

STANDING FISH PRICE-SETTING PANEL
SQUID FISHERY 2019
2nd RECONSIDERATION DECISION

In the matter of the *Fishing Industry Collective Bargaining Act*, hereinafter referred to as the “Act” and an application by the Fish, Food and Allied Workers’ Union requesting that, pursuant to Section 19.14 of the Act, the Standing Fish Price-Setting Panel reconsider its decision of August 5, 2019, setting price and conditions of sale for the species Squid.

The Panel received an application from the Fish, Food and Allied Workers’ Union, hereinafter referred to as the “FFAW”, dated September 6, 2019, requesting the Panel to reconsider its decision dated August 5, 2019, concerning the price and conditions of sale for Squid in 2019. The application is based on the assertion the 2-tier pricing system is not practical given the unexpected abundance of Squid in this year’s fishery. In support of their claim, the FFAW stated:

“FFAW does not think that there have been any significant market price or currency changes since the date of the Panel’s decision on August 5th. The market factor that has changed significantly is the applicability of the current price structure to the abundant, but unforeseen, Squid fishery that is now underway.

There is a 2-tier price system for Squid, with the first 4500 mt being designated for the bait market at a \$1.00/lb. and the remainder for the export market at \$0.75/lb. The theory behind this 2-tier system is sound, but it has been proven to be practically difficult to implement. Until recently, neither FFAW nor ASP were aware that there were inadequate recordings of Squid landings, meaning that it will be difficult to know when the 4500 mt amount is reached and the export price of \$0.75 will be applied.”

They went on the state:

“Squid purchases have not been consistent across buyers. Some buyers have already purchased from harvesters’ enough bait for 2020 and are now interested in selling into the international market. Other buyers are still purchasing for bait needs. There is a disconnect between the 2-tiers in terms of timing and applicability. This needs to be fixed.”

Further:

“This year’s decision on Squid was not made with the current opportunity in the Squid fishery in mind. The decision now in place needs to change to reflect the Squid fishery that emerged but was not expected. In the absence of an agreement between the parties, we are seeking the Panel’s assistance in establishing a price structure to allow the fishing sector to benefit from the opportunity presented by the Squid fishery in 2019.”

Section 19.14 (1) of the FICBA allows a processors’ organization that represents processors that produce the majority percentage of a fish species to apply to the Panel to reconsider a decision respecting price and conditions of sale. The FICBA further states the Panel shall only reconsider its decision where it believes the failure to do so would jeopardize the conduct of the fishery to which its decision applies; and where the criteria for reconsideration prescribed in Regulations have been met.

The Regulations in Section 3 stipulate that in determining whether the conduct of the fishery to which its decision applies is in jeopardy, the Panel shall consider whether market or currency factors have changed significantly from the time the Panel made its initial decision. The Regulations further stipulate that a decision respecting reconsideration shall be made by the Panel within 96 hours from the time the Panel has acknowledged receipt of an application for reconsideration.

The Panel reviewed the FFAW’s written application and conducted a review of its initial decision of August 5, 2019, and the initial submissions of the Parties at that time. The Panel also reviewed written correspondence from the Association of Seafood Producers, hereinafter referred to as “ASP”, in which they claim that FFAW had failed to make the case for reconsideration as prescribed by the FICBA.

The Panel released its original decision report on August 5, 2019. In it, the Panel offered the following commentary to explain its decision to accept the FFAW position.

“The parties noted and accepted that there was not much information in recent years on the Squid fishery, since the landings were almost exclusively for the local bait market. They also agree that limited information exists on Squid imports in 2019 and what does exist is unreliable. Approximately 1,200 tonnes of Squid were landed in 2018, up from 300 tonnes in 2017. The market for these landings was the domestic bait market, primarily for the Crab fishery. The local fisheries currently consume approximately 4,500 tonnes of bait and most of that bait market has been supplied by Squid imported from other countries (most recently Argentina) which have become increasingly expensive in recent years.”

The Panel further wrote:

“The Panel has carefully evaluated both positions and notes that the vast majority of Newfoundland Squid landings in 2019 will again be processed for sale locally as bait. In the event of landings above 4,500 tonnes, the estimated local bait market, there is agreement between the parties for a lower price on the remainder. The Panel further notes that there is agreement that internationally supplied bait has steadily and sharply increased in price.

As was the case last year, ASP has provided no documentation to support their assertion that locally produced Squid is often sold at lower prices than imported Squid for bait. This is despite having such information readily available and having provided similar types of information to support their positions in respect of other species that have been before the Panel in the recent past. They have also provided no information as to what an average discounted price might be for locally supplied Squid bait.

In any case, it would appear that the margins to Squid processors have grown in recent years as bait prices have proportionately increased faster than prices paid to Squid harvesters. This gives rise to the need to consider fair sharing of these market gains. In light of a review of the submissions of the parties, it is the decision of the Panel to accept the final offer of the FFAW.”

