

STANDING FISH PRICE-SETTING PANEL
RECONSIDERATION DECISION
SQUID 2019

In the matter of the *Fishing Industry Collective Bargaining Act*, hereinafter referred to as the “Act” and an application by the Association of Seafood Producers 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 Association of Seafood Producers, hereinafter referred to as the “ASP”, dated August 30, 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 there is some evidence of jeopardy in the current Squid fishery and that in the period since the Panel’s August 5th decision there has been a significant drop in the market price for 200 to 300 gram Squid (in China). In support of their claim, the ASP submitted the following case to the Panel.

“The first criteria is some evidence of jeopardy. We would respectfully submit that the conduct of the NL Squid fishery is indeed in jeopardy. Some NL producers have stopped buying Squid, other started and stopped, and some have not yet started. Others have indicated they are planning on stopping in the coming days given the market can not support the minimum raw material prices set for the species.”

“Second, the market and/or currency must have changed significantly. In their July 31, 2019 submission to the Panel, the FFAW submitted market information showing market prices for 200-300 gm Squid at USD \$4,103 per ton. This was contained on page 4 of their submission.

Undercurrent is now reporting, as of August 16, 2019, that the price range for 200 to 300 gm Squid is between USD \$3,100 and USD \$3,300 per ton according to one source, or USD \$3,700 according to a second source. This is the same data used in the FFAW submission of earlier this year for determining international markets which they argued were determinative in setting NL prices.

The market change using the higher prices would be a 10% reduction. The market change using the average of the two lower prices would be a 22% reduction in the market. An average of the two, USD \$3,200 and USD \$3,700, would mean a market change of 16% down.”

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's Rules and Procedures states that upon receipt of a request for reconsideration the Panel will initially and promptly decide whether to hear proposals for a new price and that decision will be based upon the case put forward by the party requesting the reconsideration (and other market reports made available to the Panel; none have been provided in this instance).

The Panel reviewed the ASP's written application and case for reconsideration as detailed above. It also 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 Fish, Food and Allied Workers' Union, hereinafter referred to as the "FFAW", in which they claim that ASP has failed to make the case for reconsideration as prescribed by the FICBA.

The Panel released its original decision report on August 5th, 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 market price or currency. Any jeopardy to the orderly conduct of the industry as it relates to logistics, quality, processing and handling capacity in itself does not constitute grounds for reconsideration. There is also no currency consideration at play in this particular decision. The question now before the Panel is whether there has been a significant change in the market outlook for the Squid which will be harvested during the 2019 fishery compared with the outlook of the Panel on August 5th?

The Panel's August 5th decision was based primarily on the bait market for Squid and more specifically, what could be expected in the market for bait in the 2020 Crab fishery. The Panel notes that the bait prices to Crab fishers are set by Newfoundland processors and ASP represents the processors that produce the majority of Crab, the fishery in which Squid bait is sold and used. The Panel also notes that at the 2018 and 2019 Squid hearings, the ASP position was that there is no relationship to international Squid prices in bait (the ASP position was noted in the Panel's decision reports of both years).

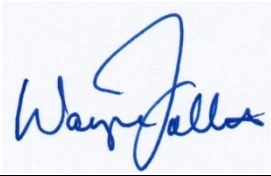
Both Parties in the last two years have proposed two tier pricing of Squid. This allows for a 25% drop in 2019 Squid prices should the volume of Squid harvested in Newfoundland exceed 4,500 tonnes (the local bait market). In 2018, approximately 1,200 tonnes of Squid were landed, up from 300 tonnes in 2017. There has been anecdotal evidence of high Squid abundance thus far in 2019 but there is no evidence to suggest that landings will increase 3-4 fold over last year and be above 4,500 tonnes. ASP has not submitted any argument on this point or offered any estimate of the volume produced to date by its members. The Panel has been informed by the Department of Fisheries and Land Resources that production statistics will not be available until mid-September. No landings data is yet available. Therefore, the Panel has no basis to change its view that the primary Squid market is the Newfoundland bait market.

The ASP has offered no analysis of the relevance of the recent Undercurrent quotes in terms of the longer-term trend in international bait prices and what that would imply for the 2020 bait prices. The Panel notes that in the FFAW tables referenced by ASP a drop in quoted prices occurred in July 2018. However, there is no evidence that this had any impact on reducing bait prices in 2019. ASP has failed to make the case that the bait prices would be different in 2020. Furthermore, their members will ultimately set the bait market prices in 2020. Similarly, ASP has offered no analysis of the potential impact of recent quotes in China on international bait prices in the winter and spring of 2020,

particularly from Argentina where NL bait is often sourced. Even if processors end up selling some quantity of 2019 Squid production to export markets they haven't been in for years, it is difficult to interpret the significance of the recent quotes on the outcome given the lack of contextual analysis.

After careful deliberation, the Panel finds there is no significant change in the market and other information available at the time of its original decision of August 5th. The magnitude of the price change and brevity of evidence is insufficient to enable it to meet the test of significant change in market factors as prescribed by the Act and Regulations. It is the decision of the Panel to not reconsider its decision of August 5th, 2019.

Dated the 1st day of September, 2019.



Wayne Follett



Brendan Condon



Bill Carter