

DECISION OF THE STANDING FISH PRICE SETTING PANEL

Spring Shrimp 2013

The Standing Fish Price Setting Panel hereinafter referred to as "the Panel" issued its Schedule of Hearings for 2013 on March 5th, 2013. Pursuant to Section 19 of the *Fishing Industry Collective Bargaining Act*, hereinafter referred as "the Act", the Panel set Thursday, April 18th, 2013, as the date by which a collective agreement(s) binding on all processors in the province that process shrimp must be in place.

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", represent the majority of processors that process the species "shrimp". As a result, pursuant to Section 19(11) of the Act, should a hearing be required for shrimp, 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 regulations made pursuant thereto, require that the decision of the panel must be in accordance with one of the positions of the parties on price and conditions of sale submitted to the Panel at the hearing. The Panel further advised that no other positions 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, was scheduled to take place on Friday April 19th, 2013 at the Labour Relations Board Hearings Room, Beothuck Building, 20 Crosbie Place, St. John's.

Following a joint request from the parties the panel commenced its hearing for Spring Shrimp on Thursday May 2nd, 2013. The parties appearing before the panel were ASP and the FFAW. The parties, having previously exchanged their positions and copied the Panel, supported their positions in main argument and rebuttal (copies attached).

The parties and the Panel have the benefit of marketing reports obtained from the Department of Fisheries and Aquaculture. These reports were prepared by Seafood. com and Gemba Seafood Consulting (copies attached).

In the interest of advising the parties in a timely manner of the Panel decision on price and conditions of sale for spring shrimp, the Panel issued an abbreviated version of its decision on May 6th, 2013 (copy attached).

In making its decision on the spring price for shrimp 2013, the Panel is faced with a familiar circumstance. The Panel must choose one of two final offer positions tabled before the panel by the FFAW and ASP respectively. The final offers are 4.2¢ apart, which for shrimp, represents a fairly wide margin.

The parties are in general agreement that the markets for NL shrimp are in a downward trend. By and large they have little quarrel with the two market reports on shrimp produced by Gemba and Sackton. What they do not agree on is the amount of reduction in the price for raw material that needs to be applied to account for this downward trend in the markets.

In their presentations to the Panel, the FFAW final offer was 65¢/pound and the ASP final offer was 60.8¢/pound. Under the final offer selection process the Panel must select one of the two positions.

Using a spring over spring comparison these offers represent an 11¢ reduction in raw material if the Panel were to choose the FFAW position and a 15.2¢ reduction if the Panel were to choose the ASP position. In the Spring of 2012, the price set by the Panel for raw material was 76¢/pound.

In previous decisions of the Panel, it has been acknowledged that the task of deciding a price point for raw material using the tools at its disposal is as much an art as it is a science. The market reports which are used by the parties and the Panel provide a good reflection into what has been and what is occurring in the markets at the time the reports are prepared. The big question which is so critical for the industry is how the markets will react going forward during the actual prosecution of the fishery.

The Panel recognizes and appreciates that while the market reports reflect a detailed analysis of the issues impacting them, including such things as inventories, competition from other products, ATRQ, supply, currency etc., their limitation is in their ability to definitively gauge what will happen with the markets going forward. This is by no means a criticism of the market consultants. There are so many factors with so many variables that it would be an impossible task to expect anyone to be able to declare with absolute certainty what the markets will do going forward. This fact has been borne out in recent years when the markets in fact improved at a time when the predictions were that the opposite was more likely to occur. Because of these large number of variables and the natural volatility of this industry, the Panel has, on a number of occasions since its formation in 2006 impressed upon both parties the need to work together to find a process that could track the markets more closely as the fishery was prosecuted. In addition to taking into account the many factors that impact the industry for both harvesters and processors, part of the solution could be a raw material price that corresponds to a market price on a continuing basis as the fishery is prosecuted. This, in the opinion of the Panel, represents the best method to deliver the most favourable result for both parties. Unfortunately,

because the parties reach different conclusions using the same data and information before them the Panel is left to decide the more appropriate price point having examined the same information as well as the parties interpretation of the information.

In its submission to the Panel on shrimp prices in spring 2012, ASP contended that, "the market price table prepared by each party is only a proxy for market change direction and orders of magnitude of change: not a price formula." It is and has been used extensively by all parties as a useful guide. However it is simply that and cannot be the sole source on which to base a pricing decision.

In its decision on fall shrimp prices in 2007 the panel wrote:

"taking into account market prices and currency changes does not necessarily provide the best approach or the best result. As can be seen from past experience, prices in each season have been affected by other factors and there is no prior base price that can be used as a solid starting point for the calculation of a subsequent price."

In the case of the 2013 spring shrimp fishery, the FFAW, in support of its position cites factors such as reduced worldwide CWS supply, reduced WWS competition due to higher prices, continuing strength of shell-on markets minimizing industrial shrimp in the C&P markets, raw material prices in other jurisdictions, and much more favourable ATRQ in support of its position to limit the drop in raw material prices to harvesters to 11¢/pound.

ASP's final offer position is primarily based on its analysis of the market prices as outlined in the market reports. ASP also requested the panel take into consideration the fact that inventory of shrimp will not likely be moving for several months outlining Sacktons prediction that the markets will not need new shrimp till much later in the year.

ASP refers to the fact that only 7,000t of the total ATRQ of 30,000t has been taken in the first two months of this year signaling the market is not taking supply. ASP reminded the Panel of the very weak economic situation in the European economies which represent 95% of the NL customer base. While there has been a pattern of using the market currency comparison table as a guide to where the price range should be for raw material, the Panel has an obligation to take into consideration "all" the factors that may have an impact on the price point. As previously indicated and acknowledged the fishing industry is impacted, negatively or positively, by many factors which are subject to unpredictable changes. The market reports as earlier stated are showing a negative downturn that are being caused by a number of factors as outlined above.

The Panel in considering all the information before it has acknowledged that while the markets are currently in a downward cycle there is some optimism they may stabilize as we move further into the season. The Panel also acknowledges that the spring shrimp fishery which consists mainly of the Gulf of St. Lawrence fishery produces a very high quality product. Further, the spring fishery will be a short season thereby putting a small quantity of product into the market.

While the respective differences of the parties on a spring price are apart by 4.2¢/pound, the Panel is of the view that an 11¢ drop in spring over spring price should provide the flexibility for processors to reduce their prices to commence activity in the markets.

The decision of the Panel is to accept the position of the FFAW for the 2013 spring fishery.

Dated at St. John's this 11th day of June, 2013.



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