

Ensemble

**POUR LA VIABILITÉ
DE L'INDUSTRIE**

Together, for a thriving industry

**Commercial fishery
financing program**

2008 - 2009



Québec 

SECTION I: PROGRAM OBJECTIVE

1. This program aims to make it possible to diversify and maintain marine product catch or harvest activities, and to combine, transfer or acquire commercial fishing companies. To this end, the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation can extend loan guarantees to commercial fishing companies. Exceptionally, the Minister can also grant loans.

SECTION II: INTERPRETATION PROVISIONS

2. When applying this program, the following definitions are understood:

BAPAP:

Bureau d'accréditation des pêcheurs et des aides-pêcheurs, the fishers and assistant fishers certification board established under the *Act respecting the Bureau de d'accréditation des pêcheurs et des aidespêcheurs pêcheurs* (R.S.Q, c. B-7.1).

Vessel or fishing vessel:

A registered boat within the meaning of the *Canada Shipping Act* (R.S.C., (1985) Chapter S-9).

Fishing business:

An entity formed for the purpose of practicing commercial fishing, composed of at least one person operating a fishing vessel or fishing gear, and holding the required licences.

Financing:

A loan guarantee extended by the Minister.

Minister:

The Minister of Agriculture, Fisheries and Food, or his representative.

Commercial fishery:

Marine product harvest or catch activity practiced in Québec's inland waters, the Gulf of St. Lawrence, or on the high seas on a for-profit basis.

Fishing licence:

This expression can also mean a quota.

Lender:

- 1) An institution authorised to lend under the authority of the *Act respecting trust companies and savings companies* (R.S.Q., c. C-4.1), or under any act replacing it;
- 2) A bank contemplated by Schedule 1 of the *Bank Act* (R.S.C., (1985), Chapter B-1.01); or
- 3) The Minister, under the terms of the measure set out in Section 17.

Marine product:

Any saltwater or freshwater product that can be marketed primarily for the purpose of human consumption.

Mortgage interest rate:

The interest rate applicable to a closed loan guaranteed by a first mortgage loan on a single-family dwelling.

Prime lending rate:

The variable annual interest rate publicly announced from time to time by a bank, and which it uses to determine the interest rate applicable to its commercial loans in Canadian funds. If the lender is not a bank, the prime lending rate shall be that of the *Caisse central Desjardins*.

SECTION III: GENERAL PROVISIONS

3. Financing can be granted by the Minister to a fishing company that demonstrates that its financial situation, the quality of its management, its technical and professional competences, its catch capacity and its marine product landing perspectives are such that, in the Minister's opinion, the company can be profitable.
4. To be receivable, an application for financing must be submitted in writing to the Minister together with the documents and information the Minister deems pertinent to its analysis.
5. Any financial aid granted under this program must serve to carry out projects to acquire, build or repair commercial fishing vessels, acquire commercial fishing licences or quotas, or acquire electronic, mechanical or hydraulic components for vessels. Moreover, financing could also be granted to acquire a company, a first vessel or a block of assets, a trawl, traps, longlines, gillnets and other types of fishing gear.

Financial aid can also serve to consolidate the debts of a company on the condition that it be paired with a project as defined, unless the viability of the company is at stake, in which case financial aid can be granted for consolidation alone.

- 6.** To be eligible for financing, a fishery business must demonstrate the following:
- 1° If composed of a natural person, that this person is of full age and is domiciled in Québec, and that he or she personally practices commercial fishing, and meets the conditions set out in one of the following subparagraphs:
 - 1.1° Is registered with the BAPAP and holds a commercial fishing licence issued under the authority of the *Fisheries Act* (R.S.C., Chapter F-14);
 - 1.2° Holds an inland waters fishing licence issued by the Minister under the authority of the *Québec Fishery Regulations* (1990), (DORS/90-214).
 - 2° If it is an entity composed of a legal person, the latter has its head office and primary place of business in Québec, and at least one of its shareholders who practices fishing is of full age, resides in Québec, is registered with BAPAP and holds over 50% of the shares in each category or each series of shares issued and, furthermore, meets one of the following conditions:
 - 2.1° At least one of its shareholders holding over 50% of the shares in each category or series issued holds a commercial fishing licence; or
 - 2.2° It holds a commercial fishing licence.
 - 3° If the company is a general partnership or a joint venture, it is composed of natural persons of whom at least one holds over 50% of company interests and meets the conditions set out in subparagraph 1;
 - 4° Financing is essential to the success of the project;
 - 5° The company is able to meet its financial obligations;
 - 6° The company has the human, financial and material resources needed to carry out the project;
 - 7° The company's prospects for profitability ensure its viability and long-term survival; and
 - 8° The guaranties requested by the Minister are available.

The following may also be eligible for financing under this program: a company composed of a combination of several natural or legal persons or partnerships as long as they can demonstrate, to the Minister's satisfaction, that they are under the control of at least one person who meets the conditions set out in subparagraphs 1 or 2 of the first paragraph. For the purposes of this paragraph, the word "control" notably means holding decisional power for the entire combined business and, either directly or indirectly, holding over 50% of its property rights.

