



2006-2007

***Actions*** for today  
***A vision*** for the future

COMMERCIAL FISHERY  
FINANCING PROGRAM

Québec 

## SECTION I : PROGRAM OBJECTIVE

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1. This program aims to make it possible to diversify and maintain activities involving the catch or harvest of marine products, and the combining, transfer or acquisition of commercial fishery businesses. To do so, the ministère de l'Agriculture, des Pêcheries et de l'Alimentation can extend loan guarantees to commercial fishery businesses. Exceptionally, the Minister can also grant loans.

## SECTION II : INTERPRETATION PROVISIONS

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

**BAPAP :**

*Bureau d'accréditation des pêcheurs et des aides-pêcheurs* (Fishers and Assistant Fishers Certification Board) instituted under the authority of the *Québec Fishers and Assistant Fishers Certification Board Act* (1999, Chapter 32).

**Boat, or fishing boat:**

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

**Fishery business:**

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

**Financement :**

A loan guarantee extended by the Minister.

**Minister:**

The Minister for 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 for a lucrative purpose.

**Fishing licence:**

This expression can also serve to designate a quota.

**Lender:**

- 1) An institution authorized to lend under the authority of the *Savings and Credit Union Act* (R.S.Q., Chapter C-41), 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);
- 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 is that of the *Caisse central Desjardins du Québec*.

## **SECTION III : GENERAL PROVISIONS**

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3. Financing can be granted by the Minister to a fishery business that demonstrates that its financial situation, the quality of its management, its technical and professional competence, its catch capacity and its marine product landing perspectives are such that, in the Minister's opinion, the business can be profitable.
4. To be valid, an application for financing must be presented 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 and repair commercial fishing boats, acquire commercial fishing licences and quotas, and acquire electronic, mechanical and hydraulic components for boats. Moreover, financing could also be granted for the acquisition of a business, the acquisition of a first boat, block of assets, a trawl, traps, longlines, gill nets and other types of fishing gear.

Financial aid can also serve to consolidate the debts of a business, on the condition that it be paired with a project as defined, unless the viability of the business 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 that:

- 1<sup>o</sup> if composed of a natural person, this person is of full age and resides in Québec, he or she personally practices commercial fishing, and meets the conditions set out in one of the following subparagraphs:
  - 1.1<sup>o</sup> 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<sup>o</sup> holds an inland waters fishing licence issued under the authority of the *Québec Fishery Regulations* (1990), (DORS/90-214).
- 2<sup>o</sup> if composed of a moral 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 the 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<sup>o</sup> at least one of its shareholders holding 50 % of the shares in each category or series issued holds a commercial fishing licence;
  - 2.2<sup>o</sup> holds a commercial fishing licence.
- 3<sup>o</sup> if the business is a general partnership or a joint partnership venture, it is composed of natural persons of whom at least one holds over 50 % of the business interests and meets the conditions set out in paragraph 1;
- 4<sup>o</sup> financing is essential to the success of the project;
- 5<sup>o</sup> it is able to meet its financial obligations;
- 6<sup>o</sup> it has the human, financial and material resources needed to carry out the project;
- 7<sup>o</sup> its perspectives of potential return ensure its viability and longevity;
- 8<sup>o</sup> the guaranties requested by the Minister are available.

The following may also be eligible for financing under the authority of this program: a business composed of a combination of a number of natural or moral 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 paragraphs 1 or 2. For the purposes of this paragraph, the word "control" means holding decisional power within the combined business and, either directly or indirectly, holding over 50 % of its property rights.

The following may also be considered a commercial fishing business: an Aboriginal Band Council which has its administrative office in Québec, and holds a fishing licence issued under the authority of the *Aboriginal Communal Fishing Licences Regulations* (DORS/93-332), and of which at least one Aboriginal member resides in Québec and practices fishing in Québec.

## SECTION IV : NATURE AND TERMS OF FINANCIAL AID

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7. Given the objective stated in Section 1, the Minister can grant financing to a fishery business.
8. The maximum amount of financing that can be extended cannot exceed \$ 2 000 000, including the balance of any financial aid paid out under this program and under the *Regulation for the construction, purchase or repair of commercial fishing boats and equipment* (R.S.Q., Chapter 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 boat and its components: 90 % of their market value, based on an evaluation of the business's assets by a private firm or by the Ministry;
  - 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 fishery business 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<sup>o</sup> when the loan or sum of loans granted under this program, plus the balance of any loans granted under said Regulations, where relevant, 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 sum of these loans is less than \$ 250 000, this rate shall be increased by - 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<sup>o</sup> the lender's mortgage interest rate in effect on the date the convention 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 fishery business and the lender.

The interest on financing shall be capitalized 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 fishery business, and the lender, as relevant.

## **SECTION V : PROVISIONS REGARDING THE MINISTER'S LOAN GUARANTEE**

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- 13.** Financing covers the following:
- 1°** the entire loan principal;
  - 2°** all interest incurred and overdue;
  - 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, authorized in advance by the Minister, incurred by the lender to ensure preservation of the loan guarantees;
  - 5°** debt collection fees which have been paid out following the Minister's prior authorization.

## **SECTION VI : MISCELLANEOUS PROVISIONS**

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- 14.** Where relevant, any other financing terms granted under the authority of this program shall be set out in an agreement between the Minister, the fishery business and the lender.
- 15.** Should members of a group of fishery businesses fail to make payments on their loans, and 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 the relief measures required 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 boats, their components and the equipment required for the commercial fishery, and financed under this program, must take place in Québec, unless the Minister has expressly authorized 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 terms deemed necessary or useful to the delivery of this program.
- 19.** The Minister shall determine and collect file initiation fees.
- 20.** This program comes to into effect on May 2, 2001.

N.B.: This text is a translation. For interpretation purposes, the original French version of the program shall take precedence.

