Inshore Shrimp Fishery – Spring 2010

The Standing Fish Price Setting Panel, hereinafter referred to as "the Panel" issued its Schedule of Hearings for 2010 on January 26, 2010. Pursuant to Section 19 of the *Fishing Industry Collective Bargaining Act"* hereinafter referred to as "the Act", the Panel set Thursday, March 25th, 2010, as the date by which collective agreement(s) binding on all processors in the province that process shrimp must be in effect.

The Panel also noted, at that time, that it had been advised by the Department of Fisheries and Aquaculture that the Association of Seafood Producers, hereinafter referred to as "ASP" represented processors that process the majority percentage of the species shrimp. Accordingly, under Section 19(11) of the Act, should a hearing be required for shrimp, the parties appearing before the Panel would be the Fish, Food and Allied Workers, hereinafter referred to as "FFAW", and ASP. Section 19.11(1) of the Act and the Regulations made pursuant thereto, require 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 no other submissions would be accepted by the Panel and, should other representatives of this species wish to attend the hearing, concurrence from both parties to the collective bargaining must be obtained.

The FFAW, by letter dated January 28, 2010, provided a Notice of Intent to Negotiate, inter alia, shrimp prices and conditions of sale. It was proposed that the parties meet on March 17-19, 2010 on price issues with respect to the species shrimp. Negotiations on the price for shrimp did not take place on the dates proposed or at all. ASP advised the Minister of Human Resources, Labour and Employment, by letter dated February 22, 2010 (copy attached) stating in part: "*...ASP members agreed unanimously in a meeting of February 17th to notify you of our decision not to participate in any meetings, hearings or collective bargaining associated with the Standing Fish Price-Setting Panel"*. ASP did not respond to any Panel correspondence, including the Schedule of Hearings for 2010.

The FFAW has since stated its intention to appear before the Panel on any unresolved issues and in the absence of any negotiated settlements. As a result the Panel convened a hearing on shrimp non-price issues on the 1st of March, 2010, in response to an FFAW request dated February 19, 2010. The Panel issued its decision on March 9, 2010. In that decision, the Panel directed that the Master Collective Agreement and the Shrimp Schedule be combined to form one collective agreement for 2010 that would be binding on all processors that process the species shrimp in the province. The Panel's decision is attached for ease of reference (copy attached).

The Panel convened the hearing for spring shrimp prices at 2:00 pm on Friday, March 26, 2010. The date of the hearing was changed at the request of the FFAW. The Panel issued a revised notice to that effect (copy attached). The FFAW appeared before the Panel, having previously filed its written submission (copy attached), and supported its submission with an oral presentation. No other submissions were filed with the Panel and no other party appeared before the Panel.

Accordingly, the Panel again finds itself in a position where it has to carry out its legislated obligation under the Fishing Industry Collective Bargaining Act and set price and conditions of sale for a major fishery in the absence of representation from the processing sector.

Earlier this month the Panel issued its decision on the price to be paid fish harvesters for the all important 2010 crab fishery. Like shrimp, that decision of the Panel had to be made without input from the processing sector. In fact, it had to be done in the absence of collective bargaining with the harvesters' certified bargaining agent, the FFAW.

The Panel is fully aware of the major challenges facing both processors and harvesters in 2010 as it was in 2009. The decisions of the panel since it was formed in 2006 have not always been popular with harvesters or processors depending on which side of the industry those decisions have favoured. That is the nature of any third party tribunal process particularly in those cases where the panel has had to choose between one of the two positions under the Final Offer Selection process.

The FFAW and the Panel had the benefit of a market presentation by Mr. John Sackton of Seafood.com and Seafood Datasearch, on March 24, 2010 (copy attached) and a report prepared by Gemba Seafood Consulting dated March 19, 2010 (copy attached).

The FFAW expressed its concerns and frustrations with respect to the non-involvement of the shrimp processors through ASP in this process. There is now no communication between ASP and the FFAW on spring shrimp, much less any collective bargaining as required by the Act.

