

## **STANDING FISH PRICE-SETTING PANEL CAPELIN FISHERY - 2016**

The Standing Fish Price-Setting Panel, hereinafter referred to as "the Panel", issued its Schedule of Hearings for 2016 on the 9<sup>th</sup> day of March, 2016. Pursuant to Section 19 of the Fishing Industry Collective Bargaining Act, hereinafter referred to as "the Act", the Panel set Wednesday, the 15<sup>th</sup> day of June, 2016, as the date by which collective agreements binding on all processors that process Capelin must be in effect. In the absence of such collective agreement, the Panel set Thursday, the 16<sup>th</sup> day of June, 2016, as the date on which the Panel would conduct a hearing regarding the prices and conditions of sale for the species Capelin.

It was noted by the Panel at the time, that it had been advised by the Department of Fisheries and Aquaculture, that the Association of Seafood Producers, hereinafter referred to as "ASP", represents processors that process the majority percentage of the species Capelin. As a result, under Section 19(11) of the Act, should a hearing be required for Capelin, 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 on price and conditions of sale submitted to the Panel by the parties 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 collective bargaining must be obtained.

The hearing, if required would take place on the 16<sup>th</sup> day of June, 2016, at the Labour Relations Board Hearings Room, Beothuck Building, 20 Crosbie Place, St. John's. The parties, having earlier exchanged final offer positions and providing copies to the Panel appeared before the Panel and supported their written submissions in main argument and rebuttal.

The parties and the Panel have the benefit of the market report for female roe bearing capelin prepared by A. M. Haram for the Department of Fisheries and Aquaculture. The Market Report does not provide a specific price for NL capelin exports going forward. It is an indicator of the market trends related to the export sales of our main competitors. Norway and Iceland to the importing countries.

The highlights of the Market Report are:

1. Solid price increases on capelin exports from Norway to all countries both in Norwegian Kroner and USD. The Ukraine market is reported to be "quite difficult."
2. All Norwegian female roe bearing capelin has been sold on contact, a few thousand tonnes of male/mixed capelin is in storage.

3. It is difficult to find information to put downward pressure on prices of female roe bearing capelin from NL. Prices will of course depend on the size and roe content of the fish.

The market report noted the demand for female roe bearing capelin is very strong while the demand for male capelin is weaker. Ukraine is a key market for mixed capelin. There are substantially reduced catches in Norway and Iceland. As well, there will be no capelin fishery by Norwegian and Icelandic vessels this summer.

The market report notes that the most important factor in the limited number of markets for female roe bearing capelin, which provide the highest return, is the size and roe content. The conclusion of the market report is that it has been a very good season for female roe bearing capelin. For male/mixed capelin, the demand is slower. Prices are up in Japan for Iceland and Norwegian capelin by 20 to 30%. China also has a strong demand.

ASP has acknowledged that overall the market return for exports of capelin will be higher. The final offer submitted represents a 20% increase to harvesters in both price categories.

The FFAW has seized on the price increases to other exporting countries and, as well, argued that the share by harvesters of the market return is inappropriate. Their final offer is a 47% increase in the A price and a 40% increase in the B price. The 2015 price and the offers are:

2015	2016 ASP	FFAW
A - 15¢	18	22
B - 10¢	12	14

In the context of the capelin fishery, the final offer of the parties results in a wide gap between the two positions. The Panel must decide which of the two final offers is the more appropriate or reasonable under the circumstances. The inherent difficulty is that we do not know how the fishery or the actual market returns will unfold going forward.

In 2015, the parties agreed on a rollover of the 2014 prices. In 2015, however, the average price to harvesters declined from .144¢/lb. to .127¢/lb. The control over the conduct of the fishery was not as effective and the percentage of marketable females and male/mixed capelin was lower. In broad terms, landings in 2015 were approximately 80 million lbs. However, only 61 million lbs. were produced. Of that, 41 million were exported and 19 million lbs. were moved domestically.

