

STANDING FISH PRICE-SETTING PANEL

COD FISHERY – 2008 – 3Ps

The Standing Fish Price-Setting Panel, hereinafter referred to as "the Panel", issued its Schedule of Hearings for 2008 on February 13, 2008. Pursuant to Section 19 of the *Fishing Industry Collective Bargaining Act*, hereinafter referred to as "*the Act*", the Panel set Friday, April 18, as the date by which collective agreement(s) binding on all processors in the province that process 3Ps cod, must be in effect. In the absence of such collective agreement(s), the Panel set Wednesday, April 23, 2008, as the date on which the Panel would conduct a hearing regarding prices and conditions of sale for the species cod, for area 3Ps.

It was noted by the Panel at that time that they had been advised by the Department of Fisheries and Aquaculture that no processors' organization had been identified that represents processors in the province that process the majority of the species cod. As a result, should a hearing be required for cod, the provision of Section 19.9 were to apply. Presentations would be accepted by the Panel from a processor, processors' organization and the Fish, Food and Allied Workers representatives at the hearing.

The Panel further advised that parties intending to make presentations to the Panel on cod were to provide the Panel with written submissions not later than 24 hours before the scheduled hearing time and date. The Panel also advised that it shall decide on all matters in dispute between the parties relating to price and conditions of sale for the species cod and the decision of the Panel is final and binding on the parties and all other processors that process that species of fish to which the Panel's decision relates and constitutes a collective agreement or part of a collective agreement between them.

At the request of the industry, letter from FFAW dated April 14, 2008 (copy attached), the Panel rescheduled the date for a hearing, if required, for the species 3Ps cod, by notice dated April 17, 2008, to May 13, 2008, at the Battery Hotel and Suites, at 2:00 p.m. The hearing as scheduled was to proceed in the absence of a binding agreement(s) being in effect by May 9, 2008. The notice further indicated that should a hearing be required: "presentations will be accepted by the Panel from a processor, processors' organization and the Fish, Food and Allied workers representatives at the hearing."

The facilitator was advised by the FFAW on the 9th day of May, that negotiations with Icwaters Seafoods Inc had resulted in agreement on price and conditions of sale for 3Ps cod.

The Panel convened its hearing for 3Ps cod at 2:00 p.m. on Tuesday the 13th day of May at the Battery Hotel. The only party to appear before the Panel was the FFAW who filed a presentation (copy attached) and supported its submission by an oral presentation.

The Panel was in receipt of a submission by the Association of Seafood Producers, (hereafter referred to as ASP) faxed to the Labour Relations Agency at 1:07 p.m. on the 13th of May (copy attached). The Panel notes that its notice to the parties dated the 17th day of April, required that written submissions on cod are to be filed with the Panel not later than 24 hours before the scheduled hearing time and date.

The FFAW submission briefly outlines the course of negotiations and the fact that ASP had decided not to participate in the negotiations. It is further indicated that both ASP and the Seafood Processors of Newfoundland and Labrador (SPONL) were faxed copies of the agreement on May 9th, and were the recipient of follow-up telephone calls from the FFAW.

In the oral submission by FFAW the Panel was informed that ASP had indicated to the FFAW, prior to the May 9th meeting, that the level of interest in the membership was low and ASP would not be engaging in negotiations, in effect the matter of negotiations would be left to Icewater Seafoods Inc. FFAW advised that since May 9th, they had not received any response from ASP or SPONL.

FFAW submitted that the 2008/2009 cod schedule for 3Ps essentially rolled over the 2007 prices with some minor changes. It had been negotiated in the context of a cod auction system that is intended to be introduced on the Burin Peninsula for the 2008 season. The cod auction had been discussed on May 8th at a meeting which included FFAW, Icewater Seafoods and ASP. The prices in the agreed cod schedule were to be the minimum prices for the auction.

The Panel notes the comments made in the ASP submission. The concern expressed is that the 2007 prices, are too high for salt fish processors and particularly for exports to the US market. It is suggested that the prices in the agreement negotiated with Icewater Seafoods Inc. be reduced across the board in the order of 10%.

In arriving at its decision on cod in 2007, Panel Report dated May 3, 2007, the Panel noted at p.4: "Negotiated settlement are by far more preferable..." In this instance, as happened in two previous years, processors have left it to Icewater Seafoods Inc. to negotiate cod prices with the FFAW.

Ample opportunity was available to all processors of the species cod, and to processor's organizations, to negotiate with the FFAW and to make submissions to the Panel and to attend the hearing. For whatever the reasons, they have chosen not to participate in either process, with the exception of the brief submission by ASP.


The question for the Panel is what weight should be given to the ASP submission. The request to reduce prices in all categories by 10% is significant in terms of the consequence. One is compelled to think that a price reduction of that magnitude would provoke participation in negotiations with the FFAW to enforce the point. Again, rather than silence and a late submission to the Panel, on being advised of the new agreement,

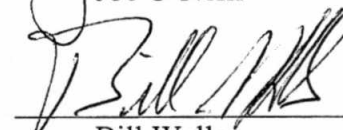
one would expect a timely and comprehensive brief as well as an appearance before the Panel to fortify the ASP position.

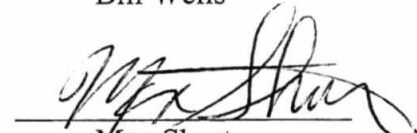
The fact is that the actions of ASP prior to and after the negotiations, do not support a strong contention or conviction that the prices negotiated by Icewater Seafoods Inc. are 10% more than what processors can reasonably be expected to pay. Under the circumstances it is difficult for the Panel to conclude that the prices agreed during negotiations should be so substantially altered.

It is the decision of the Panel that prices for the species cod in area 3Ps, and the conditions for sale, for the 2008/2009 collective agreement(s) will be as set out in the 2008/2009 Cod Schedule, dated May 12, 2008, between the FFAW and Icewater Seafoods Inc., attached hereto. The schedule will be binding on the signatories and all other processors that purchase cod in area 3Ps, during the period stated therein, and will form a collective agreement or part of a collective agreement with the FFAW.

Dated the 14th day of May, 2008.



Joe O'Neill

Bill Wells

Max Short