

STANDING FISH PRICE-SETTING PANEL

INSHORE SHRIMP FISHERY – SUMMER 2008

The Standing Fish Price-Setting Panel (hereinafter referred to as the "Panel") issued its decision setting the prices for the spring shrimp fishery dated the 25th day of March, 2008. The prices were to be in effect from April 15th to June 21st as detailed in Section 13 of the Shrimp Schedule for 2008 in the spring price table. The parties to be proceedings with respect to the spring shrimp fishery appearing before the Panel were the Fish, Food and Allied Workers (hereinafter referred to as the "FFAW") and the Association of Seafood Producers (hereinafter referred to as "ASP"). Proceedings before the Panel for the spring shrimp fishery were conducted, pursuant to Section 19.11(1) of the *Fishing Industry Collective Bargaining Act*, (hereinafter referred to as "the Act").

The two above noted parties are the only ones involved before the Panel in the determination of prices and conditions of sale for the conduct of the summer shrimp fishery. FFAW and ASP mutually agreed to the Panel holding its hearing on Friday, June 20, 2008, at 6:00pm at the Battery Hotel and Suites, in the event of their not being able to achieve a settlement.

The Panel convened the hearing on June 20th, 2008, at 6:00pm at the Battery Hotel. The parties exchanged positions prior to the hearing and supported the submissions, tabled with the Panel, by oral presentations and rebuttal. Copies of the submissions received from the parties are attached.

The Panel advised the parties of its decision by letter dated the 25th day of June, 2008 (copy attached). Section 19.11(1) of *the Act* provides that the decision of the Panel must be in accordance with one of the positions on price and conditions of sale submitted to the Panel by the parties at the hearing. The Panel further advised that its Report on the Summer Shrimp Fishery would be issued not later than the week of June 30, 2008.

Background

In its spring report, the Panel outlined the circumstances of the industry and the current market situation. The Panel and the parties, it was noted, had a "significant amount of market information". This resulted from a Northern Shrimp Conference that was held in St. John's in late January 2008. As well, at the time of the spring negotiations and hearing, three marking reports were available. Notwithstanding this fact, the Panel was compelled to note in its spring report that the parties were 4.75¢ apart on their average price positions for the spring fishery. The consequence of such divergent positions, and the impact under final offer selection in this process, was reviewed by the Panel in arriving at its decision for the spring shrimp fishery. The Panel does not intend to repeat its views on the matter even though they are as applicable now as they were then.

The Panel and the parties had the benefit of updates on the current circumstances in the most important markets for cooked and peeled shrimp. Mr. John Sackton of Seafood.com provided: Update on Northern Shrimp Markets – 2008, dated June 13, 2008 and Gemba Seafood Consulting provided Current Price Report 2008, dated June 2008 (copies attached).

The Panel commended the parties on the effort made to achieve an agreement on prices, notwithstanding a rocky start. Unfortunately, they could not reach an agreement. Again, despite the amount of material available from the spring with respect to the markets, and the updates provided, there remains a significant difference between the parties, 2.8¢/lb on average price for raw material. Last summer landings were in the order of 100 million pounds. The landings this spring were not better than last year and the best that may happen this year are summer landings similar to those in 2007. The difference in dollar value between the parties, in the order of \$3 million, is in the balance.

Recognizing the ever increasing challenges being experienced by both the processors and harvesting sectors of the fishing industry, as well as, the impact of the Panel's decision under the FOS Selection Process, the Panel, prior to rendering its final decision, made a number of overtures to the parties to determine if a modified settlement was achievable. Following the June 20th formal hearing, Panel facilitator, Vince Andrews, contacted the Chief Negotiators for both parties to explore the possibility of a mutually agreed settlement prior to the Panel having to make an FOS decision. Regrettably, this overture was unsuccessful. In the absence of an agreement, the facilitator asked both Chief Negotiators if they would be willing to suspend the FOS selection process, as they have the authority to do, in favour of the Panel working with both sides to explore a possible modified settlement other than the FOS position of one of the sides. While FFAW indicated agreement with this offer, unfortunately, ASP advised it would not provide the Panel with this option. The Panel respects the right of both parties to take the positions they chose in this regard. Finally, the Panel invited both Chief Negotiators and their representatives to meet with the Panel to further discuss and clarify their positions based on the information before them. This meeting occurred on Wednesday, June 25, 2008, at the Labour Relations Agency boardroom at which time a good discussion was held between Panel members and the representatives of both sides.

The Markets

The parties agreed that summer prices are to be settled on the basis of the assessment of the difference between summer market prices in 2008 and the summer market prices of 2007. This requires the appropriate adjustment for differing rates of exchange between the applicable currencies. This comparison avoids the issue of differing yields in the summer fishery as opposed to the spring and fall fisheries. While both parties support their positions with other arguments, the fact remains that a final settlement is to be based on the difference between average summer market prices, year over year, adjusted to the raw material equivalent.