The following may also be considered a commercial fishing business eligible for financing under this program:

- 1° A for-profit legal person dedicated exclusively to commercial fishing and of which over 50% of each category or series of issued shares are held by one or more Aboriginal band councils or by a not-forprofit legal person that is itself controlled by one or more Aboriginal band councils; or
- 2° A not-for-profit legal person dedicated exclusively to commercial fishing and controlled by one or more Aboriginal band councils.

Any legal person and band council referred to in subparagraphs 1 and 2 of the third paragraph must meet the following conditions:

- 1° It has its administrative office, in the case of a band council, or its head office, in the case of a legal person, in Québec;
- 2° One or more Aboriginals, domiciled in Québec and members of the band governed by the council or councils that control the legal person, registered with BAPAP, practice fishing on the vessel for which financing is requested and the Aboriginal fishers who meet these conditions must outnumber the other fishers;
- 3° The band council or the legal person holds commercial fishing rights associated with a fishing licence issued under the authority of the *Aboriginal Communal Fishing Licences Regulations* (DORS/93-332); and
- 4° The legal person meets the conditions set out in subparagraphs 4 to 8 of the first paragraph.

SECTION IV: NATURE AND TERMS OF FINANCIAL AID

7. Given the objective stated in Section 1, the Minister can grant financing to a fishing company.
8. The maximum amount of financing that can be extended cannot exceed \$2,000,000 including the balance of any financial aid already paid out under this program and under the *Regulation respecting the construction, purchase or repair of commercial fishing boats and equipment* (R.S.Q., c C-76, R.1).
9. The maximum amount of financing corresponds to the liquidation value of the assets pledged as collateral, calculated in the following manner:
 - for the vessel and its components: 90% of their market value, based on an assessment of the company's assets by a private firm or by the Ministère;
 - for fishing licences and quotas: 80% of their market value established according to completed transactions or based on information obtained from the sector;
 - for other fishing company assets pledged as collateral: 75% of their market value.

Subject to the maximum limit of \$2,000,000, the Minister can also take into consideration any other guarantee deemed valid to cover financing, such as sureties, investments, chattel or real estate mortgages on personal property, etc., and attribute to such guarantees the liquidation value he shall determine.

10. The maximum period of financing shall not exceed 20 years.
11. The interest rate applicable to financing is established according to one of the following two possibilities:
 - 1° When the loan or the total of loans granted under this program, plus the balance of any loans granted under said Regulations, where applicable, is at least \$250,000, the interest rate that applies to financing shall be the lender's prime lending rate. However, when the loan or the total of these loans is less than \$250,000, this rate shall be increased by one half of 1%.

The applicable interest rate shall be that in effect on the date the agreement is signed. Subsequently, this rate shall vary on the first day of each month throughout the duration of the loan, based on the lender's prime lending rate in effect on the first day of the month.

The interest on financing shall be capitalized monthly.

2° The lender's mortgage interest rate in effect on the date the agreement is signed. Where relevant, this rate can be adjusted at the end of each period of 12, 24, 36, 48, or 60 months, according to the terms of the agreement concluded between the Minister, the fishing company and the lender.

The interest on financing shall be capitalised semi-annually.

The agreed interest rate shall also be payable on any advance paid out by the lender to pay the premium of the insurance policy protecting the guarantees.

12. Financing shall be repaid according to the terms set out in the agreement signed by the Minister, the fishing company, and the lender, as relevant.

SECTION V: PROVISIONS REGARDING THE MINISTER'S LOAN GUARANTEE

13. Financing covers the following:

- 1° The entire loan principal;
- 2° All accrued and overdue interest;
- 3° The cost of the maritime insurance premium advanced by the lender in the event of the borrower's failure to contract said insurance within the required time;
- 4° The costs, authorised in advance by the Minister, incurred by the lender to ensure preservation of the loan guarantees; and
- 5° Debt collection fees which are paid out after prior authorisation from the Minister.

SECTION VI: MISCELLANEOUS PROVISIONS

14. Where relevant, any other financing terms granted under this program shall be set out in an agreement between the Minister, the fishing company and the lender.

15. Should members of a group of fishing companies fail to make payments on their loans, and when it is demonstrated that the segment of the fleet of which they are members is facing an exceptional situation and experiencing difficulties due to a drop in prices or catch, the Minister can, temporarily, apply in their cases the relief measures justified by the situation in order to ensure the long-term fulfilment of financing agreements.

- 16.** In order to foster regional development, any purchases and work needed to build, repair, refit, manufacture, or modify vessels, their components or the equipment required for the commercial fishery, and financed under this program, must take place in Québec, unless the Minister has expressly authorised otherwise.
- 17.** In circumstances he has deemed exceptional, the Minister can grant loans under the authority of this program.
- 18.** The Minister shall determine any other term or condition deemed necessary or useful to the execution of this program.
- 19.** The Minister shall determine and collect file initiation fees.
- 20.** This program comes into effect on May 2, 2001.



*Agriculture, Pêcheries
et Alimentation*

Québec 

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