



29 September 2017

Honourable Dominic LeBlanc
Minister of Fisheries and Oceans
Room 556, Confederation Building
Ottawa, ON K1A 0A6

Re: Northern Shrimp Co-Management in Shrimp Fishing Area 4

Dear Minister LeBlanc,

On behalf of the Torngat Joint Fisheries Board ('the Board'), I am pleased to write regarding the 2017 Northern Shrimp fishery in Shrimp Fishing Area (SFA) 4. The Board is established by Chapter 13 of the Labrador Inuit Land Claims Agreement (LILCA), and is empowered to provide recommendations and advice on commercial fisheries (including Northern Shrimp) in and adjacent to the Labrador Inuit Settlement Area (LISA).

The Board is fully engaged with Northern Shrimp management on various levels, and maintains interest in the sustainable utilization of Northern Shrimp in SFA 4. The Board has reviewed and reflected on your decision for the 2016/17 fishery, and would like to provide feedback prior to the 2017/18 Northern Shrimp Advisory Committee (NSAC) meeting. The Board's analysis and subsequent recommendations will be updated for the 2017/18 fishery following the Northern Shrimp Assessment and NSAC meetings.

The Northern Shrimp fishery in Labrador is an important economic sector for Inuit, and represents the keystone species of Nunatsiavut's fishery. So much so, that the LILCA makes specific reference to the Nunatsiavut Government's access to the Northern Shrimp resource (Part 13.12.7). This Part stating that the Nunatsiavut Government will receive 11% of any new licenses issued adjacent to the Zone. Furthermore, this Part is complemented by Part 13.12.9 which offers further protections to the Nunatsiavut Government's commercial fishing rights. 13.12.9 states that "If the system for allocating commercial opportunities in relation to a species or stock of Fish or Aquatic Plant changes from the system existing on the Effective Date, the Minister shall offer to the Nunatsiavut Government participation under the new system that is *at least* as favorable as that set out under sections 13.12.2 through 13.12 [emphasis added]."

The new allocation regime of proportional sharing, however, raises concerns with the Board. It is our understanding, that under the current allocation regime, the Nunatsiavut Government will receive 10.0% of the TAC going forward, regardless of decreases or increases in the resource. However, we consider the change from the Last-In, First-Out (LIFO) policy to Proportional Sharing to be a change in the allocation system. This would, therefore, entitle the Nunatsiavut Government to *at least* 11% of the allocations in SFA 4; presuming the Minister made a fresh start with all allocation holders and the creation of Proportional Sharing.



The current allocation regime will not ensure these requirements are met if there are increases in TAC in the future, and will not guarantee the Nunatsiavut Government their constitutional protection if the TAC decreases. We ask the Minister to exercise his power, re-evaluate proportional sharing, and make exceptions to its application for the Nunatsiavut Government while considering their Comprehensive Land Claim agreement. Therefore, it is our view that the Nunatsiavut Governments overall proportional share be increased to 11% at minimum. Additionally in situations for TAC increases, the Nunatsiavut Government be entitled to at least 11% of the increase, and shall not fall below this amount in situations of TAC decreases. In situations of TAC decreases, the Board believes that the Nunatsiavut Government must be exempt from reductions.

In the past, the Board has raised issue with the 2013 process that resulted in the Northern Shrimp Research Foundation allocation of 1,700 MT of Northern Shrimp from SFA 4 to fund science in the Eastern and Western Assessment zones. We would like to reiterate these concerns. Although the Board supports science in the region, the Board believes it is unreasonable that resource from SFA 4 continue to be used to fund research in the north, while northern SFA's have received increases in TAC for the benefit of Nunavut and Nunavik users. Therefore, the Board also recommends that the 1,700 MT that is allocated 'off the top' to the Northern Shrimp Research Foundation be re-evaluated and be distributed to Nunatsiavut Government as the primary beneficiary.

Considering the socio-economic value of Northern Shrimp, and its significant role in the foundational development of Nunatsiavut's inshore fishery, and considering the Prime Minister's mandate of strengthening relationships with Indigenous Peoples based on respect, partnership, and co-management, the Board is encouraged that our future advice and recommendations for SFA 4 will be fully considered. Although there are no prescribed timelines within the LILCA for your response to our correspondence, we kindly ask for a timely reply with specific feedback on these points as they impact our future recommendations. The Board looks forward to continuing to strengthen our relationship with your Department as we work collectively towards our shared goals, and we are available, as always, at your convenience.

