

aspects of aquaculture, the aquaculture industry in Canada has come of age. Consequently, it is important for its future development that it be recognized legislatively as an activity that is different from fishing. For Wildsmith, accepting aquaculture or fish cultivation as a fishing activity is of doubtful value. Separate aquaculture legislation would prevent the application of irrelevant fisheries regulations such as seasonal harvesting restrictions to the aquaculture industry. It would also clarify the federal government's role and help develop a coherent, uniform and comprehensive approach through a consolidated body of regulations for the aquaculture industry.

Provincial governments argue that aquaculture is a matter of "property and civil rights" or of "local works and undertakings" within the province. For example, in Nova Scotia, aquaculture falls under the 1983 *Nova Scotia Aquaculture Act* which was the first legislation of its kind in Canada. A number of other provinces such as Quebec and Newfoundland have since promulgated their own aquaculture legislation.

b) Federal-Provincial Memoranda of Understanding

There are merits to the positions of both levels of government and it is to the credit of each that, instead of challenging the jurisdictional claims of the other in the courts, each has made efforts to negotiate federal-provincial memoranda of understanding on aquaculture development. The two major objectives of these agreements are: 1) to have one-stop aquaculture licensing and leasing procedures administered by the provinces and 2) to ensure federal-provincial cooperation in the interest of an orderly development of the industry. To date, agreements have been signed with Nova Scotia, Quebec, Prince Edward Island, and Newfoundland; negotiations are on-going with British Columbia and soon to take place with New Brunswick.

The MOUs signed to date have confirmed that federal regulation of aquaculture will continue to rest with the *Fisheries Act* and that the means of regulation will be a licensing and leasing system administered by the provincial governments. The Nova Scotia and Quebec MOUs provide that the federal government will enact regulations under the authority of the *Fisheries Act* to facilitate the provincial administration of the licensing and leasing of aquaculture facilities in accordance with federal regulations and whatever additional requirements the province sees fit to impose. This constitutes a delegation of authority leaving the provinces in charge of licensing, site leases and, by extension, regulating and enforcing compliance of the terms and conditions of the licence. This brings the situation in line