In determining prices to harvesters, the focus has been the returns from the export markets. Only 52% of the landings were exported, and the statistics show the amounts to the importing country and the prices received in the previous year.

The FFAW proposal is based on the conclusion that market prices will be up by as much as 30%. The currencies differentials in the markets are in our favor. They also point to the increases in the markets from 2014 to 2015 and the increases anticipated. Since the price to harvesters did not increase in 2015, there is a substantial gap that can be filled by the increases in 2015 and what, in their view, is projected for 2016.

There is also another big factor from the FFAW perspective. As the returns from the market increase, harvesters should get a higher share of that return. It is stated at p. 4 of the FFAW submission:

*"Between 2013 and 2015, the overall value of capelin exports has grown from 62%, from \$20,926,873 to \$33,865,704. The gains from this growth in export value have not, been adequately shared between the harvester and the processor."*

The FFAW points to the fact that the share value is divided 78/22 to the harvester for halibut above \$6.00 in the market. Similarly in lobster, everything above \$6.00 is shared 80/20 to the harvester. In the two fisheries to which they refer the sharing arrangement has come about by the agreement of the parties. There are basic reference points and defined percentage share arrangements for specific market pricing levels.

In the case of capelin, there has been no agreement with respect to sharing arrangements. ASP has contended that a formula for capelin pricing cannot be developed due to the nature of the fishery. From the Panel perspective, how can it determine a base or point at which the higher return should favor a higher percentage for the harvester and what would that percentage be. The FFAW position at this time is that 78% of the market return should accrue to the harvesters. A 17% increase in the market prices would be sufficient to cover the 40% increase to harvester prices.

There is some justification for the view that as returns from the market increase, the harvester should receive a proportionately higher share of that return. Where the parties fail to agree on the principles to be applied, the Panel has no basis in the fact to draw a conclusion. The decision would have to be arbitrary and based on what might be perceived to be fair. In a decision on mackerel prices in 2013, the Panel made an adjustment to prices based on sharing the market return. In that instance, the Panel had a series of price and price ranges in the market related to a specific price paid to harvesters. The Panel was, at least in its view, able to demonstrate by examples how the prices, in the absence of a change, would unduly prejudice the harvester as market returns increased.

The situation with capelin is not so clearly capable of definition but the Panel agrees that with respect to species, such as capelin and mackerel, where there is a lesser requirement for processing, that the harvesters share of the total market returns needs to be adjusted from time to time to provide a fair return on the value of the product sold. The FFAW at the hearing in support of its submission, urged the Panel to look at the concept presented and to do the math.

Another point emphasized by the FFAW was the fact that ASP at times, uses the domestic sales to suppress the price to harvesters. Since only the members of ASP know what is actually received on domestic sales, and since the information is not shared, that should be a non-factor in determining the price to harvesters. In any event, they may even be making a return which is not accounted for in determining the price to harvesters.

ASP has a differing view on the market returns as projected for 2016. They note that in Table 5 of the market report, that after May the market was lower in 5 of the 8 months in the balance of the year. The overall market return was apparently 13.75% lower. Again this year, the market report only has information on the first four months of the year. The Norwegian statistics should be viewed as a barometer of the capelin industry, it is only an index.

ASP is of the view that once again the market is sending mixed signals, the FFAW refers only to the positive. While the average Norwegian export price is up for the first four months of the year, the May data, which was not available for the market report, to quote at p. 2, of the ASP submission:

*"The trend is now down... for NL's most important market, China, Norwegian prices were down 18.5% NOK from 8.36 NOK per kilo to 6.81 NOK per kilo from April 2016 to May 2016."*

It is also noted that the Icelandic prices are down (Market Report, Tables 6 and 9) in 2016 vs 2015. ASP says the Market Report also indicates that the market for male capelin (60-65% of total purchases from harvesters) is down from 2015. The Icelandic sales to the Ukraine were down 20% on a unit value basis. ASP also filed with its submission Norwegian export values and prices which indicate price reductions in sales to China, Japan and the Ukraine between January and May.

