the nets are set from the bottom only part ways to the surface. Herring nets in the fall are typically anchored at least at one end. In some areas, fishermen have anchors and pick-up floats at both ends of the nets. Even with the one-anchor arrangement, moves little as the boat drifts down-current and stays held by the net's anchor.

A single "set" may last anywhere from less than an hour to the better part of a night, depending on seasons, currents, the weather, and the number of fish being caught. Usually, in the fall, nets are set just before water (at the end of falling or rising tide), and picked when the tide starts to run heavy again. This is because the tide normally lays the nets down (or at very least, places a great strain on them) and they fish well. Of course, if set with two anchors, the fisherman has no idea if any fish was caught until the net is pulled.



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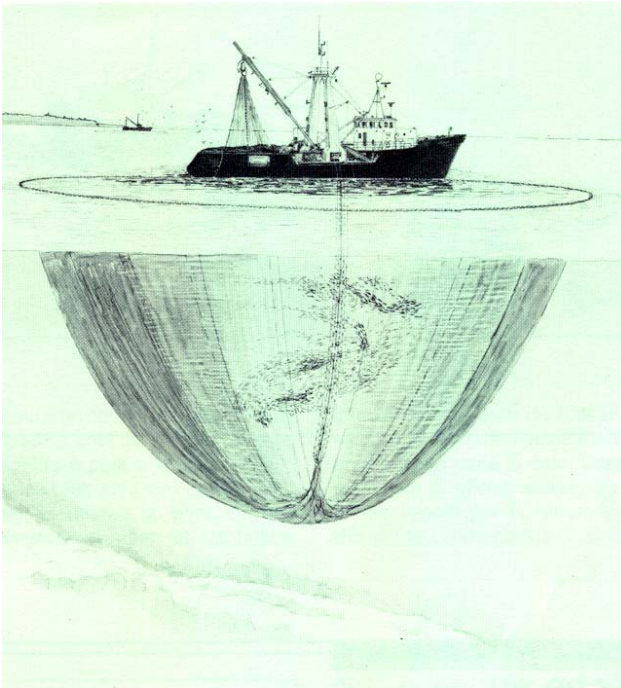
The entangled fish are pulled up and shaken out of the net and then thrown into the hold. If the catch is not sufficient, the net is then reset, and the process begins again.

## Appendix A: Gillnet Fishind and Purse Seine Fishing

The Inshore herring gillnet fleet in the southern Gulf of St. Lawrence is made up of small vessels, generally under 50 feet in length (approx. 1300 of these vessels are active in both spring and fall seasons). From 100 to 250 vessels may fish on a spawning bed in one night catching between 1000 to 2500 t a night when herring schools are dense. Except for a few bait fishermen that still set by hand, gillnetters now use hydraulic net drums to set and haul their nets (see the picture above). In the southern Gulf, minimum mesh sizes and net size are regulated under the herring management plan. Most spring gillnets mesh sizes range from 2 <sup>1</sup>/<sub>4</sub> inch to 2 <sup>1</sup>/<sub>2</sub> inch and are 13 to 18 fathoms long. The majority of fall gillnets mesh sizes are of 2 <sup>5</sup>/<sub>8</sub> and are 14 to 19 fathoms long. In the Southern Gulf, the spring gillnet season runs from early April to end of June and the fall gillnet season runs from early July to mid-October.

### Purse Seine Fishing

Purse seining is a type of fishing in which a long rectangular barrier net equipped with floaters on the top and small lead weights at the lower end allowing it to stay in an upright position during fishing. The seine is a large net designed to encircle herring and not to rake the bottom of the ocean floor nor to capture the herring by the gills like in the gillnet fishery. Purse seining for herring can be especially tricky as the entire process is run in the dark of night when herring swim to the surface. No lights are used until the seine is closed.



The entire process starts with the release of the seiner's small boat "skiff". The skiff, which holds one end of the net, encircles the herring school as the net is released from the stern of the seiner. The bottom of net is connected to the purse line cable by large, metal clips called "rings." These also act as weights that sink the net. Once the skiff reaches the seiner, the seine top and bottom lines are handed to the seiner. The skiff then goes to the opposite side of the seiner, attaches to it, and powers away from the seine net to insure that the mass of fish and net do not drift below the seiner.

