

Standing Fish Price Setting Panel

Mackerel Fishery – 2008

BACKGROUND

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, July 18, 2008, as the date by which collective agreement(s) binding on all processors in the province that process the species Mackerel must be in effect. In the absence of such collective agreement(s), the Panel set Wednesday, July 23, 2008, as the date on which the Panel would conduct a hearing with respect to prices and conditions of sale for the species Mackerel.

It was noted by the Panel at that time that it had been advised by the Department of Fisheries and Aquaculture that the Association of Seafood Producers had been identified as the processors’ organization that represent processors in the province that process the majority of the species Mackerel. Accordingly, should a hearing be required for the species Mackerel, the provisions of section 19.9 of the Act are to apply. Presentations would be accepted by the Panel from the Association of Seafood Producers and the Fish Food and Allied Workers representatives at the hearing.

The Panel further advised that the parties intending to make presentations to the Panel on the species Mackerel 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 Mackerel. This decision of the Panel is final and binding on the parties and all other processors that process that species of fish to which the decision of the Panel relates and constitutes a collective agreement or part of a collective agreement between them.

At the request of the parties to negotiations, the Panel agreed to extend the date by which a binding collective agreement(s) on the species Mackerel was to be in place. In the absence of such collective agreement(s), the Panel set August 20, 2008, as the revised date on which the Panel would conduct a hearing with respect to prices and conditions of sale for the species Mackerel. The Panel agreed to extend the date to allow sufficient time for the parties to enter into meaningful negotiations with the assistance of the Panel’s facilitator in an attempt to arrive at a mutually acceptable collective agreement.

On the morning of 20 August, 2008, the Panel facilitator advised Panel members that the parties had reached a stalemate and that the previously scheduled hearing would need to proceed. The parties exchanged their respective submissions at noon on August 20, 2008, and at the same time provided a copy of their submissions to the Panel for review prior to the commencement of the hearing. The Panel, having read the respective presentations of both parties, convened the hearing at 2:00pm, at which time representatives of ASP and

FFAW/CAW officially presented their respective positions on the price and conditions of sale for the species Mackerel for the 2008 fishing season. Following the hearing, Panel members met on the afternoon of August 20, the morning of August 21 and the morning of August 22 for the purpose of analyzing the information before it and arriving at a decision. The Panel issued its decision on August 22, 2008, with a report to follow by September 5, 2008. (See Appendix A, attached)

As the Panel indicated in its August 22nd decision, it felt the parties to this round of negotiations made a genuine attempt, with the aid of the Panel facilitator, to reach a settlement of the outstanding issues before them. They are to be commended for that effort. The fact the parties respective positions on price at the conclusion of negotiations were in close proximity to each other demonstrates the effort made to come to a settlement. Unfortunately, the gap could not be closed in its entirety and the Panel was left to make a decision using the FOS process.

QUALITY IMPROVEMENT AND STANDARDS

In 2006 and 2007, the Panel expressed its concern and the serious need to establish quality standards and improvements. The industry was encouraged to deal with these issues before the 2008 fishing season. Both parties appear to accept the concept that quality improvements and the establishment of grading standards are essential to advance the industry's position in the more demanding market places. The lack of a genuine effort to deal with this major issue in the mackerel fishery prior to the commencement of 2008 negotiations is very disconcerting. On a more positive note, the Panel was pleased to see that an opportunity now exists for individual harvesters and processors to enter into one on one discussions with a view to quality improvements for the 2008 season. The Panel strongly encourages this type of effort and is hopeful that this will lead to more meaningful discussions among harvesters and processors and their legislative representations on this most important aspect of the Mackerel fishery.

The Newfoundland and Labrador Mackerel industry must rise to the market challenges and grow beyond the status quo to be recognized and establish itself as a world supplier of quality product.

CURRENT MARKET OUTLOOK

For the purpose of analyzing the market situation for 2008, the parties and the Panel have the benefit of a Mackerel report prepared for the Department of Fisheries and Aquaculture by Ann Mari Haram, marketing consultant, Norway. It is very clear from the parties respective positions advanced to the Panel during the hearing process that two different interpretations have been derived from the consultant's report.

ASP, in its submission at page 1 stated: "Clearly, based on our engagement this year, we are on different pages. The FFAW believes the market is strong, prices are up.

Processors, on the other hand, remain concerned. Prices have fallen for two years now, and the 2008 Mackerel Market Report sounds notes of caution as much as anything.”

FFAW, in its submission at page 4 stated: “Overall, the report was positive. Among the comments included in the report was the observation that Central and Eastern Europe “continues to perform well”; that sales conditions in Ukraine are becoming “more foreseeable”; that a decline in internal E.U. trade has opened up the French and German markets to Canadian and U.S. mackerel; and a prediction from Irish observers that market prices will be higher this year than a year ago.”