In response to an e-mail from DFA, attached to the ASP submission, requesting clarification of the demand from the Ukraine, Haram (author of the Market Report) noted that Iceland had experienced a decline in prices this year. The Norwegians had a "nice price increase" in the first months of this year. The Norwegian exporters had stated this market was difficult, they had mixed capelin in storage: "... and seemed to find it difficult to find potential buyers, including Ukrainians."

ASP stated that with the Russian ban on imports to Ukraine and Georgia, have become more difficult to deal with. This has also created more competition in the US market where capelin consumption is directed to zoos and aquariums.

As to the reduction in the overall supply, since Russia has a ban on all capelin imports from the producing countries, the market is smaller. Norwegian exports of frozen capelin were 20,477 tons in the first five months of 2016 and 19,234 tons for the same period in 2015. China and Japan imports were 3,300 tons from Iceland in 2015, and 2,300 tons in 2016. The conclusion is that the significant reductions in supply will still leave little extra room for NL exports.

ASP focuses on the fact that in 2015, the amount of capelin not exported was the highest since 2004, at 17,593 mt, an increase of 55% over 2014. In the preceding 10 years, the average of capelin brought but not exported was 37.9%, in 2015. 48.2%. The implication being that costs associated with the non-exports are born by the processor.

ASP also reviewed China, our most important market. The Canadian prices are nearly twice the prices received by Norway from China. The reason is that Norway is selling mixed male and female of a smaller size. The NL capelin sold to China is almost 100% female. ASP contends that to compare the market returns between the two is impossible. From ASP's perspective, the China importers are trying to negotiate sales on last years prices and their currency is down against the US dollar.

Finally, the change in capelin pricing in 2014 has resulted in an increase in the number of pieces per kilogram (the count). This higher count reduces the prices. ASP says their final offer is "reasonable and fair."

The critical issue for the Panel is to conclude what percentage increase one might reasonably expect in the export markets for 2016 compared to 2015. The Asian markets provide the highest return for female roe bearing capelin. In Eastern Europe, particularly the Ukraine, the markets for male/mixed capelin are at lower values. The US is a critical market in this category both in volume and value.

Of the 80,439,388 lbs. of capelin landed in the province in 2015, only 41,664,416 lbs. was exported, or 52%; 24% of the landings were discarded. Another 24% were produced but not exported. The parties and the Panel are confined to the issue of the exports market returns in accessing the price to harvesters.

In 2015, harvesters prices were A - 15¢/lb.; B - 10¢/lb. The FFAW offer of A - 22¢/lb. and B - 14¢/lb., is an increase of 47% and 40% respectively. ASP's offer is A - 18¢/lb.; B - 12¢/lb., an increase of 20% in both categories. The difference between the two offers is quite large in this price range. The Panel must choose one of the two offers. At this point, there are only assumptions on which to make a decision. The market report does not suggest prices or a range of prices nor can it be expected. The

Icelandic and Norwegian results for the early part of the year are an indicator or market trends.

In 2015, the export market had two major segments, the higher end roe bearing female capelin and the male/mixed capelin. The former go to Asian markets the latter to the East European market and the US.

The following is a breakdown of the markets in 2015. Total exports were valued at \$33,865,704 for 41,599,523 lb. The breakdown of the export sales was as follows:

Asian Market		
	Market Share	Average Price
China	37.8%	\$.92¢/lb.
Taiwan	10.6%	1.10¢/lb.
Japan	1.9%	.88¢/lb.
Hong Kong	1.8%	1.11¢/lb.
South Korea	1.8%	1.02¢/lb.
Vietnam	2.0%	1.26¢/lb.
	56%	

Other		
	Market Share	Average Price
US	28%	62.6¢/lb.
Ukraine	7.7%	52¢/lb.
Lithuania	3.3%	57¢/lb.
Georgia	1.5%	55.8¢/lb.
	40.5%	

The average price for all exports was .81¢/lb. The question, as noted above, for the Panel is to determine what might be a reasonable expectation of the export value increase for 2016 over 2015 based on the information in the market reports and the submissions of the parties.

