

INSHORE SHRIMP FISHERY – SPRING 2008

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, March 7, 2008, as the date by which collective agreement(s) binding on all processors in the province that process shrimp must be in effect.

At that time, the Panel noted, 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. As a result, the Panel advised that in accordance with 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 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 submission would be accepted by the Panel and, should other representatives who process this species wish to attend the hearing, concurrence from both parties to the collective bargaining must be obtained. The hearing for shrimp, if required, was scheduled to take place at 2:00 p.m., Tuesday, March 11, 2008, at the Labour Relations Board Hearings Room, Beothuck Building, 20 Crosbie Place, St. John’s.

The parties commenced shrimp negotiations on February 21, 2008, to deal with non-price issues. Negotiations were reconvened on Saturday, March 8th and price offers were exchanged on Monday, March 10th. The facilitator advised that no agreement had been achieved and the parties were to exchange positions by 2:00 p.m. on March 11th. The Panel, by agreement, moved the time of the hearing to 5:00 p.m., March 11, 2008. The parties, having exchanged their positions (copies attached), the hearing convened at 5:00 p.m. The written submissions of the parties were supported by oral representation in main argument and rebuttal.

While ASP formally represented processors, as the association representing processors that process the majority percentage of the species shrimp, all processors of shrimp participated in the negotiations through the Seafood Processors of Newfoundland and Labrador and independent companies.

The Panel advised the parties of its decision by letter dated the 25th day of March, 2008, and advised that its full Report would be issued no later than the week of April 7, 2008.

The parties involved in the negotiations on shrimp prices and the Panel have had the benefit of a significant amount of market information. On January 29 and 30, 2008, a Northern Shrimp Conference was held in St. John’s. This two day conference had

representation from fishers, processors, marketers, retailers, and industry consultants covering every aspect of the cold water shrimp production, marketing, and sales including wholesalers and retailers, as well as consultants to the industry. The challenges and opportunities confronting cold water shrimp and specifically the cooked and peeled segment, with which we are concerned, was exhaustively detailed over the course of these two days.

In addition the provincial Department of Fisheries and Aquaculture provided the Panel, and the parties with market reports from Lozowick Market Research – Update on cold water price conditions in Europe – March 2008; GEMBA Seafood Consulting – Shrimp Market Update – Denmark 2008 and Mr. John Sackton's presentation Update on Northern Shrimp Markets, delivered in the presence of the parties and the Panel in St. John's on March 8, 2008.

Given the wealth of background information available to the participants it is difficult for the Panel to understand how their presentations to the Panel are 4.75¢ apart on the average price to be paid for raw material in the spring fishery of 2008.

The Panel was of the view that with the parties having access to the same independent market analysis on the US, the UK, and the Danish Market, as well as having attended the two day cold water shrimp conference, that a negotiated settlement on the appropriate price for the spring shrimp fishery was entirely possible. In the absence of a negotiated settlement, however, the Panel was hopeful the respective positions of the parties would be such that the rendering of a Final Offer Selection (FOS) decision as legislatively required by the Panel would not place the price for spring shrimp far beyond the respective positions of either party.

The Panel was provided through the facilitator with copies of the parties presentations approximately two hours prior to the commencement of the formal hearing. After reading the parties presentations it was apparent to the Panel that despite the fact both parties were privy to the same independent market information as earlier noted, there was a huge difference in their respective positions on the price for spring shrimp. Both parties clearly had enunciated different views as to the market outlook for shrimp that was being portrayed by the market analysis. A large gap on respective price positions at the commencement of contract negotiations is understandable given the nature of collective bargaining. However, a 4.75¢ gap at the conclusion of contract negotiations given the expertise available to both parties and the material before the parties is perplexing. The only plausible explanation is that the parties each selected the components of the market reports that best supported their positions to the Panel. In other words, the optimistic components of the reports have been highlighted and used by FFAW to support its position to the Panel whereas the cautious components have been highlighted by ASP to support its position.

The Panel is not being critical of this approach as it is a natural product of the collective bargaining process. This does present a problem, however, where the Panel has no choice but make a decision on one position or the other. For example, if it were

the case that a position somewhere between the two respective positions was determined to be more appropriate to apply to the spring shrimp fishery, it is not in the purview of this Panel to make such a determination without the express permission of both parties or the Panel seeking relief in accordance with the legislation. The view of the Panel, based in its analysis of the market reports and the presentations of the parties is that the most appropriate price would in all likelihood be somewhere between the two positions. Accordingly, the Panel is left to consider the market reports, the respective positions of the parties and apply its interpretation of the material to arrive at a decision on the price for spring shrimp, a decision that must be one of the positions of the parties.

The Newfoundland and Labrador shrimp fishery had been subject to successive declines in market returns until last year. This is evident in the dramatic change in prices paid for raw material in the past decade. Serious competition from other sources, oversupply in the market, the absence of a sound marketing strategy and a restrictive European tariff among other factors have contributed to make the shrimp fishery a huge challenge for both harvesters and processors.