## Appendix A: Gillnet Fishind and Purse Seine Fishing

When the skiff is in place, a winch on the deck of the seiner pulls in both ends of the purse line, closing off the bottom of the seine net like a purse. Once the bottom of the seine is closed, preventing the herring from escaping, deck lights are turned on and one end of the seine net is run through a large, hydraulically driven "powerblock" located at the top of a crane. As the net is lowered through the powerblock, it is stacked on deck in preparation for the next set. This process slowly pulls the portion of the seine net still in the water ship ward, forming a concentrated pocket of herring. To further this procedure, seiners have a long, rubber covered, hydraulically powered roller along one side which is used by the crew to draw in any loose netting, drawing up the bottom of the seine, until the fish are sufficiently concentrated. In the southern Gulf, the crew samples the size composition of the herring contained in the seine to verify if it is within permitted legal size. If size is too small the set may be released and fish are freed up. If the size is adequate, the fish is further concentrated and a submersible pump is lowered into the pocket, pumping fish to a dewatering box then to holds below the deck. The entire process can be repeated a number of times in a single night depending on the presence of herring. As many as 200 tons of fish can be captured during each set. The southern Gulf of St.-Lawrence herring purse seine fleet is made up of 5 vessels, generally 100 feet in length. The 5 vessels can be fishing on a fishing ground in one night. They have been catching a maximum of 600 to 900 t a night due to limitations imposed on them by the processing sector.

In the southern Gulf of St.-Lawrence, all landings by the seiners are subjected to a small fish protocol and herring is sampled and sized for all landings. The seiners conduct most of their fishery in the fall season from early September to the end of November. Fishing activities in the spring have been minimal in recent years and conducted in June in western Cape Breton.



## APPENDIX B - TERMS OF REFERENCE

### INDEPENDENT PROCESS TO IDENTIFY THE ISSUES SURROUNDING THE LARGE HERRING SEINER FISHERY IN THE SOUTHERN GULF OF ST. LAWRENCE

#### A. INTRODUCTION

The purpose of this initiative is to establish an independent process that will get the parties to define the issues surrounding the conflict between the Prince Edward Island (PEI) and Eastern New Brunswick (NB) inshore fishers and the NB large seiners, to identify areas of consensus and options for resolving the dispute.

#### B. BACKGROUND

1. Over the past number of years, there have been disagreements between inshore fishers and the seiner fleets over the conduct and potential impacts of the fishery for herring by seiner vessels.
2. In August 2003, a number of inshore herring fishers from northeastern NB showed their concerns over the local fall herring seiner fishery at the entrance to the Baie des Chaleurs by attempting to disrupt the seiner fishery. One major confrontation occurred at sea and some low-level confrontations occurred on land. Charges were eventually laid by the RCMP against a small number of inshore fishers.
3. For several weeks in October and November, the same herring seiners based in northern NB were impeded by PEI inshore fishers from landing their catches at the federal wharf at Souris, PEI. A court injunction was issued by the PEI Supreme Court ordering demonstrators not to block and otherwise interfere with the herring operations at the port.
4. The current multi-year management plan ends on December 31, 2003. The Department of Fisheries and Oceans' (DFO) Gulf Small Pelagics Advisory Committee is the forum for discussions of herring issues leading to the preparation and approval of a new multi-year herring management plan. Given the recent conflict, it is unrealistic to expect that the forthcoming meeting of the committee (December 9-10) will produce consensus recommendations for preventing disagreement between these fleets with respect to areas of fishing by the large seiners.

#### C. OBJECTIVE

1. To frame the problem by getting the parties to the conflict to precisely define their concerns and issues, and to submit a written report describing the parties' positions to the Minister.
2. To identify areas of consensus between the parties and to offer options that could be considered for resolving the dispute.