As prescribed by the FICBA, jeopardy in the Squid industry must be related to significant change in factors related to market or currency. There is no currency consideration at play in this decision. The question before the Panel is whether there has been a significant change in the factors (i.e. outlook) for the Squid which will be harvested during the 2019 fishery compared with the outlook of the Panel on August 5th?

The Panel also looked at the FFAW’s rationale for a hearing in comparison with that put forward by the ASP in its September 30th request for reconsideration. ASP’s request was denied by the Panel on the basis that ASP’s price quotes of Squid in China did not amount to a significant change in market prices from the time of the Panel’s original decision. This conclusion has not changed in that market prices have not significantly changed. The FFAW agree with this conclusion in its current application.

The Panel reviewed the FFAW’s application in the context of broader market factors that are in play and whether market forces other than price have significantly changed. The Panel also noted the fact in the last 10 days both Parties have asked for a reconsideration and expressed the view that the 2019 Squid fishery is in jeopardy. There appears to be a consensus that there is jeopardy.

The 2-tier pricing system was proposed by both the FFAW and ASP in their submissions of 2018 and 2019. In reviewing the FFAW argument, the Panel agrees it is impractical in implementation and likely precludes the pricing for Squid destined for export markets. There is insufficient landings data available to calculate landed volumes on a timely basis and trigger the threshold. Furthermore, based upon buying activity to date, it appears the buying for the local bait market may never amount to

4,500 tonnes despite the high abundance. This means that processors wishing to produce Squid for export have to pay the higher price of \$1.00/lb., which is the price for bait markets.

The Panel's initial decision was based upon the likelihood that landings in 2019 would be on par with the recent past and not exceed the bait market. It was also based upon 2-tier pricing and that the market for the first 4,500 tonnes was local bait. There was also an understanding that production could be sequenced, such that production for export could follow production for bait. Consequently, export markets could be supplied by Squid purchased at a lower price.

Given the information before the Panel, it appears that the basis for the initial decision has not materialized. For the Squid fishery to proceed in an orderly manner, Squid will need to be processed for the export market before the threshold can be triggered. This is a different market than anticipated for Squid to be purchased at \$1.00/lb. and constitutes a significant change in market factors that places the fishery in jeopardy.

Therefore, the Panel decided to hear the reconsideration request. The Panel also asked the Parties to meet, with the assistance of the Facilitator, if needed, to exchange perspectives on this situation and on pricing going forward in 2019. In the event the Parties were unable to agree on a common position through negotiation, a Squid hearing was scheduled for 12:00 p.m., Tuesday, September 10, 2019. Parties were asked to simultaneously submit final positions by 10:00 a.m., Tuesday, September 10, 2019.

After a delay requested by the Parties, the Panel convened its hearing in respect of the Squid reconsideration at 1:30 p.m. on Tuesday, September 10th, 2019, at the Ramada Hotel, 102 Kenmount Road, St. John's. Appearing before the Panel were the FFAW and the ASP.

In their submissions, both Parties proposed the same minimum price for Squid for the fall of 2019, that being \$0.75/lb. The FFAW proposed the minimum price be applied to all landed Squid. The ASP proposed that the price be applied only to Squid greater than 150 grams. ASP also requested amendment to the wording of a Squid quality and handling protocol that had been agreed to between the Parties on August 15, 2019.

The FFAW contended that the size protocol should not be implemented since the smaller size Squid was marketable, even preferred, as a bait product. It also argued, that there needs to be a formal grading protocol to implement such a provision. The ASP contended that squid of a size smaller than 150grams was not suitable for export markets which is where the abundant fall Squid is destined.

In its deliberations, the Panel finds that the ASP proposed clause amendment is reasonable and not the main consideration in its choice between the two offers. The principal consideration is whether to restrict the minimum price to Squid larger than 150 grams.

The Panel noted that in the market price reports contained in the FFAW submissions, there is no export market price reference for Squid of a size less than 150 grams. Also, at the hearing both Parties believed that as the fall season progresses, most Squid will grow larger than 150 grams. The Panel

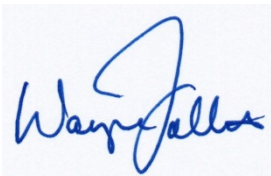
further notes that the principal reason for agreeing to hear the reconsideration was the fact there was a need to address the export of Squid and to align the price to that export market.

Considering the positions of the parties and after careful deliberation, the Panel has decided to accept the position of the ASP. The minimum price for Squid as of midnight September 10, 2019 will be:

- \$0.75 per pound for all Squid greater than a size of 150 grams.
- The wording amendment proposed to the squid quality and handling protocol will also take effect immediately.

In implementing the condition of sale with respect to Squid over and under a size of 150 grams, the Panel expects that the Parties will promptly negotiate a reasonable size grading protocol for application at the wharf and/or the processing plant.

Dated the 10th day of September, 2019.



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Bill Carter



Brendan Condon