The most important message the FFAW conveyed on behalf of the shrimp harvesters was their current economic predicament. In the view of the FFAW there is little recognition of the economic problems facing the harvesters, many of whom are close to bankruptcy. The levels of support in Quebec and the Maritime provinces are not available to them. The FFAW contends that the harvesters have no input into the marketing decisions, yet must bear the brunt of the consequences of lower market prices.

Reference was made to a Deloitte survey of the economics of the harvesting sector which found that between 22-44% of the 4R shrimp only fleet was viable, depending on the differing definitions of viability applied. Disconcertingly, these findings were based on the 2008 fishery, which was arguably, the best year in terms of volume and value for harvesters in this decade. The figures with respect to the viability of near shore enterprises were worse.

The conclusion presented by the FFAW, is that if prices to shrimp harvesters are based on calculations related to market offers, that portion of the harvesting sector will disappear.

The proposed final offer for the spring shrimp fishery is a weighted average price of 60 cents a pound. This offer was determined on the basis of providing profitability to shrimp harvesters, not the current or expected market returns. Unfortunately, as in many other instances, the primary producer does not get to dictate what final market returns will be. The reality is that in recent years our competitors in the cold water (cooked and peeled) shrimp industry have seen plants closed, bankruptcies, and harvesting enterprises abandoning the shrimp fishery, due to the economics within the industry.

Stiff competition from warm water shrimp, the variations in rates of exchange, a major recession and economic instability have provided the backdrop related to our success, or lack thereof, in exploiting what has become in a relatively short period, an abundant resource.

The real issue we must all confront now, is the lack of demand for our product, cooked and peeled coldwater shrimp. In 2009, the issue of declining demand was compounded by the global recession which pushed prices down in all markets. In addition to which the relatively higher value of the Canadian dollar, further reduced the overall return to processors.

Our industry had experienced five years of declining returns up to 2006. Returns then stabilized and began to increase. In 2008, the industry experienced a banner year in terms of volume and prices, in this decade. Unfortunately, it set up the participants in the industry to take the full impact of the dramatic declines experienced in 2009.

Market prices had dropped precipitously by June of 2009. This situation was compounded by increasingly unfavorable exchange rates, led by the GBP, in our largest market outlet in Europe. In the United States, according to Mr. Sackton in Update on Northern Shrimp Markets in 2009, June 10, 2009, at p. 11, *"...customers turned away from cold water shrimp."* This was the result of too high prices and the market in the US being "abandoned". Mr. Sackton also stated: *"...the recent decline beginning in January... through the March-June period, has been more drastic than any other price movement in the past five years."* In his current update, Mr. Sackton notes that shrimp were left in the water in Oregon in 2009 as a result of the poor domestic market. In fact, Oregon shrimp is becoming another competitor for us in Europe. This highlights the lack of interest in the US marketing of coldwater shrimp. As Mr. Sackton notes, US consumers' consumption of warm water shrimp to cold water shrimp is a ratio of 90 to 1.

In pricing average market returns in the past, both the FFAW and ASP have attributed 25% of the overall market share to the US market. However, with the Canadian dollar approaching par with the US dollar, even if the market prices could be maintained at a reasonable level, it would still result in less returns from the market in 2010 compared to 2009.

In the all important European market currency declines against the Canadian dollar are having the most impact in reducing the average market return to processors. One of the positive elements in the European market at this time is the fact that there are no shrimp in inventory. As a result market prices are expected to increase by as much as 20% in some instances over the lows of 2009. However, the question remains; will market prices increase to the point that the overall average return will be equal to the returns anticipated at the beginning of the 2009 season? The Sackton report states: *"...current price levels still do not return revenue to processors and harvesters equal to 2009."* The Report notes current prices for 250-350 ct at £ 1.80 lb., and 150-250 ct at £ 2.00 lb. At the current rate of exchange, 150-250 ct, the return would be $3.08 Cdn. The return in May 2009 would have been $3.52 Cdn. In the absence of any relief in the rate of exchange is it realistic to expect that the market price in the UK will increase sufficiently to make up the difference. It should also be noted that current prices quoted in the UK are at a time of limited supply and low or no inventories.