**D. SCOPE**

1. The Facilitator will focus his activities on identifying the concerns of each of the inshore groups in Eastern NB, PEI and the large seiners. The Facilitator will also obtain the perspective of the Provinces of NB and PEI.
2. The Facilitator has no mandate to make recommendations to the Minister on courses of action to resolve this issue.
3. The Facilitator will not undertake new scientific research, but will instead rely on existing research and reports.

**E. METHODOLOGY / APPROACH**

1. The Facilitator will be required to meet with representatives of the following primary parties (considered as "core") in carrying out his duties:
  - PEI inshore fishers,
  - Association des seiners du Golfe,
  - Maritimes Fishermen's Union,
  - NB Department of Agriculture, Fisheries and Aquaculture, and
  - PEI Department of Agriculture, Fisheries, Aquaculture and Forestry.
2. The Facilitator may consult other interests he feels may be important to a proper understanding of the issues and conduct of the required work.
3. The Facilitator will carry out interviews, obtain and examine relevant documents and information to identify and describe the concerns and issues raised by all parties.
4. The Facilitator will organize meetings with the primary parties either individually, collectively or both at his discretion and likewise, with DFO staff.
5. The Facilitator will have access, as required and subject to Access to Information and Privacy Acts, to DFO documentation and DFO personnel when seeking information on the southern Gulf of St. Lawrence herring fishery.
6. The Department's Gulf Region will provide secretariat service for the work, including assigning experienced technical staff to undertake documentary research, which may be required by the Facilitator as well as respond to requests for information.
7. The Facilitator will prepare and submit a report to the Minister of Fisheries and Oceans on the dispute surrounding the area of fishing by the large seiner fleet in the southern Gulf of St. Lawrence.
8. The above written report to the Minister will also be provided to the primary parties, in both official languages.

9. Media: The independent Facilitator may speak to the media on the process being undertaken to scope out the problems between inshore fishers and NB seiners, but not on the closed-door discussions.

**F. TIMEFRAME**

1. The Facilitator's activities will commence on December 15, 2003, and conclude by January 30, 2004. A preliminary report to the Minister must be completed by January 15, 2004, with a final report submitted no later than January 30, 2004.

**G. CONSIDERATIONS**

1. The need to clearly articulate the issues/concerns/perspectives of all parties.
2. Obtaining the most readily available information related to the issues and concerns raised by all parties.
3. The need to identify possible gaps of information that would be helpful in addressing the concerns and issues of the various parties.
4. The need to articulate an overall perspective on the issue.

**H. COSTS**

1. The Facilitator's costs including travel, accommodations, translation services and meeting facilities will be borne directly by the Department. All other costs will be the responsibility of other agencies, groups and individuals.

# *News Release*

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## APPENDIX C – NEWS RELEASE

NR-HQ-03-114E

December 4, 2003

### **FACILITATOR TO LEAD TALKS ON EXAMINING GULF HERRING FISHERY DISPUTE**

**Moncton, N.B.** – The Honourable Robert G. Thibault, Minister of Fisheries and Oceans (DFO), today announced the appointment of Allister W. Surette to lead discussions with herring industry representatives and provincial governments on an approach to address the conflict with respect to the herring fishery in the southern Gulf of St. Lawrence.

"It is important that these fact-finding discussions are facilitated by a qualified and independent third party who has knowledge of the issue and who is available to undertake the task within the prescribed time-frame," said Minister Thibault. Mr. Surette is vice-president of Development and Partnerships at l'Université Sainte-Anne – Collège de l'Acadie, in Church Point, Nova Scotia.

Disagreements have been a problem for the past number of years between inshore and large seiner fleets off the northern coast of Prince Edward Island and parts of New Brunswick and Nova Scotia. The disputes flared into open conflict two years ago and then again this fall.

"This is an exercise about dialogue and determining the scope of the problem, not an exercise about allocations or access to herring. It is about identifying options that could be considered, bearing in mind that the goal is an orderly fishery in the 2004 season and in the years to come," said Minister Thibault.

Work begins immediately. Mr. Surette will organize meetings with the primary parties, either individually or collectively. The discussions will be aimed at identifying problems and getting the parties to accurately define their concerns and issues with the facilitator's guidance. The facilitator will use existing research and reports as resource material.

