

STANDING FISH PRICE-SETTING PANEL

COD FISHERY - 2006

Pursuant to Section 19.8 of the *Fishing Industry Collective Bargaining Act* ("the Act") by notice dated the 19th day of April, 2006, the Panel advised all processors and buyers of the species cod that the 28th day of April was the date by which collective agreement(s) must be in effect and binding on all processors that process that species. The notice was sent to Fish, Food and Allied Workers (FFAW), and all licensed processors or their representatives and buyers of cod from a list received from the Department of Fisheries and Aquaculture. The notice further stated that in the absence of collective agreement(s) binding on all processors a hearing would take place on the 1st day of May at 2:00 p.m. at the Battery Hotel in St. John's.

The parties noted above were further advised by the Panel, by letter dated the 27th day of April, 2006, that in relation to cod information received from the Department of Fisheries and Aquaculture indicated that there is no majority processors' organization. As a result, the provisions of Section 19.9 of the Act apply. In the absence of a collective agreement that is binding on all processors the Panel is required to hold a hearing to determine the issues and its decision is final and binding on the parties to negotiations and all other processors of that species to which the Panel's decision relates. All recipients of the notice were entitled to appear before the Panel and make submissions with respect to the price and conditions of sale of the species cod.

The Panel convened a hearing on cod on Monday May 1, 2006, at 2:00 p.m. at the Riverhead Room of the Battery Hotel in St John's. The only party to appear before the Panel and make a submission was the FFAW represented by Messrs, Earle McCurdy and David Decker. The FFAW filed three Schedules detailing the prices and related terms and conditions for the sale and purchase of cod during 2006/2007. The Schedules represent agreement between the FFAW and the following processors and processors' organization: Icewater Seafoods Inc.; Allen's Fisheries Limited, Codroy Seafoods Limited, Harbour Seafoods Limited, Eric King Fisheries Limited, 3T's Limited and Goulds Fisheries, companies represented by the Seafood Processors of Newfoundland and Labrador (SPNL); and the Labrador Fishermen's Union Shrimp Company. Copies of the Schedules are attached to this Report.

The Panel notes that each of the Schedules states: "The parties agree that this Schedule and the applicable Master Collective Agreement together constitute a Collective Agreement between the parties for the purposes of the *Fishing Industry Collective Bargaining Act*." The Schedules are all to be effective for the period April 28, 2006, to March 31, 2007. The Schedules set out in detail the terms and conditions related to the sale of cod.

The Panel was also advised by the representatives of the FFAW that discussions had been held with the Association of Seafood Producers (ASP), Seafood Processors of Newfoundland and Labrador Inc. (SPNL), and Icewater Seafoods Inc. with respect to a Master Agreement. The FFAW said it had been unable to finalize a Master Agreement with the parties due to the short time frame prior to the Hearing and the number of processors involved but expected to conclude the Master Agreement within the very near future. A copy of the FFAW submission is attached to this Report. It is the submission of the FFAW that the Panel accept the Schedules filed and implement the prices and terms and conditions of sale as a decision of the Panel for the period from April 1, 2006, to March 31, 2007. The FFAW also submitted that the Panel should remain seized of any matters that the parties may be unable to resolve related to the Master Agreement.

CONSIDERATIONS:

Under the provisions of the Act, and in particular, Section 19.9(3), the Panel, following a hearing, is required to make a decision on the matters in dispute between the parties and its decision constitutes: "a collective agreement or part of a collective" that is binding on the parties and all other processors that process, in this instance, cod. The only submission and representation received by the Panel was that of the FFAW; however, in the absence of any evidence to the contrary the Panel accepts the Schedules filed by the FFAW as conclusive evidence of agreement between the FFAW, as bargaining agent on behalf of fish harvesters, and the processors who appear as signatories to the Schedules. The Schedules are comprehensive and detailed with respect to prices for cod at various times during the period of the agreement and the conditions governing its sale and purchase.

While the Panel has not received any submission or representations with respect to current market conditions and the appropriate price for raw material it is prepared to accept the agreement of the parties as filed with respect to price and conditions of sale for cod as being appropriate at this time. The Panel finds support in this position in the absence of any contravening position from processors who will be bound by the decision of the Panel.


DECISION:

It is the decision of the Panel that the price for the species cod and the conditions of sale related thereto for the 2006/2007 collective agreement will be in accordance with the Schedules submitted and attached hereto, and further that the Schedules will be binding on the signatories and all other processors that process cod in the province

excluding the Labrador Inuit Land Claims area, during the period stated therein, and will form a collective agreement or part of a collective agreement with the FFAW.

As to the second submission of the FFAW that the Panel remain seized of any matters that the parties may be unable to resolve with respect to the Master Agreement the Panel is precluded from making any decision or order. No issues or matters in dispute have been referred to the Panel at this point in time. The Act provides that a matter, other than price, may be referred to the Panel. In the absence of any dispute and the reference of a particular matter related thereto the Panel is not in a position to make any order.

St. John's, May 4th, 2006.



JOE O'NEILL

Chair



BILL WELLS



MAX SHORT