Yours truly,

John Mercer
Chairperson
Torngat Joint Fisheries Board

cc: Hon. Darryl Shiwak, Minister of Lands and Natural Resources, Nunatsiavut Government



Hon. Gerry Byrne, Minister of Fisheries and Aquaculture, Government of Newfoundland and Labrador





Torngat Joint Fisheries Board
Analysis presented to the TJFB
Northern Shrimp Co-Management in SFA 4
(29 September 2017)

Northern Shrimp Co-Management In and Adjacent to the Labrador Inuit Settlement Area.

Recommendations:

Pursuant to Part 13.11 of the Labrador Inuit Land Claims Agreement, the Torngat Joint Fisheries Board has recommended to:

1. Amend the recent Proportional Sharing allocation regime as to address ongoing differences in the interpretation of the Labrador Inuit Land Claims Agreement, and make exceptions for those groups with Land Claim's agreements.
2. Reconsider the use of 1,700 MT of Northern Shrimp in SFA 4 to fund surveys in the Eastern and Western Assessment Zones.

1.0 Background

1.1 The Torngat Joint Fisheries Board and the Labrador Inuit Land Claims Agreement

- The Torngat Joint Fisheries Board (TJFB or 'the Board') is established by Part 13.10 of the Labrador Inuit Land Claims Agreement (LILCA or 'the Agreement'), with its roles, responsibilities, and powers outlined in Part 13.11. The Board is the primary body making recommendations on the conservation and management of fish, fish habitat, and fisheries in the Labrador Inuit Settlement Area, and has advisory powers in waters adjacent to the 'Zone'. The TJFB has both the authority and the responsibility to make recommendations to the Minister in respect of issues surrounding the management of Northern Shrimp, as per 13.11.1 (a) and (b), and 13.11.2 (a) through (h) of the LILCA.
- The Zone established by the Labrador Inuit Land Claims Agreement makes up 23.9% of SFA 4. The Zone is both within and immediately adjacent to SFA 4.

1.2 Case History

- The TJFB has submitted recommendations on Northern Shrimp annually since 2010. Since the LILCA was ratified in 2005 until 2016, the TAC in SFA 4 increased by 4,651MT, with just 300 MT allocated to the Nunatsiavut Government.
- In 2015, the Board recommended the TAC be increased by 15% (2,246 MT) to 17,217 MT, and that 75% of the increase be allocated to the Nunatsiavut Government. The Minister did not affirm this recommendation, and the TAC for SFA 4 remained 14,971 MT.

- In 2016, the Board made a submission to the Ministerial Advisory Panel on the Last-in, First-out (LIFO) Policy for Northern Shrimp. The MAP recommended to abolish the Last-in, First-out policy, and replace it with an allocation regime which includes permanent proportional sharing in all SFAs.
- The Minister's office accepted the key recommendation of from the MAP for proportional sharing on July 7th, 2016 and maintained the TAC for 2016/17 at 14,971 MT. In 2016, the Nunatsiavut Government received 5.1% of the overall TAC; a 375 MT increase from 2015.
- For the 2017/18 season, the Minister decided to rollover the Exploitation Rate of 15%, which increased the TAC by 5% to 15,725. The Nunatsiavut Government's proportional share was modified to 10.0% of the overall TAC.

1.3 Quotas and Landings (2016)

- The TAC was set at 14,971 MT (roll over from 2015's TAC).
- The Nunatsiavut Government (NG) received 5.1% of the TAC (675 MT for 2016/17; a 375 MT increase from the previous year).
- In 2015/16, the NG 2.0% (300 MT).
- 1,700 MT for the Northern Shrimp Research Foundation will come 'off the top' pursuant to Section 10 of the Fisheries Act.
- 655 MT was landed (97% of quota) by 18 designates; 20 MT transferred to offshore for royalties.

