

## DECISION OF THE STANDING PRICE SETTING PANEL SUMMER SHRIMP 2013

The Standing Fish Price-Setting Panel, hereinafter referred to as "the Panel" issued its abbreviated decision setting the price for the 2013 Spring Shrimp fishery on the 6<sup>th</sup> of May, 2013. The Panel issued its full report outlining its reasons for its decision on the 11<sup>th</sup> of June, 2013.

The 2013 Shrimp Schedule between the Fish, Food and Allied Workers, hereinafter referred to as the "FFAW", and the Association of Seafood Producers, hereinafter referred to as "ASP", provides in Article 13:

*"The parties hereto agree that the spring price list as set out in the attached price list shall be in effect to June 22<sup>nd</sup>, 2013. The parties will meet prior to June 22<sup>nd</sup>, 2013 to commence negotiations for the price list for the summer period and prior to the expiration of the summer price list to commence negotiations for the fall period. In the event there is no agreement on price for the summer or fall periods, the parties agree to refer the matter to the Standing Fish Price-Setting Panel for binding resolution in accordance with the provisions of the Fishing Industry Collective Bargaining Act. All terms and conditions of this Schedule except prices are in effect from April 1<sup>st</sup>, 2013 to March 31<sup>st</sup>, 2014."*

The Panel was requested by the parties to set a date for a hearing, if required, at 2:00pm on the 14<sup>th</sup> June, 2013.

Having previously exchanged positions and filed submissions with the Panel, (copies attached), representatives of the FFAW and ASP appeared before the Panel and supported their submissions in main argument and rebuttal. In addition to the submissions of the parties, the Panel and the parties have the benefit of market reports from Seafood.com and Gemba Seafood Consulting. (copies attached) The Panel in accordance with the provisions of the act and by the agreement of the parties, must choose one of the positions presented by the parties using Final Offer Selection.

The Panel, with the agreement of the parties issued an abbreviated decision on the price for Summer Shrimp for 2013 on the 20<sup>th</sup> of June, 2013. This was done to ensure the parties had the benefit of the panel decision prior to the expiry of the Spring Summer price on the 22<sup>nd</sup> June, 2013.

In making its decision on the price for Summer Shrimp the Panel took a number of factors into consideration. They are outlined below.

### **The Markets:**

The parties as well as the market analysts, while agreeing generally on certain aspects of the current market, do take somewhat different views on the current state of the market. The parties have presented, as they always do, their representation and interpretation of those aspects of the market analysis which best supports their position. This has become a normal feature of the manner in which the parties have made their presentations to the panel on a number of species.

The FFAW, in support of its position, presents aspects of the market analysis that, in its estimation, lends itself to optimism for the summer shrimp market. ASP on the other hand, presents in its analysis a number of market quotes that, in its view show an opposite trend.

The challenge before the Panel is to analyse all of the information presented and made available to it by the parties and the market analysts and make its determination on the current state of the markets as we move into the summer shrimp season. The Panel will not regurgitate all the information in the market reports. Rather it will highlight some of the more salient points in both reports to demonstrate that while the general tone of the market analysis is consistent, there is somewhat of a difference in the level of optimism toward the markets going forward.

In its review, the Panel notes the following commentary directly from the Gemba report analysis that, "the price decrease in early 2013 seems to have stabilized."

Gemba goes on to say that for the UK, which is a major market for NL shrimp that, "Sales have been slow for spring but seems to be taking up speed. This may be because the price reduction early in the year is now reaching the UK customers. Inventories are reported normal for the season."

Gemba also reported that in Germany, "Sales has started to move again however, inventories are high due to a low demand in winter and early spring. Prices are expected to slightly increase over the summer. The WWS price increase is expected to dragging the demand for CWS up and hence the prices."



For the Swedish market Gemba reports that, "CWS remains the preferred shrimp and Sweden seems unaffected by any fluctuations in prices and economy."

Sackton takes a more cautious approach in his analysis and reports that "Since April of this year, prices for shellfish in the US have declined."

In Europe, Sackton analyses that, "The trend for a more unsettled market for frozen cold water prawns continues in Europe."

Sackton advises that, "In the UK, slow retail sales are leading to lower volumes being used on a monthly basis. The trend toward lower retail volume that we identified in the last report continues."

It is evident from the overall summaries of the two market consultants that there are slightly different views on the state of the market. The Gemba report is cautiously more optimistic than Sackton that the market has stabilized in the key areas in Europe where most of the NL product is sold.

#### **The ATRQ:**

For 2013, the ATRQ has been increased by 50%, from 20,000 to 30,000 metric tons. In its submission to the Panel, the FFAW pointed out that, "It is clear from the ASP Summer 2012 submission that they costed the uncertainty of the ATRQ (EU tariff) regime at .5-6¢/lb in raw material equivalent. This fact was not refuted by ASP in its rebuttal to the FFAW presentation.

When the ATRQ was first introduced in 2007 there was a dispute in July of that year between the parties over the added value this made to the shrimp fishery. Following a series of lengthy discussions with the parties, the Panel placed a value of 2.5¢/lb on the product as a result of the ATRQ introduction.

