

## MACKEREL

The Standing Fish Price-Setting Panel, ("the Panel") received a request, a copy of which is attached, from the Fish, Food and Allied Workers (FFAW), dated the 27<sup>th</sup> day of July, requesting the Panel to: "establish a date for a hearing, if required, to make a decision with respect to price and conditions of sale for mackerel."

Pursuant to Section 19.8 of the *Fishing Industry Collective Bargaining Act* (the Act), by notice dated the 15<sup>th</sup> day of August, 2006, the Panel advised all buyers and processors of the species mackerel that the 22<sup>nd</sup> day of August, was the date by which a collective agreement binding on all processors in the province that process the species mackerel must be in effect. Having been advised by the Department of Fisheries and Aquaculture that the Association of Seafood Producers (ASP) represented processors that process the majority percentage of mackerel, the Panel further advised that in the event that no binding collective agreement(s) was in effect by August 22, 2006, the Panel had scheduled a hearing for Thursday, August 24<sup>th</sup>, 2006, at the Battery Hotel and Suites, St John's. The parties to appear before the Panel were ASP and the FFAW and further that no other submissions would be accepted by the Panel and should anyone else wish to attend the hearing concurrence from both parties to collective bargaining must be obtained. According to the provisions of Section 19.11(1) which are applicable the decision of the Panel must be in accordance with one of the positions submitted to the Panel.

On August 25<sup>th</sup>, 2006, the Panel issued a notice of rescheduling of the mackerel hearing, copy attached, on the basis that the parties to collective bargaining had inadequate market information to permit them to conclude bargaining. The Panel agreed to defer the hearing to Monday August 28<sup>th</sup>, 2006.

The Panel convened the hearing on the species mackerel at 7:00 p.m. at the Pegasus Room of the Battery Hotel in St. John's on Monday the 28<sup>th</sup> day of August, 2006. FFAW and ASP exchanged their Final Offer Submissions to the Panel approximately one hour prior to the commencement of the hearing. The written submissions received by the Panel, copies attached, were supported by oral presentations and rebuttals.

### **BACKGROUND:**

As a species mackerel had been of little significance to provincial harvesters and processors for more than a decade. In a fishery that normally begins in August and continues into December the availability of mackerel has been subject to a high degree of variability. However, landings became more significant in 2001, approaching 9000 t, doubled in 2002 and have increased to 41000t in 2005. As the volumes of landings increased there has also been a corresponding increase in market prices. As a result the mackerel has become increasingly important to both harvesters and processors.

The previous lack of interest in this species is reflected in the manner in which prices to harvesters have been negotiated. The FFAW had collective agreements in 2002

and in 2005. The collective agreements in 2005 did not cover all processors and buyers. As well, the situation was complicated by the demise of the Fisheries Association of Newfoundland and Labrador (FANL) which had formally bargained collectively on behalf of the majority of processors.

The FFAW claims that the 2002 collective agreement is the better benchmark to use as a basis for dealing with the issue of the percentage of market share that the harvesters should receive. More importantly in its view the whole issue of market share needs to be addressed as there is a significant discrepancy in the market share received by harvesters for mackerel when compared to other species. It is the contention of the FFAW that the significant increases in the return from the market is not reflected in the prices paid to harvesters. In addition, the FFAW claims that due to the fact there is minimal processing of mackerel the harvesters should receive a more substantial share of the market return.

ASP is of the view that the collective agreements of 2005 better reflect the circumstances of the fishery and provide a basis from which to move forward into 2006. ASP also takes the position that the harvesters have received a greater share of the increased market returns than the processing sector. The presentation of each of the parties details the facts which they claim support their respective position.

It should be noted that the FFAW acknowledged that the proper redress, that is the determination of the appropriate market share for harvester, could not properly be dealt with at this time. That would have to await a full review of price setting criteria. In the interim, the FFAW submission on prices takes that factor into account. The price proposal submitted is based on the 2002 collective agreement, in terms of the percentage share of market return received by harvesters, and its perception of the market information available. ASP basis its price proposal on the 2005 prices paid to harvesters adjusted for what they see as clear trends in the market for 2006.

### **ISSUES:**

In determining the issue of the minimum price, the Panel had to clarify a number of facts with respect to export values and the total market return from mackerel production over the last four years. There is an extreme variability in the prices received from export markets based on the size and quality of the product. In addition to the information presented by the parties, the Panel has had the benefit of a market report, copy attached, prepared by the marketing branch of DF&A. All parties seem to be in agreement on the point that prices, having increased substantially over the past four years have probably peaked, especially in the major premium market in Japan, and we may reasonably expect to see price declines. The problem at this time is that no contracts have been settled to assist in determining market trends. If prices decline in Japan, which is anticipated, the question remains by how much and what affect that will have on the lower priced markets. Prices as they unfold will also be impacted by landings here and elsewhere.