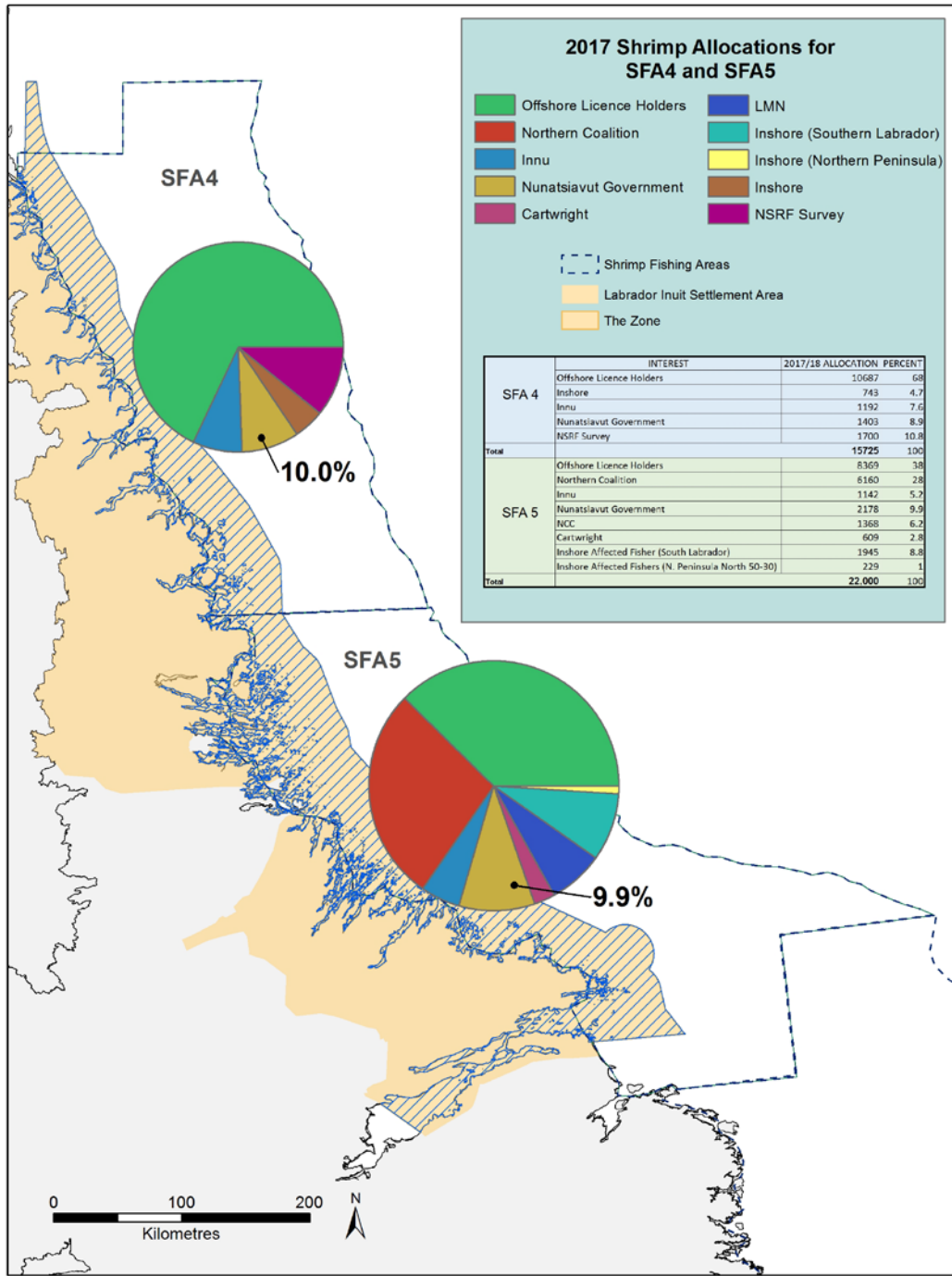


Figure 1 2016/17 Northern Shrimp Allocations in SFA's 4 and 5

2.0 Management Framework

2.1 Integrated Fisheries Management Plan

- DFO manages Northern Shrimp based on several objectives laid out in the Northern Shrimp Integrated Fisheries Management Plan (IFMP); including conservation and sustainable harvest, benefits to stakeholders, and the co-management of the shrimp resource (DFO, 2007).
- The IFMP states that primary consideration must be given to Land Claims such as of those of the Labrador Inuit.