Another positive factor, in addition to no inventories, is the removal of the 6% tariff by the EU. This is a significant benefit to the Canadian exporter if that benefit were to be taken by the exporter. As noted by Mr. Sackton: *"...buyers are eager to purchase shrimp."* This is a result of lack of inventory.

The information contained in the report by Gemba Seafood Consulting is focused exclusively on the European market. The description of what took place in 2009 and the outlook for coldwater shrimp in 2010, is similar to the Sackton Report. It states: *"The year 2009 was the worst year on record for the shrimp trade and most players have suffered losses as prices slid and demand was slow."*

The report concludes that inventories are low and the market is short of supply. Prices had actually increased by approximately 10%, from the August 2009 low by November, and are expected to rise another 10% in EUR/DKK terms by March/April 2010. However, the latter price increase includes the removal of the duty on Canadian shrimp at the start of 2010. Gemba concludes that the "general assumption" is that the benefit from the elimination of the duty will go to Canadian exporters. As a result, they expect a total price increase of 20% in the EU to be a realistic number. Gemba, and the wholesalers and importers interviewed, realize that, even with these projections there is a problem. The report states at p. 14; *"Unfortunately, most of this increase will be offset by the rate of the Cdn dollar with the consequence that the Canadian exporters will see little or no increase in the price they will receive in* Cdn dollars. *Even if the importers pay 15% more than in October 2009, it will give no rise to the Canadian industry (in Canada) due to currency changes. The operators in the market are concerned by the low price level because they realize that the present level is insufficient for the Canadian fishermen and processors, but they see no room in the market for very substantial increases at this point in time."*

Another point worthy of note at p.14: *"Some fear even higher price increases, which would in their view lead to markedly lower sales and consequent pressure on prices later in the year. The most pessimistic fear that prices would increase very substantially and fisheries resume at former levels with a market collapse in the autumn as a consequence."*

This is a critical issue in any realistic assessment of the current situation of our shrimp fishery. This factor will have to be taken into account in arriving at a decision.

There are other points made in the Gemba Report to which we should refer. It is noted that without the reduction in supplies from Canada (read this province) it would inevitably have led to a market collapse in 2009. The statement highlights some of the longer term factors noted in the Sackton Report, Slide 9:

"Less cooked and peeled shrimp is being sold in the primary markets.
- *Denmark--- Down 30% since 2007.*
- *UK ---------Down 13% since 2007.*
- *US----------Down 29% since 2007.*

This is a picture of a product in serious decline"

Even though 2009 was a period of global recession, we should not let that fact allow us to ignore the realities of the market for cooked and peeled coldwater shrimp. The high production in 2008 led to the over supply in 2009 and the dramatic price declines in 2009. Market prices will recover in 2010; however, the market price recovery will be limited by supply, even though the recession is receding.

If we are to have a shrimp fishery in 2010, should we get a market return that will cover the requirements of harvesters and processors to the extent that they are willing to engage, we can not expect landings to match the available quota. The higher the volume, the greater the pressure on market prices will be in 2010.

At the present time the "most pessimistic fear" of the operators in the EU of oversupply, appear to be groundless since there is little likelihood of a fishery, given the issue of finding a price to harvesters that would be acceptable to both harvesters and processors.

The issue is "that" price. The best indication of the position of a party to collective bargaining is when they throw in the towel and refuse to carry on. In 2009 processors stopped buying and were only prepared to pay an average price to harvesters of 37¢ lb. when the market price lows of 2009 became a reality. When the Panel confirmed that price at the start of the summer shrimp fishery, the harvesters were not prepared to fish. The fishery did resume, at 42¢ cents lb. following third party intervention. By the end of the season the total landings were 100 million lbs., a shortfall of 70 million lbs. from 2008. Even so, a number of harvesting enterprises did not fish at 42¢ lb. while others fished at a lower level of effort. This was due to the fact they could not recover their costs or make an acceptable economic return. Processors were most likely in a similar circumstance. Our customers in the EU apparently faired no better. The Gemba Report indicates: *"Most, if not all, companies (traders and processors) in the European market have had substantial losses on their shrimp operations in 2009."*

Everyone involved in the supply chain in our traditional markets is understandably reluctant to incur unrecoverable costs or losses in 2010.What the market is looking for is stability in prices and supply.