This increase in ATRQ by 50% should, in the view of the Panel, have some positive impact on the product going into the market in 2013 as it did in 2007 when the ATRQ was first introduced.

### **Inventories/Supply:**

With respect to Inventories and Supply Gemba reports that, "Inventories are reported as being normal for the season and no large purchases are expected."

Gemba also pointed out that, "The supply will be reduced due to the lower Greenlandic shrimp quota, however, inventories in the producer countries are high and the reduction in supply will only have a small effect at the market."

Sackton reports that, "In Denmark a lot of sales are still being made on 2012 product, confirming there has been a carryover inventory." Sackton also reported that, "In the US, there is a normal build up of inventory right now as the fishing season is underway. Product is reported to be moving, and there is no sign of excessive inventories."

### **Competition from Warm Water Shrimp:**

For the past couple of years the CWS market has had to cope with competition from the increased supply of WWS into the traditional shrimp markets. However, as Gemba has pointed out, "The decrease in *vannemei* supply combined with a price drop on CWS may add further dynamics to the shrimp market and, if not making CWS prices increase, at least keep the price from falling."

### **Considerations/Conclusion:**

After a full consideration of the factors outlined above, the Panel is of the considered view that while it acknowledges the current market situation can probably be best described as tenuous, the continued reduction of the raw material price to the .60¢/lb level should enable the product to move in the traditional markets, particularly the UK, the most important market for NL shrimp.

Despite these considerations, the Panel does acknowledge that the 2013 situation for Summer Shrimp may be not much unlike the situation in the Summer of 2009 when it was acknowledged by both parties that whichever price was chosen by the Panel, there would not be a fishery. The FFAW advised the Panel that if it choose the position of ASP, the harvesters would not engage in the fishery. ASP advised the Panel that if it chose the position of the FFAW, they would not be buying product. This is not a criticism of the parties but simply a statement of the facts. At a time when the market



cannot sustain an absolute minimum for the cost of raw material, the choice is then dictated by that market and harvesters and processors have to make the difficult choice of whether to harvest or buy the product. It will be recalled that the parties faced a similar situation in 2009 during negotiations for the price of capelin.

In its submission to the Panel on the 14<sup>th</sup> of June the FFAW advised that,

*"Anything below .60¢ is not economic to fish even in the short term."*

If one were to draw a conclusion from that statement, it would have to be that any price below .60¢ will not produce a Summer Shrimp fishery as harvesters will not likely continue to fish. That has to be their choice just as it has to be the choice of processors whether it is feasible to engage in a Summer Shrimp fishery at a raw material price of .60¢/lb. Either way, if harvesters cannot fish at .55¢ and processors cannot buy at .60¢, there will be no Summer Shrimp fishery in 2013.

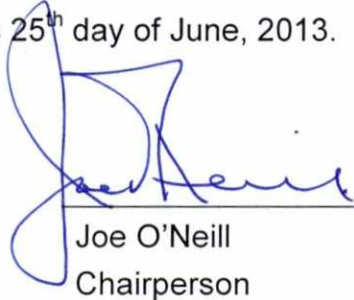
Just as with any raw material, there is a point where it is not feasible to harvest it. We have seen similar situations in the pulp and paper industry as well as the mining industry in the province. It may be that we have now reached that point for the Summer Shrimp fishery in 2013 in NL.

As previously indicated, this is not the fault of the processors or the harvesters. There is no control of the market. However, both parties have to react to the demands of the market.

It is the hope of the Panel, that with this further price reduction and the glimmers of hope being shown in the market together with the other factors of improved ATRQ, reduced supply from Greenland, reduction in competition from WWS will all factor into an ability to prosecute the Summer Shrimp fishery in NL in 2013.

The decision of the Panel is to accept the final offer of the FFAW for the Summer Shrimp fishery in 2013.

Dated this 25<sup>th</sup> day of June, 2013.



Joe O'Neill  
Chairperson



Max Short  
Member

I respectfully disagree with the decision of my colleagues in this instance. It has been apparent for some time that the market returns for cooked and peeled shrimp have declined dramatically since the beginning of 2013. This has occurred even as supplies to that market have continued to decline on an annual basis, a very worrisome situation for the industry in this province.

Based on the assessments currently available to the Panel, the weighed average market prices are down in excess of .60¢/lb. This was evident in the market reports available to the parties and the Panel at the spring price negotiations. The latest marketing reports do not indicate any positive improvement in the situation. At page 7, the Gemba report states:

*"After the drastic price drop in the start of 2013... prices remained at a stable level with a downward tendency during spring. The interviews suggest that this tendency will continue at least for the next two to three months. The Gemba forecast is: "... is assessed to vary around the present level with a slight downward tendency towards the end of the period."*

The Seafood.com report also states at page 14:

*"The only rationale for a prolonged decline of four months or more in the US market is that prices in Europe are also falling..."*

The overall assessment was the prices are 18% to 20% lower than prices in 2012.

