

STANDING FISH PRICE-SETTING PANEL FALL SHRIMP FISHERY 2016

The Shrimp Schedule which forms part of the Master Collective Agreement, between the Association of Seafood Producers, hereinafter referred to as "ASP", and the Fish, Food and Allied Workers, hereinafter referred to as "FFAW", states in part:

"In the event there is no agreement on the price for summer or fall periods, the parties agree to refer the matter to the Standing Fish Price-Setting Panel, for binding resolution in accordance with the provisions of the Fishing Industry Collective Bargaining Act."

The Act, Section 19.11, and the Regulations provide that the Panel decide on matters relating to "price and conditions of sale" by final offer selection.

The FFAW and ASP were not able to agree on prices to be paid to harvesters for the fall shrimp fishery. The Panel, at the request of the parties, set Thursday, September 15, 2016, as the date for a hearing. The Panel hearing convened at 11:30a.m. The parties appearing before the Panel were the FFAW and ASP. Having previously filed their submissions and final offers (copies attached), the parties supported their submissions in main argument and rebuttal.

The parties and the Panel had the benefit of a market update on shrimp markets prepared by Gemba Seafood Consulting for the Department of Fisheries and Aquaculture and the Department of Advanced Education, Skills and Labour.

The market report confirmed a relatively stable market following a significant drop from 2015 prices, as noted in the earlier report in the spring of 2016. While prices are lower than those of 2015, they are still at historically high levels.

The shrimp fishery in 2016 has been a frustrating experience for the participants in both the harvesting and processing sector. The LIFO issue and the delay in setting the quotas and opening the fishery interfered with the normal sequence of events and negotiations on prices for the summer fishery.

The FFAW maintains that the ultimate prices paid in the spring fishery were arrived at by agreement with a number of processors. This fishery was essentially confined to area 4R, the Gulf. The summer price was not part of an agreement negotiated between ASP and the FFAW. In the view of the FFAW, the price was offered by processors and accepted by harvesters, therefore it was not a wharf price. The latter is a price beyond the minimum price set by the Panel or the parties in negotiations. The \$1.40/lb. summer price is a reflection of an adjustment from the spring price.

The position of the FFAW is that the year over year seasonal comparisons of price, used in assessing shrimp prices in negotiations, and in presentations to the Panel has kept the minimum prices paid lower than they should be. They describe the process as ensuring a mistaken low price is maintained from season to season, thus ensuring a series of inaccurate prices.

The FFAW contends that the minimum prices have effectively been reset by the negotiations that occurred in 2016, not involving the Panel. This in its view makes season to season pricing impossible in 2016 for the fall shrimp fishery. The FFAW is using a summer-fall price comparison, while accounting for differences in yield.

The FFAW submission concludes that the exchange rates, supplies of raw material, and the market returns support their price offer. The offer is a rollover of the summer price of \$1.40/lb. adjusted to 2015 fall distribution, which results in a price of \$1.45/lb.

ASP contends that the market and currency realities must determine how raw material is priced. In its view, the market returns are clearly down in 2016 over 2015. The Panel generally agrees with the ASP perception of the markets as outlined in the Gemba report for the fall fishery and the earlier reports in 2016. The key issue in this hearing for ASP is how the raw material price is to be determined. ASP reviews the process used in the past and the Panel cometary in determining the changes in the weighted average market price (WAMP) season by season and year over year.

The essential point made is that comparison of the fall 2015 over fall 2016 WAMP change would result in a price to harvesters in the fall that would be higher than the spring price, in its opinion a perverse result. The question posed by ASP at p. 4 is: "How can the fall 2016 raw material price increase over spring 2016 when the market is down or at best flat, and yields are worse than spring?" Again at p. 5: "If the raw material was \$1.22 in the spring, and the market is flat, how can the fall raw material price now be higher?"

This presumes that the \$1.22 price confirmed by the Panel was the "right" price for the spring 2016 fishery. It is no more the "right" price than the fall price of 2015 of \$1.79, when the FFAW offer was accepted. The Panel must choose one of the two offers presented. When the offers are more than \$.20/lb. apart, distortions in the pricing are magnified over time.

The argument of ASP in the spring was that the change in the WAMP from spring 2015 to spring 2016 supported a reduction from the spring 2015 price of at least 18¢ or more. Applying the same logic to the fall 2016 price, the WAMP, using ASP calculations would result in a 44¢ decrease from the fall price of \$1.79 – for a price of \$1.35.