The FFAW position of 60¢ lb. presented to the Panel was not calculated as their share of the average market return. The issue for many shrimp harvesters is their survival. The FFAW asserts that at 42¢ lb. *"A significant number of shrimp enterprises left their boats tied on for the duration of the season because the economics of the fishery did not make it feasible for them to fish."*

Normally, the FFAW would submit what in their view the average market would be to substantiate their final offer on a price for shrimp. It was admitted at the hearing that they could not submit such a table this time. This is not unreasonable under the circumstances as both Gemba and Sackton could not provide spring market prices due to the absence of sales. The Gemba Report at p.13 states: *"Currently there is no reliable market price as there is practically no inventory left."* The Sackton Report, slide 34 is headed: "*Cannot make predictions on market price*". The Panel is in a no better position.

According to Mr. Sackton, ASP representatives were in the EU recently. The result was that the buyers refused to commit on prices and sellers could not say what price increase was required. The conclusion was that the UK and Denmark would wait for the Canadian producers to propose a price: "based on raw material cost and exchange." The buyers said they would respond to a proposal without any guarantees.

The withdrawal of the processors and ASP has not been helpful. However, the Panel is legally required under the Act to set a price, in the absence of an agreement, before the opening of the fishery. In setting a price for the spring shrimp fishery in 2010, the objective of the Panel is to arrive at a price, within the context of the current market, that might be acceptable to both parties. That objective is highly unlikely at this time.

The FFAW and ASP have always bargained on spring shrimp prices on the basis of change in the spring market prices from one year to the next. This eliminates issues related to seasonal changes in size distribution and yield. The Panel's decisions, when required, are based on an assessment of the change in average market returns from the previous year, either up or down. At no time has the Panel taken into account the economic circumstances of either the harvesters or the processors. The FFAW has made comments in the past that the Panel could be better utilized; however, ASP has been firm in maintaining that the economic situation of harvesters and processors should not be part of the Panel's consideration in setting a price, in the absence of an agreement between the parties.

The spring price is to remain in effect until June 20, 2010. In that period landings generally would not exceed 25% of the quota for the year. If the spring shrimp fishery were to start at the normal time it is unlikely that the volume of supply to the markets would destabilize market prices. Given the lack of inventories, the spring shrimp fishery presents the best opportunity to secure higher market prices, and the best overall returns from the market. What may happen after the spring fishery would depend if the situation provided for a continuation of the fishery at a return acceptable to both parties.

What then is possible in terms of an acceptable price to harvesters and processors to start a fishery? ASP submitted a final offer of 46 ¢ lb., weighted average price in March 2009, based on an assumed market return on average of $3.46 Cdn. For the summer shrimp fishery, ASP made a final offer of 37¢ lb., which reflected a drop in the weighted average market of 18%, and a drop attributable to exchange rates of 1.84%.

In March of 2009, the FFAW's final offer was 47.5¢ lb. In the summer fishery the FFAW proposed an average price of 42¢ lb. That was based on an estimated average market return of $3.16. As we know, the processors stopped buying prior to the start of the summer fishery and harvesters would not fish for the summer price set by the Panel, after having selected the ASP final offer of 37¢.

Given these facts, if we are to entice both sides to consider a fishery, the weighted average market return would have to be in the order of $3.50 Cdn. That may be a tall order since the losses resulting from the exchange rate would have to be made up by increases in the market prices.