2.2 Quota Sharing Arrangements

- Prior to 2016, all shrimp allocations since 1997 have been provided on a temporary basis, based on the "Last-In, First-Out" (LIFO) principle. As the TAC increased above the threshold established in the IFMP new participants enter the fishery based on an evaluation of 1997 criteria; and if the TAC dropped to the threshold, newest participants would leave the fishery based on a similar evaluation.
- In 2016, a Ministerial Advisory Panel (MAP) was created in response to expected declines in the Northern Shrimp fishery and the use of the LIFO policy, which would have significant effects by all stakeholders.

2.2.1 TJFB MAP Submission

- The TJFB submitted its recommendations regarding access and allocation (TJFB, 2016):
 - Because DFO has constitutional obligations to Aboriginal groups with Land Claim Agreements, such groups should be exempt from LIFO;
 - The LIFO policy be modified to consider additional elements which are set out in the 2003 New Access Framework of the IFMP as criteria to consider both access into and out of the fishery.
 - These criteria include: Conservation, Recognition of Aboriginal and Treaty Rights, Equity, Adjacency, Historic Dependence, and Economic Viability.

2.3 Proportional Sharing

- The LIFO policy was eliminated, and replaced with proportional shares.
- Proportional shares were implemented in 2016, and the Nunatsiavut Government received 5.1% of the TAC in SFA 4. This was modified for the 2017 fishing season.
- The Nunatsiavut Government will receive 10.0% of the TAC in SFA 4. This proportion will be maintained going forward.

3.0 Status of Resource (DFO, 2017)

- Large-vessel standardized CPUE fluctuated without trend near the long term mean.
- Between 2005 and 2012 the fishable biomass index ranged between 76,600 MT and 164,000 MT and in 2016 was 95,300 MT.
- Between 2005 and 2012 the female SSB index ranged between 39,700 MT and 115,000 MT and in 2016 was 55,500 MT.
- The exploitation rate index has been about 15% for the past three years.
- Female SSB index in 2016 was in the Healthy Zone within the IFMP PA Framework with a 45% probability of having been in the Cautious Zone (Figure 2).

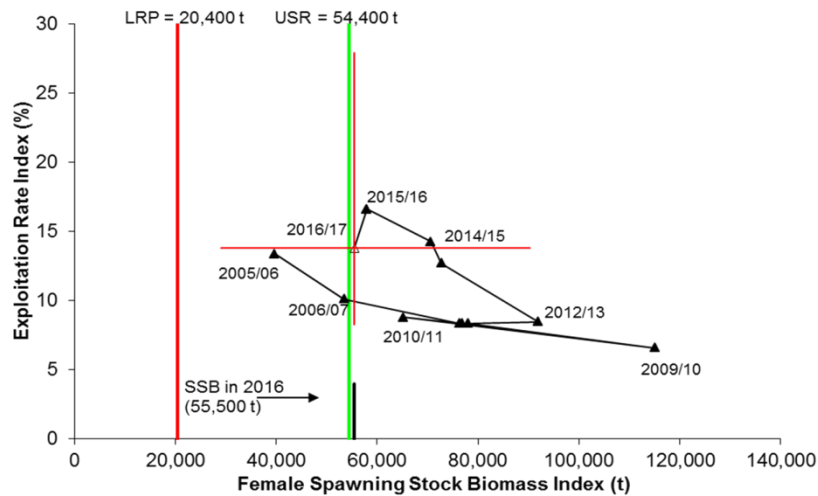


Figure 2 SFA 4 PA Framework with trajectory of exploitation rate index versus female SSB index for Northern Shrimp. Point labels denote year of the fishery. The red cross on the 2016/17 point indicates 95% confidence intervals for the 2016 female SSB index (horizontal) and the 2016/17 exploitation rate index (vertical) (DFO, 2017).