Notwithstanding the common information available to both, the parties respective views of current market prices are far apart. ASP calculates the average market price for 2008 to be \$3.28 lb, an improvement of .38¢ lb. over an average market price of \$2.90 in the summer of 2007. The FFAW on the other hand, has the average market price for the summer of 2007 at \$3.29 lb, one cent more than ASP's 2008 average market price. The FFAW contends that the average market price in 2008 is \$4.00 lb which represents a 71¢ increase year over year, compared to the .38¢ lb increase of ASP.

Given the starting price of the parties, it was highly unlikely they could achieve agreement on market improvement, year over year. FFAW concluded the market prices were up 21.69%, compared to ASP at 13.13%.

ASP has generally been consistent in its approach to the Panel on shrimp prices. Having established a market price differential, in this instance 38¢ lb, the raw material price is based on a 32% yield, or 12¢ lb. This increase in the raw material price is shared with the harvesters, their portion is 65.4%, which is 7.8¢ lb. The 7.8¢ lb is added to last summer's average price for raw material, 42.7¢ lb, to arrive at their final offer of 50.6¢ lb. This is an 18.5% increase over the average price paid in 2007.

The FFAW appears to be adopting a similar format. Their calculation of the average market price increase is 71¢ lb, at 32% yield, the raw material price is 22.8¢. For their final offer the FFAW did not assign 65.4% to harvesters, instead the price increase adds 10.7¢ lb to the 2007 summer price to produce a final offer of 53.4¢ lb.

The parties' interpretation of the market prices are widely divergent. Given the approach used, the assessment of market prices and the application of exchange rates, no calculation can be precise. In the words of ASP in their presentation to the Panel, "Reading the market, given the data we have, is both science and art." We do not have any specific information on summer market prices from the respective markets. One might expect, given the inability to be more precise, the parties might have achieved a middle ground. For their own reasons and internal situations, they have chosen to stand on their final offers and risk an even greater cost. The factors related to the rationale for their respective positions are not within the purview of the Panel.

From the Panel's perspective, a number of factors stand out. First of all, there is no way to reconcile the respective views of the parties on the prices used to support their proposals. There are no criteria or objective guides available to the Panel to say that one position is more correct than the other. The Panel has no information available to it that can provide a definitive result with the precision required.

What the parties, the marketing consultants, and the Panel are generally agreed on, is the fact that the markets for cooked and peeled shrimp have strengthened considerably since the lowest prices of 2006, which marked years of successive price declines. Market strength at a particular point in time, may be offset to a certain extent by the fluctuations in exchange rates, such as the high Canadian dollar versus the US dollar

over the past year and the lesser value of the £ sterling, in two of our most important markets.

Other important factors are the declines in production from our major competitors in Norway and Iceland, and the slowdown and expected decline in the Greenland fishery. This has resulted in a much improved position for our product under the ATRQ in Europe. In the cooked and peeled shrimp markets, Newfoundland and Labrador is the dominant supplier and, to the extent that market returns can be tested, we should be the principal benefactor. It is now, with low inventories and no anticipated market price declines, that we must grasp that opportunity.

One similarity in the positions presented by the parties, was the significant increase in average market price increases between their spring average market price in 2008 and summer of 2008. In each case they are up substantially. The market price trend is upward and prices have yet to stabilize. This reflects the view of the dramatic turn in the fortunes of our shrimp industry over the past year. In the absence of this turn of events within the past year, it is highly unlikely that that this sector of our industry could operate in 2008. Even now, our margins for processors and harvesters are expected to remain tight as increased costs in operation affect both processors and harvesters.

Conclusion

In the absence of a mutually agreed position following these overtures, the Panel must exercise its legislated responsibility and select, based on the best available information and analysis before it, either the position of ASP or FFAW on prices for shrimp for summer 2008.


The Panel is compelled to note to both processors and harvesters that in its view the challenges for both sides are likely to escalate as we move further into 2008 and beyond. Accordingly, it is the Panel's hope that both sides continue to work toward improvements to their collective bargaining relationship to their mutual benefit. As the Panel has stated many times in previous decisions, it remains ready and eager to assist both sides in this most important issue.

Decision of the Panel

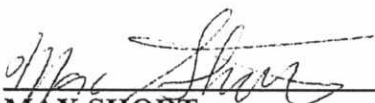
Based on its own assessment of the general market conditions, as provided to the Panel, and the submission of the parties to the Panel, as well as their positions outlined in the presentation made in respect of the spring shrimp fishery in 2008 and the Panel conclusion of the market at that time, the Panel accepts the position of the FFAW. If anything, market prospects continue to improve and, as noted in one of the market reports, prices are expected to stabilize towards the fall of 2008.

The Panel's decision has previously been communicated to the parties by notice dated the 25th day of June, 2008 (copy attached).

Dated the 2nd of July, 2008.



JOSEPH P. O'NEILL

BILL WELLS

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