From the Panel's perspective, there is no definable "right" price in play, especially when it is confronted by a series of widely divergent offers over a period of time, one of which must be accepted. Obviously, had the Panel chosen the ASP offer in the fall of 2015 or the FFAW offer in the spring of 2016, the positions would be entirely different. To complicate matters even further, the prices actually paid by the members of ASP in the fall of 2015 were reportedly higher than the \$1.79 final offer of the FFAW.

In the spring of 2016, following the acceptance of the ASP offer of \$1.22/lb., the fishery did not start in the Gulf until a substantial price adjustment was made, allegedly by agreement, on the minimum price set by the Panel. In fact, the \$1.22 minimum price has not been the price paid in either the spring or summer shrimp fishery. The Panel did not set the price for the summer fishery which is acknowledged to be \$1.40/lb. All the shrimp purchased by the members of ASP in 2016 has not been lower than \$1.40/lb.

Again, that is not to say that prices paid correlate correctly to the market return prices. What we do know is that market price returns in 2016 are substantially down from 2015. Prices to harvesters this year have generally reflected that fact. The FFAW offer for the fall fishery is 34¢

less than the price set by the Panel in the fall of 2015. The Panel set the spring price at \$1.22, an 18¢ decrease from the price set in the spring of 2015.

In presenting their offers to the Panel at this time, the parties seem to be maneuvering for position for negotiations in 2017. The Panel understands that, and can appreciate the rationale of the parties from either perspective. The problem for the Panel and the parties is that the process of final offer selection is intended to apply to select one of two final offer that are fairly close. Since the decline in stocks in shrimp and the run up in market prices to a peak at the end of 2015, followed by a significant drop in market returns, the parties have presented offers that are significantly different. This has resulted in price distortions, either too high or too low, which have further complicated the process or collective bargaining. Competition among buyers for a declining supply of raw material has further complicated the process.

The Panel has repeated many times, in its previous decisions, that the process they have been directed to follow by the parties is; to quote from the 2016 spring shrimp report at p. 2:

"The process the parties have directed the Panel to follow in arriving at a decision on the price of shrimp to harvesters has been clear for many years. It has been quoted by the Panel in many of its reports and confirmed by the parties. In each shrimp fishery, spring, summer and fall, the weighted average market price in the current year is to be compared to that of the previous year. The difference in the weighted average market prices, up or down, is used as a guide to determine the change in the price to harvesters."

The submission of both parties and the arguments presented, to advance their particular interests at this time, ask the Panel to make its decision on other considerations. The underlying reason why the differential in the WAMP is rejected by the parties in the current situation, has resulted from the wide gaps in final offers presented to the Panel. In addition, factors external to the Panel process in collective bargaining have had a significant impact.

The severe quota cuts impact harvesters and processors alike and the Panel is cognizant of the financial pressures which they have to confront. The market returns and the peak in market prices in 2015, the subsequent drop to historical higher levels can not alleviate the financial situation of participants in the fishery given the magnitude of the quota cuts. Unfortunately, the prospects for resource increases, at least in the near future, are not promising.

The parties need to redefine the basis of their approach to collective bargaining on shrimp prices going forward. To make the system work more effectively, they will have to agree on the methodology to be employed and direct the Panel on the factors to be applied in making its decision. If final offer selection is to continue to be applied in the settlement of prices, the parties will have to bargain more effectively and bring their positions much closer before appearing before the Panel.

The Panel is of the view that it is not compelled to accept the arguments of either party as to the approach to be applied to settle the fall price. The differential in the WAMP 2016 to 2015 is clear. As a guide, the differential in the WAMP when compared to the 2015 fall price, would result in a price range of \$1.30-\$1.40. It is agreed by the parties and the Panel that there is no precision in the figures. The "right" price is not to be found in either offer.

Having reviewed the position of the parties and the current circumstances in the shrimp fishery this year, the panel has concluded the acceptance of the FFAW offer would best serve the conclusion of the shrimp fishery this fall.

It is the decision of the Panel to accept the final offer of the FFAW. Under the provisions of the Act, the fall price table (attached as Schedule "A") is binding on all processors that process the species shrimp in the province and will form a collective agreement on part of a collective agreement with the FFAW.

Dated at St. John's the 16th day of September, 2016.

		
Bill Wells	Max Short	Edwin Hussey

SCHEDULE "A"

Size Categories	Distribution Fall 2015	Plant Price *
2.0-2.9	3.74%	0.498
3.0-3.9	8.89%	0.842
4.0-4.9	10.79%	1.029
5.0-5.9	10.22%	1.217
6.0-6.9	9.49%	1.433
7.0-7.9	12.37%	1.538
8.0-8.9	15.18%	1.645
9.0-9.9	13.07%	1.806
10+	16.25%	1.911
		\$1.45

* Prices for trucked shrimp are 3¢/lb. less.