The fact that Newfoundland and Labrador is not only still in the business but is now the world's largest supplier of coldwater shrimp is a testament to the resilience of all the participants in this industry. The Panel is of the view that despite the challenges still facing all participants in the industry the potential exists for the shrimp fishery to continue to make gains in the national and international marketplace. The Panel agrees with the positions of both parties on their respective challenges in further prosecution of this fishery. On balance, however, it must be acknowledged that the current climate for coldwater shrimp remains promising. There is currently no oversupply in the market. Cold water shrimp being exported to Europe is the highest quality in our history. Currently, Norway and Iceland, our traditional competitors have cold water shrimp catches and quotas at very low levels. The change in the ATRQ announced in 2007 has meant greater access of our product in the European market. MSC certification will be a positive move forward in the marketing of Newfoundland and Labrador shrimp.

An opportunity for our shrimp industry to make further gains in the world market for coldwater shrimp is referred to at page 5 in the Gemba Market Report. The Gemba Report states that "One of the best ways to promote products is to associate the product with a story, which helps the consumer identify the product as unique, healthy and in line with sustainable fishing." The view of the Panel is that Newfoundland and Labrador has never been better positioned to take advantage of its current place in the market than it is today. It will take the collective effort of ALL the industry players, as well as both levels of government, to make this bold and aggressive push for our coldwater shrimp in world markets. The extent to which this can occur, and the timeliness of this initiative can be a major factor in securing the future stability and sustainability of the cooked and peeled coldwater shrimp industry.

On the cautious side, there is uncertainty with respect to the current state of the US economy and the impact that may have on the sale of our shrimp into that market.

The UK market is uncertain although it appears that shrimp is considered more a staple food making it less likely to be dropped as a consumer choice in a tight market.

THE DECISION OF THE PANEL

The Panel is again faced with a difficult choice having to select one of two divergent positions between the parties at the conclusion of collective bargaining. As earlier stated, the Panel's own analysis of the most relevant price for the spring shrimp fishery would be one that would have been less risk adverse for the fishery. For the reasons outlined in this report the Panel is precluded from making that determination. Accordingly, based on the respective positions of the two parties that appeared before the Panel and the Panel's analysis of the market information, the Panel selects the position of the FFAW.

The Panel had to decide which of the positions was more reasonable based on the information available to the parties and the Panel and the arguments and calculations in support of the respective positions. Both parties agreed, despite their commentary, that spring to spring calculations are to be used with respect to market prices and exchange rates.

The FFAW calculation obviously attempted to achieve the maximum price the calculations would bear. The methodology applied used a mix of information from the market, applied in part, to calculations on market/exchange rate comparisons normally used by ASP in their presentations. ASP was critical of that approach in that it contained a mixture of 2006 and 2007 numbers. The parties used different yield calculations and percentages to determine the harvesters share, each to its own advantage. The FFAW referred to the fact that it did not have the ASP calculation sheet from 2007 as it had not been presented. The parties had at that time reached an agreement on the 2007 prices and the Panel draws no conclusion as to the absence of that information.

However, the Panel finds that the information is available in the submissions to apply the ASP methods on the market/exchange rate comparisons. The ASP market/exchange rate comparisons spring 2005 to spring 2006 calculate the weighted average market price at \$2.59 pound. This sheet is attached to the FFAW submission. In the ASP submission the market/exchange rate comparisons spring 2007 to spring 2008, identify the 2007 average market price as \$2.90. Their calculations again identify the 2008 average market price at \$3.09.

The Panel has three ASP calculations for the years 2006, 2007 and 2008, which have weighted average market prices of \$2.59, \$2.90, and \$3.09, a total difference between 2006 and 2008 of 50¢. Applying ASP calculations based on a yield 32.7%, and a 65.4% market improvement to the harvesters benefit, results in an increase of 10.74¢ per pound in raw material price. The same result applies using the raw material price from 2006 to 2007 added to the difference between 2007 and 2008.

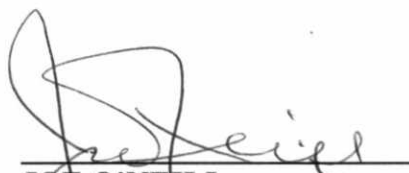
Actual prices paid in the fishery will depend on the size of the shrimp landed, which will vary from year to year. The fact remains that by ASP's own calculations since the spring of 2006 the raw material price should increase in total by 10.7¢.


If one were to arbitrarily select a price of 39.5¢ and add 10.7¢ it would result in a price of 50.2¢. The price settlement in 2006 was higher than 39.5¢. The Panel had the same difficult choice in deciding between the positions of the parties in 2006, the difference between them at that time was significant. Applying a previous year's price settled under FOS for the shrimp fishery would not achieve a result that could be regarded as credible. The fluctuations in prices paid for shrimp have reflected the large gaps between the positions presented by the parties. The point is that the price year over year or over two years, would put the price in the range of 50¢.

In this instance, and by the smallest of margins the Panel is of the opinion that the FFAW position is the more reasonable. That is not to say that their position of 52¢ reflects the proper price. It is the slightly better alternative of the two presented to the Panel. The Panel arrived at its decision following the calculation and numbers applied by ASP. Year over year, or for two years, by their calculations raw material prices should be up 10.7¢. This gives ASP every benefit of their conclusion of what market prices should be. The slightest increase in potential return from any market would improve that figure and there is latitude in the reports to support a higher return in certain markets than that concluded by ASP.

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

Dated the 11th day of April, 2008.


JOE O'NEILL
Chair


BILL WELLS


MAX SHORT