The Panel in arriving at its decision, carefully analyzed and clearly took into account the respective positions of both ASP and FFAW on their interpretation of the information provided by the market consultant. As well, the Panel reviewed in detail the information contained in the marketing consultant’s report.

In arriving at its decision to select the position advanced by the FFAW, the Panel was satisfied that the outlook and opportunity for mackerel prices to increase is more convincing than the possibility of a decline in 2008.

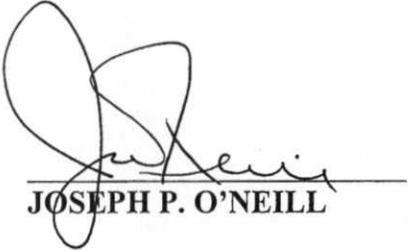
The supply of Norwegian mackerel will be down and raw material prices will be up in 2008 as will the supply from Scotland and Ireland. The demand from Russia for mackerel remains strong both for large and small mackerel. The response to this demand by traditional EU suppliers will have the effect of opening up possible markets for the Newfoundland and Labrador mackerel fishery in such areas as France and Germany, where fat content is less important. Exports of mackerel to Eastern European countries such as Romania and Bulgaria are expected to remain constant. Finally, Japanese importation of mackerel is expected to rise in 2008.

While the above noted indicators point to an overall increase in demand for mackerel in 2008, the Panel is mindful of the possibility of market shifts which, in the end will not reflect the market position outlined in the report. Such is the reality and volatility of the market that makes it challenging to determine with great certainty how the market will perform in any given period of time. Despite this uncertainty however, the Panel is of the view that through a collaborative effort by all parties involved in and impacted by this fishery, the opportunity exists to maintain and grow the current market. It will require more discussion by all parties on market growth opportunities as well as ways to improve product quality.

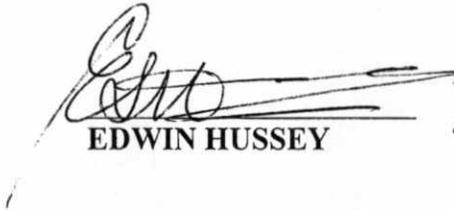
In their presentations to the Panel, both parties made reference to the Panel decision in the 2007 Mackerel fishery. In particular, they referred to the Panel’s observation that in light of the market outlook: “in dealing with minimum prices, a rollover of the 2006 minimum prices might have been a better option for an agreement between the parties.” Clearly the Panel’s view of the 2007 market was that it could probably sustain a rollover of the 2006 price schedule, that being 10, 15 and 20 cents for each size category.

However, because of the Panel's legislated obligation to select one of the positions of the parties to the hearing, the Panel felt at that time that it had to select the position of ASP. The view of the Panel in 2008 however, is that the opportunity exists for growth in the market and corresponding market price increases. Accordingly, the Panel selected the position of the FFAW as the price for Mackerel in 2008.

Dated the 2nd of September, 2008.



JOSEPH P. O'NEILL



EDWIN HUSSEY



MAX SHORT

APPENDIX A
Standing Fish Price Setting Panel
Mackerel Fishery Decision 2008

Standing Fish Price Setting Panel

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hearing at 2:00pm, at which time representatives of ASP and FFAW/CAW officially presented their respective positions on the price and conditions of sale for the species Mackerel for the 2008 fishing season. Following the hearing, Panel members met on the afternoon of August 20, the morning of August 21 and the morning of August 22 for the purpose of analyzing the information before it and arriving at a decision.

The Panel wishes to note that in its view both parties to this round of negotiations made a genuine attempt to reach a settlement without the need to resort to a formal hearing. This fact is evidenced from the parties request to the Panel for flexibility in the holding of a hearing while negotiations were proceeding, as well as, the narrow gap in the respective positions of the parties when they presented to the Panel at the hearing. Both parties are to be commended for this effort.

Under the rules of section 19.9 of the Act, the Panel is obligated to accept in its entirety one of the two positions before it. Accordingly, having reviewed the information before it, it is the decision of this Panel to accept the position of the FFAW/CAW as outlined in the table below. This schedule together with all other issues that have been agreed to by the parties either prior to or during this round of bargaining constitutes a collective agreement and is binding on the parties to negotiations as well as all other processors engaged in the 2008 Mackerel fishery.

The Panel will endeavor to issue its full report on this decision by no later than the week ending September 5, 2008.

Dated this 22nd day of August 2008.


Joe O'Neill
Chairperson


Max Short
Member


Ed Hussey
Member

FFAW/CAW Final Offer	
Size (Grams)	Price Per Pound
200 - 399	\$0.10
400 - 599	\$0.15
600+	\$0.20