Given the circumstances of the market place producers are wary and propose that minimum prices should be less than last year. Another factor is the impact of exchange rates which will inevitably produce a lesser return than last year. As well, given the extreme variability in the return from the various export markets if the minimum price is set too high producers may be excluded from the lower return markets to the detriment of producers and harvesters. If mackerel is available and market returns higher than anticipated ASP argues the prices to harvesters will reflect that fact as they have in the past. It is contended by ASP that this approach will protect both the interests of harvesters and processors.

FFAW is aware of the factors in the market place and in agreement that the high prices in 2005 may not be sustainable. Their position proposing higher minimum prices is based on the fact in their view that the prices to harvesters are so low as a percentage of market return that some increase is justified at this time. In other words, the FFAW is saying that the margins available to processors can absorb the higher minimum prices proposed even if the anticipated price declines in the market should materialize.

#### **DECISION:**

From the Panel's perspective there are a number of points to consider in deciding the issue. First of all, we are dealing with the issue of a minimum price. From the submissions presented it is clear that in the rising market from 2002 to 2005 the prices to harvesters have increased in the order of 80 %. Using DFO figures the export market returns during that period are up by 62 %. The point is that the real prices paid to harvesters reflect the rise in market prices and competition among buyers.

The FFAW has argued that despite that fact harvesters are not getting an appropriate share of the total market return. The determination of that issue is for another day, as the FFAW also appreciated in its submission.

The Panel must choose between one of the two positions presented based on the market information available at this time. Unfortunately, we do not have, even up to the time of finalizing this decision, any positive market news for the 2006 mackerel fishery. The marketing report prepared by the Department of Fisheries and Aquaculture clearly indicates that the markets can expect a drop from the earlier high prices established in the Japanese market over the past two years. The latest information provided to the Panel from Department of Fisheries and Aquaculture advises that the market prices have not been settled and in fact the fishery stopped in Norway. Apparently, no major processors in Norway are willing to purchase raw material at this time.

Another factor that must be given due consideration is the lack of quality of grading in the pricing system, price differentials equate to size. Larger mackerel may well drop to the lowest market return due to quality. In volatile market situations processors have reason to be wary. In terms of the total volumes that may be expected it is essential that product have an outlet in the lower priced markets. As we have seen in the submissions and marketing report, there is a large difference in the market prices between high and low end prices.

In its submission the FFAW proposed an initial minimum price to be in effect until September 22, 2006, and higher minimum prices to be effective September 24, 2006, to reflect the better conditions for mackerel.

Given the current situation in the market place the Panel has reservations on the merits of raising the minimum prices for the 2006 mackerel fishery. The parties had a difference of opinion on what the actual minimum price was for last year. That issue does not have to be resolved by the Panel because in rejecting the FFAW price submission, it must accept the ASP submission.

If markets should improve, harvesters should not be unduly prejudiced. If they do not everyone may benefit from the minimum prices not being increased if the markets are off. The Panel notes that the fact that the minimum prices proposed by ASP are exactly the same as these in effect in both 2002 and, in their opinion, 2005. The actual prices paid to harvesters, as the Panel noted earlier, are reflective of the market returns in each year.

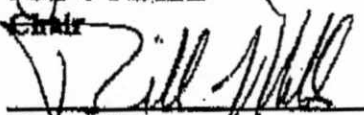
The decision of the Panel is that the following schedule of minimum prices will apply for the 2006 mackerel fishery, effective from the date of this report.

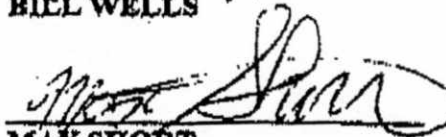
Size (gm)	Price
200 - 399	10 cents per pound
400 - 599	15 cents per pound
600 and over	20 cents per pound

By virtue of the Act, these minimum prices to be included in the collective agreement between the FFAW and ASP will be binding for the period stated on all harvesters and processors involved in the inshore mackerel fishery in the province, excluding the Labrador Inuit Land Claims area.

St. John's, September 12, 2006.

  
JOE O'NEILL

  
BILL WELLS

  
MAX SHORT