4.0 Other Considerations

4.1 Northern Shrimp Research Foundation

- In 2013, it was announced that 1,700 MT of Northern Shrimp from SFA 4 was to be allocated to the Northern Shrimp Research Foundation (NSRF) to finance surveys in SFA 4, and the Eastern and Western Assessment Zones (EAZ and WAZ respectively) for one year. However, this allocation to the NSRF has happened annually since 2013.
- With the recent LIFO review and the move to a proportional sharing regime, the Minister decided to maintain the 1,700 MT for 2016 and 2017.

- Although fish is being taken from SFA 4 to finance surveys in northern SFA's, there was 1,238 MT increase in Northern Shrimp TAC in the EAZ in 2016.
- The Board understands that there is precedent for the use of fish for financing purposes, however it is inequitable to use resource from one area (SFA 4) to finance research in another- especially when that area has had increases in the Northern Shrimp resource. The Board believes that the increases of Northern Shrimp in the EAZ should be used to fund surveys in the EAZ.
- Amendments in 2013 to the *Fisheries Act* permit the use of fish to finance scientific and fisheries management activities (Part 10.1 and 10.2). There is currently no official policy to provide guidance as to when or how fish will be used for these purposes, however a National Policy on the Use of Fish for Financing Purposes is in draft to address these concerns.

4.1.1 Draft National Policy for Allocating Fish for Financing Purpose

- The Draft Policy aims to “define standardized, rigorous, and transparent criteria and processes when using fish... to finance activities, to ensure a clear and consistent application of section 10 of the *Fisheries Act*” (DFO, 2013).
- The Policy outlines several criteria to be applied in considering project eligibility, including mandatory support from harvesters whose cumulative share of the resource amounts to 66% of the TAC. In March of 2014 the Board provided comments and recommendations to DFO on the draft policy, and argued that a 66% majority should not suffice, as it may serve to further entrench current inequities, and minority positions may have merit that should be considered.
- Within the draft Policy, there is a process described in Section 11 which allows DFO to audit the activities of using fish for financing purposes. Because the value of shrimp has fluctuated and has increased significantly since 2013, the Board believes it is necessary to assess the present-day costs associated with the survey and the amount of fish that is required to fund the survey in 2017.

4.2 LILCA Interpretation

- The Board supports the Minister's decision to abolish LIFO, however believes that the proposed proportional sharing arrangement will not fulfill Canada's constitutional obligations outlined in the LILCA.
- The Nunatsiavut Government received inequitable decreases in their allocation in SFA 5 with the application of the LIFO policy, and with the current proportional sharing regime, they are also vulnerable to decreases which are counter to provisions outlined in the LILCA.

4.2.1 LILCA Part 13.12.7

- As stated in Part 13.12.7 of the LILCA, the Nunatsiavut Government will be guaranteed 11% of new licences issued by the Minister; specifically “If in any calendar year...the Minister decides to issue more Commercial Fishing Licences to fish for shrimp in Waters Adjacent to the Zone than the number available for issuance in the year of the Agreement, the Minister shall offer access to the Nunatsiavut Government through an additional Commercial Fishing Licence issued to the Nunatsiavut Government or by some other means to 11 percent of the quantity available to be Harvested under those licences.”
- It is our opinion, given the Crown’s responsibilities, that the language used should properly be interpreted to include all new allocations. This has also been highlighted in the Fall 2015 Reports of the Auditor General of Canada (OAG, 2015) The 11% specified by Part 13.12.7 of the Agreement is not exhaustive, but is intended to function as an off-the-top minimum guarantee.
- Additionally, similar language is used in the Nunavut Land Claim Agreement (NLCA) and in the IFMP. Article 15.3.7 of the NLCA states that the Federal Government must recognize the “importance of the principles of adjacency and economic dependence of communities in the Nunavut Settlement Area on marine resources, and shall give special consideration to these factors when allocating commercial fishing licences...”
- In 2016 there was a 15% increase in Northern Shrimp TAC in the Eastern Assessment Zone (EAZ). Although there has been no new licenses rewarded in the EAZ, Nunavut and Nunavik have received the large majority of this increase, which is counter to what has happened in Nunatsiavut since the ratification of the LILCA.
- Although there has been no new licenses rewarded in the EAZ, Nunavut and Nunavik have received the large majority of this increase, which is counter to what has happened in Nunatsiavut since the ratification of the LILCA.