The actual price to harvesters in each year will vary as a result of the run of capelin landed. The size, roe content of females, the percentage of male and female is a variable. In 2014, the Department of Fisheries and Oceans statistics show that the average price to harvesters was 14.4¢/lb. In 2015, the average price to harvesters was 12.7¢/lb. The prices in the collective agreement were the same A - 15¢/lb.; B - 10¢/lb. The average in prices reflects the percentage and type of marketable capelin landed.

In 2015, landings totaled 80,439,388/lbs. The export sales were \$33,865,704. The average price to harvesters was 12.7¢/lb., for a total of \$10,215,802. That was the harvesters share of the \$33,865,704 returns from the export market which is 30%. The processors share was 70% or \$23,705,992.

The Panel notes that if the same percentage sharing arrangement of 70% to 30% is applied to an increased market return, the increase in prices proposed by ASP of 20% would mean an increase in the export market return of 20%. A 20% increase on the 2015 market return of \$33,865,704 would result in \$40,638,844 based on the same landings and production in 2015. Applying the same share arrangement, results in approximately a 20% increase in the return to both harvesters and processors over 2015.

However, the extra \$6,713,140 divided 70-30 in favor of the processors gives them \$4,741,498 and the harvesters \$1,975,851. The exercise shows that while the price to harvesters increases by 20% for 2016 over 2015, their share of the extra value of the market return, all other things being equal, is 30% of that increased return.

This emphasizes the point that if the overall return increases and even though the price to harvesters is increased by 20%, the incremental return to the processor is much more than the return to the harvester. On the balance of the equities, if the other factors have not changed, despite the significant increase in the price to harvesters, they are not getting an equitable sharing of the increase in the market return. If the \$6,713,140 were shared equally, the harvesters would get an additional \$3,356,570. Divide that by the 80,439,388 lbs. landed would result in an additional 4¢/lb. increase to harvesters. A 60% share to harvesters would result in a 5¢ increase.

The FFAW has argued that the percentage increase they should receive on the increased returns from the export markets should be 78%. The Panel has no basis to confirm that number and is not prepared to decide what the harvesters percentage share should be. However, the exercise noted above does indicate that the FFAW has a point. If the sharing of the return is always at 70-30%, they are not getting an appropriate return at points in time.

In 2015, in hindsight with the available data the harvesters did not have the benefit of an increase in price that could have been justified on the basis of the results from the fishery. Based on the information available at that time, the parties agreed to continue with the 2014 prices in the collective agreement.

The Panel is of the view that this is one time that splitting the difference between the parties would result in the most appropriate price for 2016. The Panel must choose one of the offers presented. In arriving at its decision, the Panel is of the view that there are good prospects for a substantial increase in the market returns. This is also reflected in the offer of ASP.

Whether the market return will be up by 20% will not become clear until the conclusion of the fishery and the markets are cleared. Having reviewed all of the circumstances and in light of the above, the Panel is of the view that on the balance of equities, the FFAW offer is the more acceptable of the two. The ASP offer is too low. The FFAW offer may be too high. The Panel can not change those facts.

It is the decision of the Panel to accept the FFAW final offer. The price for capelin in 2016 will be as follows:

"A" Price	- .22¢/lb.
"B" Price	- .14¢/lb.

Under the Act, this decision is binding on all processors that process the species capelin in the species and will form a collective agreement; or part of a collective agreement with the FFAW.

Dated at St. John's the 20<sup>th</sup> day of June, 2016.



The image shows three handwritten signatures in black ink. From left to right: 1) 'Bill Wells' in a cursive script. 2) 'MAX SHORT' in a bold, blocky, uppercase font. 3) 'ED HUSSEY' in a cursive script. Each signature is placed above a horizontal line, with the name of the signatory printed in a smaller, sans-serif font directly below the line.