A report is to be drafted and submitted to the Minister of Fisheries and Oceans by January 30, 2004 in which the positions of the parties are described and options are presented to resolve the dispute.

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"It is not my intent for Mr. Surette to come up with hard and fast solutions to such entrenched disagreements in this exercise," said Minister Thibault. "But I am on record as having advised fishers that their interests will be better served in the short and long term if they begin to work together."

In carrying out his mandate, Mr. Surette will consult with the following representatives: the Prince Edward Island and New Brunswick provincial governments; l'Association des seigneurs du Golfe; the Maritimes Fishermen's Union; and representatives of PEI inshore fishers. Other groups may be consulted at his discretion.

"I encourage all parties to participate in these important discussions. I will certainly give preferential consideration to any mutually agreeable resolution." Minister Thibault said.

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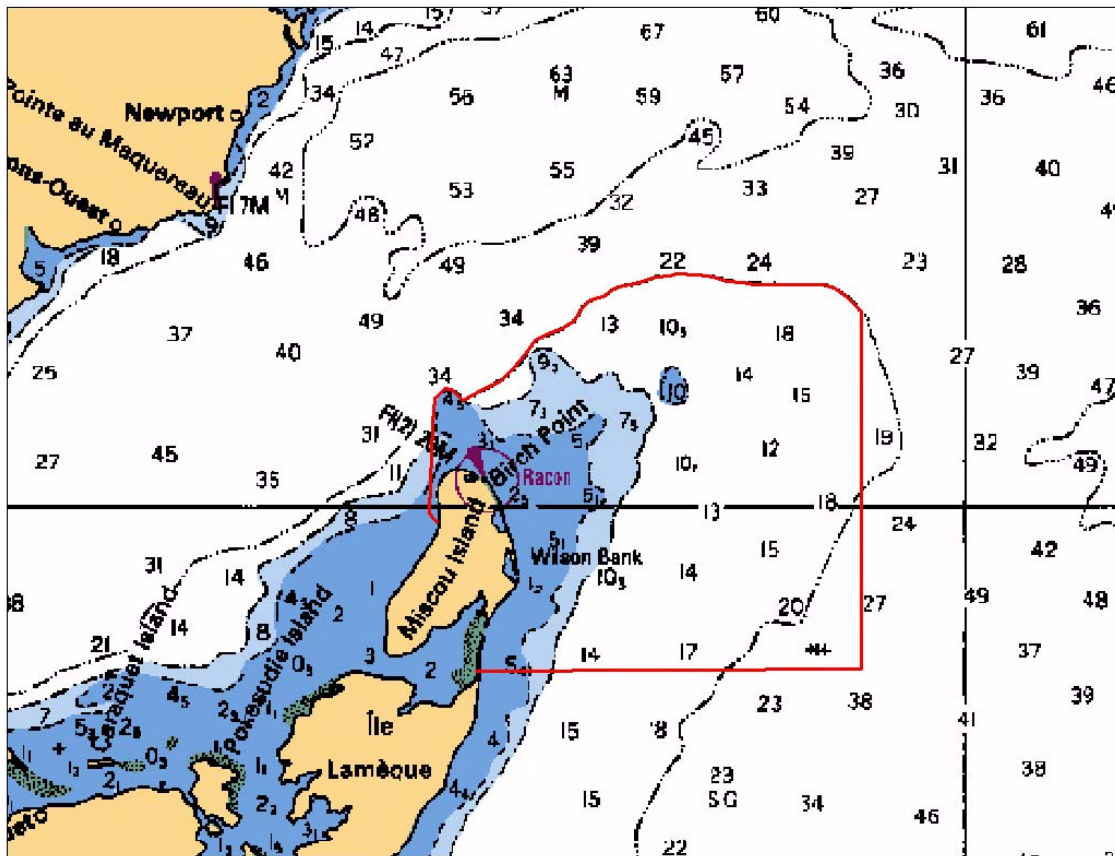
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APPENDIX D - MFU PROPOSED CLOSURE OF MISCOU BANK



APPENDIX E - PEIFA'S PROPOSED CLOSURE ON THE NORTH COAST OF P.E.I.