4.2.2 LILCA Part 13.12.9

- Part 13.12.7 is complemented by 13.12.9, and states that “If the system for allocating commercial opportunities in relation to a species or stock of Fish or Aquatic Plant changes from the system existing on the Effective Date, the Minister shall offer to the Nunatsiavut Government participation under the new system that is at least as favorable as that set out under sections 13.12.2 through 13.12.8 in relation to that species or stock of Fish or Aquatic Plant.”
- The shift from the LIFO policy to Proportional Sharing does constitute a change in the allocation system specified in Part 13.12.9, and therefore the Nunatsiavut Government is entitled to 11% of any new allocations in SFA 4 going forward.

- Additionally, the application of the National Policy for Allocating Fish for Financing Purposes to SFA 4 also constitute a change in the allocation system specified in Part 13.12.9, and therefore the Nunatsiavut Government is entitled to 11% of the 1,700 MT allocation given to the NSRF.
- The application of both 13.12.7 and 13.12.9 will be hindered with the use of proportional sharing, and the Nunatsiavut Governments access will be limited going forward.

4.3 Social and Economic Viability

- At present, the commercial fishing industry in Nunatsiavut is precarious. It is almost entirely dependent on just three species (Northern Shrimp, Snow Crab, and Turbot). This multispecies fishery would not be possible without the Northern Shrimp licenses and allocations that have created a foundation for inshore fishery development (Foley et al., 2017).
- Additionally, processing operations in Nain and Makkovik, Nunatsiavut, have been made possible with cross-subsidization from Northern Shrimp allocations (Foley et al., 2017).
- Together, hundreds of jobs within Nunatsiavut have been created for Labrador Inuit from the foundation that Northern Shrimp licenses and allocations have provided (Foley et al., 2017).
- Northern Shrimp are the keystone of the Nunatsiavut fishery, and represent an important economic sector and opportunity for Labrador Inuit, which has been recognized by the Auditor General of Canada (OAG, 2015).

4.4 Effects in Individual and Community Health

- Income distribution is a social determinant of health (Mikkonen & Raphael 2010).
- Dialogue with fishery participants highlight pride in the fishery, and happiness associated with being on the water, and connected to the marine environment.

4.5 UN Declaration and Recognition of Aboriginal and Treaty Rights

- In early 2016, Canada adopted the United Nations Declaration on the Rights of Indigenous Peoples (UN, 2007). This affirmation further supports the Prime Minister's mandate of strengthening relationships with Indigenous Peoples based on respect, partnership, and co-management (Office of the Prime Minister, 2015).
- The Nunatsiavut Government's access to the Northern Shrimp fishery in SFA 4 presents an opportunity for the Minister to uphold the Honour of the Crown, and to transparently apply the letter and spirit of the Agreement.

5.0 Consultations and Deliberations

- The Board meets quarterly and Northern Shrimp is an Agenda item at each meeting. This recommendation emerged from meetings held in Happy Valley-Goose Bay on January 31st to February 1st, 2017 and on March 29-30th, 2017.
- Northern Shrimp was an agenda item during the Nunatsiavut Fisheries Workshop which was held on November 22nd-23rd, 2016 in Happy Valley-Goose Bay, NL. Its purpose was to provide an overview of the past fishing season, discuss current and future management approaches, and provide stakeholders consultation
- Representatives of the Board attended the Northern Shrimp Advisory Committee meeting on March 9th, 2017 in St. John's, Newfoundland.
- The Torngat Secretariat presented to the MAP on behalf of the TJFB on May 31st, 2016. The Board maintained its position that Aboriginal Groups should be exempt from LIFO, and the LIFO policy be modified to consider additional elements which are set out in the 2003 New Access Framework as criteria to consider both access into and out of the fishery.

