

In the matter of the Fishing Industry Collective Bargaining Act and an application from the Seafood Processors of Newfoundland and Labrador Inc. under section 19:14(1) of that Act for a reconsideration of the decision of the Standing Fish Price-Setting Panel dated the 18 April 2011 on price and conditions of sale for the species lobster for 2011 .

**DECISION OF THE STANDING FISH PRICE SETTING PANEL**

**06 May 2011**

**Decision on Request from Seafood Producers of Newfoundland and Labrador Inc. for Reconsideration of the Decision of the Standing Fish Price Setting Panel dated the 18<sup>th</sup> day of April, 2011.**

In the matter of the *Fishing Industry Collective Bargaining Act* and an application pursuant to Section 19.14 of the Act from the Seafood Processors of Newfoundland and Labrador Inc. (SPONL) to the panel to reconsider its decision respecting the price and conditions of sale for the species lobster dated April 18<sup>th</sup>, 2011.

The Panel received a request from SPONL dated May 4, 2011 pursuant to section 19 of the Act to reconsider its decision respecting the prices and conditions of sale for the species lobster dated April 18, 2011.

The Panel met on May 5, 2011 to consider the application following which it advised SPONL and the FFAW that it was prepared to hear the reconsideration application from SPONL at 2:00 p.m. on May 5, 2011. Following a joint request from both parties, the panel agreed to convene a hearing at 10:00 a.m. on May 6, 2011 to receive representations from the parties. It was understood by the panel at the time the parties were in discussions with a view to the resolution of the impasse between them. Accordingly, despite the fact the panel has a legislated mandate to make a final decision within 48 hours of acknowledging receipt of an application for reconsideration, the panel wished to accord the parties every possibility to reach an agreement.

The hearing on the reconsideration application commenced at 10:00 a.m. in the Labour Relations Board Boardroom, 1<sup>st</sup> Floor, Beothuck Building. The parties appearing before the panel and making presentations were SPONL and FFAW.

Pursuant to the requirements of the Act, the panel has to use Final Offer Selection (FOS) when making a decision on a reconsideration application. This means the panel must accept in its entirety one of the positions submitted to the panel at the hearing.

The panel has considered the respective positions of both parties in relation to this application. It is the decision of the panel to accept the position of the FFAW.

Attached is the revised 2011 Lobster schedule which is to be effective as of May 8, 2011.

Dated 6<sup>th</sup> May, 2011.



Joe O'Neill



Bill Wells



Max Short

## 2011 Lobster Schedule (Revised)

The prices and related terms and conditions for lobster for 2011 are set out in this Schedule.

This Schedule together with the terms and conditions of the Master Collective Agreement between FFAW/CAW and the Association of Seafood Producers (ASP) shall together constitute a Lobster Collective Agreement for the purposes of the Fishing Industry Collective Bargaining Act.

- (1) The minimum price for lobster in NL in 2011 shall be determined on a weekly basis, adjusted in accordance with the Urner Barry price listing for 1 ¼ lb live lobster FOB New England.
- (2) The minimum price shall be \$3.25 for all market prices up to and including \$5.00 Canadian.
- (3) The minimum price shall be increased by 70% of any incremental amount between \$5.00 and \$6.00 Canadian, and 80% of any incremental amount greater than \$6.00 Canadian.

**Example:** Market price = \$6.50 U.S.

Seven day average exchange rate: \$1.00 U.S. = \$0.97 Cdn.

i.e. Market price = \$6.500 x .97 = \$6.30 Cdn.

Minimum Raw Material Price = \$3.25 + (.70 x \$1.00) + (.80 x \$0.30)  
= \$3.25 + .70 + .24  
= \$4.19

- (4) The minimum price for each week of the lobster season shall be calculated based on the average of the Urner Barry listings on Thursday of that week and Tuesday of the following week, and shall apply retroactively to all sales from Sunday to Saturday, inclusive, payable no later than Thursday of the following week.

**Example:** The price payable for landings in Week 1 (from Sunday to Saturday, inclusive) shall be calculated based on the average of the Urner Barry listings for Thursday of Week 1 and Tuesday of Week 2, payable no later than Thursday of Week 2.

- (5) All Urner Barry listings used for this purpose shall be converted to Canadian dollars based on the average exchange rate for the seven day period immediately preceding the Tuesday following the week in which the landings occurred, as per the Oanda website.
- (6) Should Urner Barry provide a listing on Thursday in a particular week, or on the following Tuesday, but not both, that listing shall be used as the basis of the calculation. Should there be no Urner Barry listing provided in either a Thursday or the following Tuesday, the most recent prior Urner Barry listing shall be the basis of the calculation.
- (7) In the event that Urner Barry provides a range of prices on a given day, the low end of the range shall be used as the price listing for the purposes of this Schedule.

**Example:** If Urner Barry reports a market range of \$6.00 to \$6.10, all calculations done for the purposes of this schedule shall be based on \$6.00.

- (8) Prices are based on legal size lobster.
- (9) This Schedule shall take effect May 8, 2011 and remain in effect for the duration of the 2011 lobster fishing season. All sales prior to May 8, 2011 shall be governed by the decision of the Standing Fish Price-Setting Panel dated April 18, 2011.