Conservatively, we are looking at a price drop of at least .60¢/lb. The parties are never agreed on how much a change in the market return should be shared between harvesters and processors. ASP has most consistently used a yield of 32.7% and a harvester's share of 65%, especially in the event of price declines. The FFAW have applied a 35% yield and up to 78% harvester's share to a market increase of .60¢. There is no precise formula, but such calculations have previously been used by the parties and the Panel in developing and assessing their respective positions.

One factor has predominated in the determination of shrimp prices over the past seven years, a process the parties have directed the Panel to follow. In each shrimp fishery; spring, summer and fall, the weighted average market price in the current year is to be compared to that of the previous year. The difference between the weighted average market prices, up or down, is used as a guide to determine the change in price to harvesters.

For instance, if the weighted average market price is down by .60¢/lb, applying the ASP yield and sharing percentages, which favors the harvesters position when the price is down, would result in 12.8¢ change from the previous years price. In 2012, the average price agreed between the parties was .64¢/lb subtracting 12.8¢ would produce a price for 2013 Summer Shrimp of 51.2¢/lb.



As can be seen from the final offers presented by the parties, ASP, is proposing a price change to .55¢/lb, a drop of .09¢/lb. ASP supports its position using various price calculations to determine that under a variety of calculations theirs is the more reasonable of the offers presented.

The FFAW does not, as it has in the past, refer to the change in the weighted average market price. It appears that they are concerned about the larger issue affecting harvesters their economic viability. It is claimed that increased operating costs and declining catch rates are such that:

*"...anything below .60¢ is not economic to fish even in the short term... if negotiations can be called the art of the possible; our range of possibilities starts with a six ... in front of it."*

To support that position, they advance a number of arguments and points that do not deal with the issue of the magnitude of the current decline in market prices year over year. The FFAW does recognize that the market is down in 2013 and proposed a price that represented a decline of .11¢/lb for the spring fishery from the 2012 spring price.

The Panel has been previously advised by the parties, that it is not to take into account the economic position of either harvesters or processors. Rather, it should confine its assessments to the overall change in the weighted average market price. In its summer 2011 decision the Panel stated at page 1:

*"As commented on by the Panel in its previous with respect to shrimp, the parties have directed the Panel to follow a specific procedure. In each shrimp fishery; spring, summer and fall, the weighted average market price in the current year is to be compared to that of the previous year. The difference between the weighted average market prices, up or down, is used as a guide to determine the change in the price to harvesters."*

In the fall of 2012, ASP proposed a price reduction unrelated to a reduction in the weighted average market price from the fall of 2011. Product was not moving and inventories were continuing to build, a fact confirmed in the market reports, however, the markets prices had not declined significantly, certainly not to the extent to support the ASP final offer.

The Panel stated at page 3 of its decision:

*"The Panel could not justify the price reduction proposed by ASP, in relation to a change in the market prices. If the Panel were to move away from the criteria, what new criteria would it adopt in making its decision? The Panel is not oblivious to the circumstances of the situation and risk to which processors are exposed. However, it has no objective basis on which it can determine the price to harvesters other than the price supplied in the marketing reports."*

At that time, ASP did not apply the marketing reports in the determination of the differences in the weighted average market prices for comparative purposes. The case at hand is just the reverse. The FFAW has chosen not to deal with the weighted average market prices for comparative purposes. The FFAW will not contemplate any result having a price less than 60¢/lb based on the economic position of the harvesters. In the fall of 2012 ASP claimed processors were not getting the then current market prices, a fact that was subsequently proven to be correct. It took a "drastic" price drop, in the words of Gemba in 2013 to get product moving. The Panel acknowledged that ASP was correctly stating the position on the buildup of inventory and stated:

*"...we have no market reports that provide anything to support the ASP figure."*


At this time, we have no market reports that support the FFAW figure.

In order to be consistent with the approach taken in previous hearings on shrimp prices, as clearly stated by the Panel in the fall of 2012, to which neither of the parties took exception, the Panel should choose one of the two positions presented based on the change in the weighted average markets prices.

The ASP final offer is, in my opinion, much closer to the mark than the offer of the FFAW. The reason for that is obvious, the FFAW has stated that it will not go below .60¢, regardless of the change in market prices. I do not contest their position, as in the case of ASP in the fall of 2012, the FFAW may be correct on the economics for the fishing enterprises it represents. The Panel however, has consistently confined its consideration to the reported changes in market prices; to do otherwise now is a marked departure from that previously established position.

The action of the Panel came at the direction of the parties in the past and is also reflective of the Act and the Regulations which stipulate that the Panel shall only reconsider a previous decision if there has been a significant change in market or currency factors from the time the Panel made its initial decision. Implicit in the statutory direction is the fact that the initial decision must have been made on the basis of market and currency, not the economic situation of either harvesters or processors.

As the matter now stands, the Panel is bound by precedent to consider the change in the weighted average market price. In my view, on the facts before the Panel, I am compelled to accept the final offer of the ASP.

  
Bill Wells  
Member