If the average market return for the spring fishery were $3.50 Cdn., processors, may be prepared to buy, as they did in 2009 at a price of 46¢ lb. to harvesters. Harvesters accepted the Panel decision in the spring of 2009 and fished for 46¢. The FFAW had proposed 47.5¢. The question is would harvesters fish for 2009 spring prices should that price be available? It is stated in the submission that: *"prices in the 40s are completely unworkable even in the short term."* The FFAW concluded in their submission that there would be, *"... a slight improvement in market return net of currency changes."* Unlike Gemba, on which they based that conclusion, they appear to have the tariff benefit as additional to the 20% market improvement that Gemba expected. Gemba expressly includes the tariff benefit in the 20% overall increase.

Despite that it seems to be clear that the FFAW does not expect the return from the market to support their proposal of 60¢. A market return equivalent to 2009 would dictate something more in line with their 2009 final offer of 47.5¢. Obviously, the FFAW and harvesters appreciate that the raw material price can not be set entirely on the requirements of harvesters, no matter how legitimate they may be. Even if we were to get back to 2008 price levels in the market, the price to harvesters would not result in any price close to 60¢ lb.

The FFAW does say: *"It makes sense that the raw material price in this province be resolved before processors finalize market prices"*. As well, it stated: *"Once our raw material price is established, market price negotiations can resume."*

This approach ties in with Mr. Sackton's report of what ASP will do, that is propose a market price based on: "raw material cost and exchange." Then the buyers will decide what they will do.

The Panel is of the view that before any communication with the markets there must be a clear understanding between ASP and FFAW, that the price to harvesters used in that discussion is acceptable to both of them. If the Panel were to set a price now, in all likelihood it would not be acceptable to either party. The parties are not being asked to reach an agreement per se. What they would be doing is setting a price related to a "defined" market return. If that market return were to be achieved, as a result of the market price discussions between ASP and buyers, the raw material price would be settled. It must be remembered that the markets are looking for stability in price and supply.

Agreeing on a price to harvesters on the basis of a projected defined market return can be done between ASP and the FFAW without any prejudice to the position of either party. In the event that defined market return price is not achieved, the matter will revert to the Panel without any further representations required for a final decision on the price to harvesters for the spring shrimp fishery. If it is achieved however, the parties would have settled the price to harvesters and any further involvement of the Panel should not be required.

It is therefore premature for the Panel to set a price at this time. What is required now is an objective analysis of the current position, discussion and consultation between the FFAW and ASP and between ASP and the buyers in the UK and Denmark. The outcome of these discussions could determine the course of events in the shrimp industry for this year.

It is unprecedented to have operators at wholesale and retail in Europe recognize that harvesters and processors in this province are in fact in economic difficulties. It is most likely reflective of the fact that over the past two years in the European Union, they have observed that plants have closed and harvesters have abandoned the shrimp fishery, because they could not continue on the returns provided. The economic distress within the industry is recognized. In 2010, it may be possible in certain markets to ensure that all the players in the supply chain are not in a loss position. The Panel has not focused on other market opportunities at this time since, as Mr. Sackton points out, 80-90% of our shrimp goes to the US, UK and Denmark. Other markets are not a solution to the current issue. The Panel accepts the fact that the fishery will be limited to that level of production which can supply the market at a reasonable return to the parties involved.

The Panel is acutely aware that the decision it is about to make represents a marked departure in setting a price. However, the Panel is convinced that at this time it is the better alternative. The Panel will in effect step aside for a period of up to two weeks from the date of this decision to allow both parties time to engage in discussions.

The FFAW and ASP are requested to meet and define an overall market price return that would support a specific price to harvesters for the spring shrimp fishery. That market price would be as described at slide 19 in the Sackton presentation: *"... a price based on raw material cost and exchange"*. Should there be agreement between the two parties, ASP would be expected to propose that market price to buyers in the UK and Denmark. It is expected as per Sackton the buyers would respond to such a proposal. If the latter response on prices and volumes are acceptable, the raw material price would be confirmed as the agreement between ASP and the FFAW for the spring shrimp fishery.

Should the Panel be informed that the parties have not agreed to meet at the end of the first week; or should the process not result in an agreement by the end of the second week, the Panel will decide on the prices for the spring shrimp fishery as required by the Act, without the requirement of any further representation.

Dated at St. John's, March 30, 2010.

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