

STANDING FISH PRICE-SETTING PANEL

CAPELIN FISHERY – 2009

The Standing Fish Price-Setting Panel, hereinafter referred to as “the Panel”, issued its Schedule of Hearings for 2009 on February 13, 2009. Pursuant to Section 19 of the *Fishing Industry Collective Bargaining Act*, hereinafter referred to as “the Act”, the Panel set Wednesday, June 10, 2009, as the date by which collective agreement(s) binding on all processors in the province that process capelin, must be in effect. In the absence of such collective agreement(s), the Panel set Friday, June 12, 2009, as the date on which the Panel would conduct a hearing with respect to capelin.

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 capelin. Accordingly, under Section 19 (11) of the Act, should a hearing be required for capelin, 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 hearing, if required for capelin was scheduled to take place at 2:00 pm on Friday, June 12th, at the Labour Relations Board Hearings Room on the ground floor of the Beothuck Building, 20 Crosbie Place, St. John’s.

The parties, due to the difficult circumstances that exist in the fishing industry in 2009 first met on June 11, 2009 and agreed to defer talks with respect to capelin until June 24th. The Panel consented to a mutual request to hold a hearing on capelin at 5:00 pm on Thursday, June 25th at the Labour Relations Board Hearings Room. The parties having exchanged final positions (copies attached) appeared before the Panel, the hearing commenced at 5:00 pm, June 25, 2009. The written submissions of the parties were supported by oral representation in main argument and rebuttal.

It became immediately obvious to the Panel that the current recession has had a substantial negative impact on capelin as well as the other species which have been the subject matter in Panel hearings in 2009. The prospects for the capelin fishery in 2009 are not promising. The economics from the perspective of either the harvesters or the processor are just not there. Compounding the effect of market price declines is the fact that the premium Japanese market for roe bearing capelin has been almost fully supplied. Markets for roe bearing capelin in Taiwan and China, with perhaps some small amount to Japan, are under severe price pressure.

The Japanese buyers have not settled any contracts for supplies from Newfoundland. Offers have reflected much lower prices. With a limited, if any, access to the Japanese market, the pricing pressure in the next best markets is severe. Prospects for male capelin are better in that it is anticipated that the production could be sold, but at significantly reduced prices.

Over the past five years, the capelin fishery had been an increasingly significant economic factor within the provincial fishery. Many years ago it had been an extremely significant fishery. It went into decline in the 1990s as a result of resource declines and weak markets. The decline in Barents Sea landings in recent years contributed to the improvement of the fishery here.

This year, the Norwegian fishery, our main competitor, along with Iceland, in the Japanese market has returned, Russian landings have increased substantially from a very low level. The Norwegian catch from the Barents Sea, before the fishery declined for a period of years, was the first to supply the Japanese market for roe bearing capelin. The Japanese, in the past, hedged their bets to make room for supplies from this province. With the return of the Norwegian supplies, this has not occurred in 2009.

The fact is that the premium market has been fully supplied before our fishery has started. The volumes available, coupled with the economic conditions for all those in the supply chain, have severely depressed prices.

The positions of the parties reflect the realities of the marketplace. In 2008, the parties settled the price for capelin in negotiations. The price for < 50 count was .18¢ lb; for 51-55 count 12.5¢ lb. The FFAW proposal reduces the price to the lowest position thought to provide any economic sense for harvesters: < 55 count .10¢ lb. In their opinion anything below that amount, with the conditions attached, would make the fishery totally uneconomic.

ASP, on the other hand, state that their proposal is consistent with the realities of the market place. In fact, in proceeding with the fishery, they face a substantial risk. At the present time there is no readily available market for most of the roe bearing capelin that would be produced, and no stable market price. In markets where sales could be expected, the prices are extremely low. In their view, if there is to be a capelin fishery, we must accept the realities of the situation. If the capelin fishery is abandoned it leaves our competitors to supply the market. They do not dispute the difficult situation some harvesters, if not all, might be in as a result of their offer. The quotas for many of the participants in the fishery would produce little return.

The Panel recognizes the difficulty for both parties in trying to reach an accommodation on the price for capelin in 2009. Even if the Panel had the freedom to set a price, there is no obvious ground on which to base such a settlement. The Panel has no appetite to ask harvesters in these circumstances to fish for less. Conversely, the Panel recognizes the risk processors would incur in proceeding with a fishery.

At this point, we are in a no win situation for everyone involved. To select the processors offer would result in harvesters having to make a difficult choice as to whether or not to fish. Undoubtedly some would. That does not mean that they are being properly compensated for the effort. If the Panel selects the harvesters offer, processors must decide if it is still worth the risk to incur the initial expense in buying capelin, and take the chance that all subsequent costs, including the cost of carrying inventory, will not result in a loss. The implications of the actions taken by either side are of some consequence. The closure of the fishery, in whole or in part, effect the overall results of the fishing enterprise, the business of the processors, and those dependent on it.

The Panel has also weighed in the balance the implications of its decision. At what point do you come to a conclusion that if some economic activity is not worth a minimal amount, then it is pointless to carry on. If the value of an activity is not recognized, or for reasons beyond control, can not be recognized, then should it be coerced in any fashion to be continued. If the Panel were to select the position of ASP it would be saying in effect, in order for us to stay in the capelin fishery this year, harvesters should fish for these prices, even if it means you get little or no return for the effort. If the Panel selects the FFAW position, at least harvesters have taken on the obligation to fish for those prices.

Processors may be in a no better economic position than harvesters in respect of the capelin fishery in 2009. They obviously are of the opinion that we should supply the capelin markets this year, if not for an economic return now, to maintain a presence in the markets. They have calculated the risk and proposed a price to harvesters that fits within that calculation. They accept a degree of risk, but are not likely to calculate a loss in determining their position.

The Panel, is of the view, that it is preferable, in this particular situation, to select the offer of the FFAW. Is it reasonable to reduce the risk to the processors at the expense of the harvester. The Panel has no knowledge where that line is, or whether it has been crossed. If the processors, individually or collectively, conclude that the risks are still acceptable at that level of pricing for the raw material proposed by the FFAW, they will buy. If not, there will be no fishery and harvesters will also lose any potential gain from their price proposal.

Beyond that the parties are free to mutually agree on any change to their collective agreement. The Panel can not be of any assistance to them. It is they alone who have to confront the issues in this difficult situation. Within the context of the fishery, as now structured, neither the harvesters or processors, may have the means to secure a positive economic result.

It is the decision of the Panel to select the final offer of the FFAW.

Prices for capelin will be:


“55 count per kilo and under: 10 cents per pound, based on the following conditions:

- (1) minimum 40% usable females
- (2) maximum 10% feed content


Where one or more of conditions (1) and (2) have not been met, or where the size of capelin exceeds 55 count per kilo, the price shall be determined between the individual harvester and processor.”

By virtue of the Act, those prices and conditions are binding on ASP and all other processors that process capelin in the province and will form a collective agreement or part of a collective agreement with the FFAW.

Dated at St. John's the 26th of June, 2009.



JOSEPH P. O'NEILL



BILL WELLS



MAX SHORT