6.0 Summary and Conclusion

- Whereas the current allocation regime of Proportional Sharing limits the Nunatsiavut Government's access to Northern Shrimp increases in SFA 4 as per 13.12.7 of the LILCA, the Board recommends that the Minister amend the regime to ensure the Nunatsiavut Government is constitutional protection as outlined in the LILCA, and make exceptions for those groups with Land Claim's agreements.
- Whereas the National Policy for Allocating Fish for Financing Purposes is still in draft, and whereas there have been significant increases of Northern Shrimp in the EAZ, and whereas the value of Northern Shrimp has increased significantly since 2013, the Board recommends that the Minister reconsider allocating 1,700 MT from SFA 4 to fund surveys in the EAZ and WAZ.



Work Cited

- DFO (2007). Integrated Fisheries Management Plan: Northern Shrimp (SFAs) 0-7 and the Flemish Cap. Retrieved from <http://www.dfo-mpo.gc.ca/fm-gp/peches-fisheries/ifmp-gmp/shrimp-crevette/shrimp-crevette-2007-eng.htm#ann-f>
- DFO (2013). National Policy for Allocating Fish for Financing Purposes DRAFT (October 11, 2013). Fisheries and Oceans Canada. Retrieved from <http://www.dfo-mpo.gc.ca/fm-gp/policies-politiques/fish-allocation-finance-poisson-eng.htm>
- DFO (2017). An Assessment of Northern Shrimp (*Pandalus borealis*) in Shrimp Fishing areas 4-6 and of Striped Shrimp (*Pandalus montagui*) in Shrimp Fishing Area 4 in 2016. Canadian Science Advisory Secretariat, Science Advisory Report 2017/012.
- Foley, P., Mather, C., Morris, R., & Snook, J. (2017). Shrimp Allocation Policies and Regional Development Under Conditions of Environmental Change: Insights for Aboriginal Groups in Northern Labrador, A report prepared for the Leslie Harris Centre of Regional Policy and Development, Memorial University of Newfoundland, with the support of the Torngat Wildlife, Plants & Fisheries Secretariat, Happy Valley-Goose Bay, Labrador.
- Mikkonen, J., & Raphael, D. (2010). *Social Determinants of Health: The Canadian Facts*. Toronto: York University School of Health Policy and Management. Retrieved from <http://www.thecanadianfacts.org/>
- MAP (2016). Report of the Ministerial Advisory Panel. *External review of the Department of Fisheries and Oceans' Last-In, First-Out Policy (LIFO) for the Northern shrimp fishery*. Ministerial Advisory Panel, June 22, 2016.
- OAG (2015). *Reports of the Auditor General of Canada. Report 3: Implementing the Labrador Inuit Land Claims Agreement*. Retrieved from http://www.oag-bvg.gc.ca/internet/English/parl_oag_201511_e_41047.html
- Office of the Prime Minister (2015). Minister of Fisheries, Oceans and the Canadian Coast Guard Mandate Letter. Retrieved from <http://pm.gc.ca/eng/minister-fisheries-oceans-and-canadian-coast-guard-mandate-letter>
- Torngat Joint Fisheries Board (2013). *Northern Shrimp Recommendations Shrimp Fishing Area 5*. Torngat Wildlife, Plant and Fisheries Secretariat. Retrieved from http://www.torngatsecretariat.ca/home/files/cat4/2013-northern_shrimp_recommendations_sfa_5.pdf



Torngat Joint Fisheries Board (2014). *Northern Shrimp Recommendations Shrimp Fishing Area 5*. Torngat Wildlife, Plant and Fisheries Secretariat. Retrieved from http://www.torngatsecretariat.ca/home/files/cat4/2014-northern_shrimp_recommendations_sfa_5.pdf

Torngat Joint Fisheries Board (2015). *Northern Shrimp Recommendations Shrimp Fishing Area 5*. Torngat Wildlife, Plant and Fisheries Secretariat. Retrieved from http://www.torngatsecretariat.ca/home/files/cat4/2015-northern_shrimp_recommendations_sfa_5.pdf

Torngat Joint Fisheries Board (2016). Torngat Joint Fisheries Board Submission to the Ministerial Advisory Panel for the LIFO Review. Torngat Wildlife, Plant and Fisheries Secretariat. Retrieved from http://www.torngatsecretariat.ca/home/files/cat4/recommendation_of_the_tjfb_to_the_ministerial_advisory_panel_map_for_the_lifo_review.pdf

UN General Assembly (2007), *United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295* retrieved from http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf