

## HALIBUT FISHERY 2014

The Standing Fish Price-Setting Panel hereinafter referred to as "The Panel", issued its Schedule of Hearings for 2014 on February 11<sup>th</sup>, for inter alia the species Halibut. In the event that no binding collective agreement was in effect by the 23<sup>rd</sup> day of March, 2014, the Panel set Tuesday, the 24<sup>th</sup> day of March, 2014, as the date for a Panel Hearing on prices and conditions of sale for the species Halibut. The aforementioned dates were determined following notification from the Minister of Fisheries and Aquaculture dated the 7<sup>th</sup> day of February, 2014, that March 31<sup>st</sup>, 2014 had been set as the date by which price and conditions of sale for the species Halibut must be in place.

The Panel had been earlier advised by the Department of Fisheries and Aquaculture that the Seafood Producers of Newfoundland and Labrador, hereinafter referred to as "SPONL" represents processors that process the majority percentage of the species Halibut.

The Panel advised in its Schedule of Hearings that in the absence of a collective agreement, and in accordance with Section 19(11) of the Fishing Industry Collective Bargaining Act, hereinafter referred to as "*the Act*", the Panel would conduct a hearing on price and conditions of sale. The Panel further advised that the only parties entitled to appear before the Panel were the Fish Food and Allied Workers, hereinafter referred to as the "FFAW", and "SPONL". No other submissions would be accepted by the Panel and should any representative of this species, Halibut, wish to attend the hearing concurrence from both parties to the collective bargaining process must be obtained.

A hearing, if required, was to take place at 2:00pm on the date indicated, at the Labour Relations Board Hearings Room, Beothuck Building, 20 Crosbie Place, St. John's. At the request of the parties, the Minister changed the date by which price and conditions of sale for the species Halibut must be in place to April 11<sup>th</sup>, 2014. The panel subsequently advised the parties that in the absence of a collective agreement the hearing for the species Halibut was set for 10:00am, April 2<sup>nd</sup>, 2014 at the Labour Relations Board Hearings Room. The Panel further advised that the parties appearing before the Panel were required to submit their positions to the Panel by 4:00pm on the 1<sup>st</sup> day of April, 2014.

The Panel convened the hearing for the species Halibut at 10:00am on the 2<sup>nd</sup> day of April, 2014. The parties appearing before the Panel, having filed their positions the previous afternoon, were the FFAW and SPONL. The Parties supported their written submissions (copies attached) in main argument and rebuttal.

This is the first time that any issue related to the Halibut fishery has been referred to the Panel for settlement. In fact it has been some years since the prices for Halibut have been negotiated by the FFAW. While Halibut market prices have been variable, it is generally recognized as a premium priced product and currently commands relatively high prices. Unfortunately for the harvesters and processors in this province, Halibut quotas are extremely limited. As a result the actual fishing time has been extremely short. In 2013 approximately 45% of the total catch in 4R was landed on June 28<sup>th</sup>. It is anticipated that in



2014 market returns will be higher especially with the exchange rate between the US and Canadian dollar.

Other positive factors for 2014 are the introduction of new programs, such as the "*Atlantic Halibut Sustainability Plan- Division 4RST*" and the "*NL Seafood Branding and Traceability Program*". The resource should be much better utilized in 2014, with more orderly landings, and the extended availability of Halibut to the market throughout the summer season will avoid gluts and provide for a better overall quality. The NL Seafood Branding and Traceability Program mandates the tagging of all Halibut landed. This allows the end retailer and customer to trace the fish back to the harvester who caught it, an important marketing and quality tool.

It is against this backdrop that the harvesters are seeking to negotiate prices for the fish landed. Halibut are landed, head off, gutted, bled, washed and iced. Essentially, this is the form in which the fish is moved to the market by processors. Processors inspect, grade by size, and repack for delivery to market. There is limited or no actual in-plant processing of the landed Halibut as would normally apply in the case of other species of groundfish.

There are a number of other pertinent factors that apply. As previously noted, quotas are extremely limited: 232t in 4R; 75t in 3PN; 52t in 3Ps; and 50t in 3N0, for a total of 409t round weight. The landed weight is approximately 74% of the round weight and it is on this weight that the harvesting enterprise is paid.

Individual fishing enterprises, of which there are approximately 500, have a quota cap of 1250lbs. round weight. They are paid on the basis of the landed weight which is approximately 925lbs. Most enterprises will catch their quota in a day and, dependent on weather, most Halibut will be landed by Tuesday in any week and be in, or on its way, to the market prior to the week end.

While the current market returns on a per lb. basis are quite attractive, the results in financial terms can only provide a contribution to the financial viability of participating harvesting and processing enterprises given the total quotas.

During the course of the negotiations, as outlined in the FFAW submission, and confirmed by SPONL, the parties have agreed on an overall approach, and many specific items related to the pricing of Halibut to harvesters. There are two contentious items remaining however, it became clear during the course of the hearing that if the sharing of the market price could be settled, an agreement on any or all other outstanding issues would be resolved.

To set the price to harvesters have developed a matrix of market prices related to four weight categories: 10-50lbs; 51 to 85lbs; 86to 125lbs; and 126+lbs. It is agreed that 85% of the Halibut landed fall within the 10-50lb category. As well the average dressed weight per fish is 35lbs. Market prices starting at \$4.00 are increased in dollar increments to \$10.00lb.



For example, using the numbers applied by the parties, if the market price for a 10-50lb. Halibut is \$6.00/lb, that price is shared between harvesters and processors. The FFAW final offer is that the harvesters share would be \$4.40 resulting in a processors share of \$1.60, or a split of 73.3% to 26.6%.

SPONL takes the position that they require a minimum of 38% of the market price, which would result in \$6.00 being split \$2.28 for the processor and \$3.72 for the harvester. The difference between the two positions is substantial at 68¢/lb. It is SPONL's contention that the change in the 4R fishery is substantial, and will result in a significant increase in the costs of collection. The extension of the harvesting season will also result in increased costs. In its submission an itemized statement of costs is presented that total \$2.28 lb. This is the 38% of the \$6.00lb. market return noted above. It was confirmed at the hearing that the itemized costs presented by SPONL were average costs for all processors in the group (there are approximately 10 processors involved in the Halibut fishery). As noted in the submission the collection costs in 3Ps are minimal, due to the structure of the fishery.

The FFAW estimated some of the costs incurred by processors in handling Halibut, but were of the opinion a 38% share of the market return was: "over the top", referencing sharing arrangements in other fisheries.

Actual market returns to the top five processors (buyers) will determine the actual market price return. This information will be sent weekly to an independent third party. The results will be applied in the matrix to determine the price to harvesters.

The Panel is impressed by the overall approach taken by the parties and the groundwork laid to ensure that the maximum value can be extracted from the market. Given the representations of the parties the Panel needs only to concern itself with the issue of the market price share. Under the provisions of "the Act" and the Regulations, the Panel has no flexibility to explore the issues related to specific costs of the participants in the fishery. The Panel must choose one of the two final offers presented. In this instance, there is a significant difference between the two positions.

In this case, the Panel cannot make any adjustments to, or tinker with the various components of cost. From past experience, there is some concern with the costs allocated to items in the SPONL submission. The representative of SPONL could not speak to specific items as the figures were presented as an "average cost". In any event, there is no way within the current process that the Panel can make a precise determination of the appropriate share between harvester and processors. One would expect it to be in the range of 70% - 30% with some movement to either side of that range. Even if the Panel had detailed knowledge, it must accept one of the two positions. On the facts and information available to it, the Panel is of the opinion that the offer of the FFAW is the more reasonable of the two.

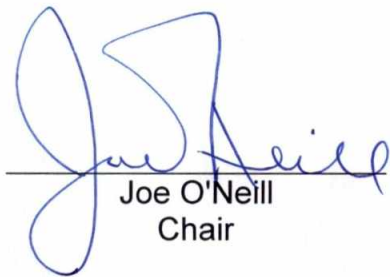
The parties have some time to finalize the arrangements between them and it is in the best interests of both sides to make the system they have outlined work. The Panel draws no

conclusions as to the merits of either proposal with respect to the other issues that must be finalized between the parties.

The Panel does note that if there is an appropriate measure of co-operation and goodwill between harvesters and processors, and their representatives, costs should be able to be contained at reasonable levels in all aspects of the fishery.

It is the decision of the Panel to accept the submission of the FFAW. The prices for Halibut will be set in accordance with the Schedule attached, which will form a collective agreement or part of a collective agreement binding on all processors that buy and process the species Halibut.

DATED the 7<sup>th</sup>, day of April, 2014.



Joe O'Neill  
Chair



Max Short  
Member



Bill Wells  
Member

### SCHEDULE

Market	Buyer Share	Minimum Raw Material Price			
		10-50 lbs	51-85 lbs	86-125 lbs	126 lbs+
\$4.00	\$1.10	\$2.90	\$2.40	\$1.90	\$1.40
\$5.00	\$1.35	\$3.65	\$3.15	\$2.65	\$2.15
\$6.00	\$1.60	\$4.40	\$3.90	\$3.40	\$2.90
\$7.00	\$1.78	\$5.22	\$4.72	\$4.22	\$3.72
\$8.00	\$1.96	\$6.04	\$5.54	\$5.04	\$4.54
\$9.00	\$2.14	\$6.86	\$6.36	\$5.86	\$5.36
\$10.00	\$2.32	\$7.68	\$7.18	\$6.68	\$6.18

Note 1: The sharing on \$4.00-\$6.00 market price halibut is 75/25. The sharing on >\$6.00 market price halibut is 82/18.

Note 2: The "Buyer Share" presented in the table is based on the share for 10-50 lbs halibut.