

STANDING FISH PRICE-SETTING PANEL LOBSTER FISHERY 2015

The Standing Fish Price-Setting Panel, hereinafter referred to as "the Panel", issued its Schedule of Hearings for 2015, February 19th, 2015, for inter alia the species Lobster. In the event that no binding agreement was in effect by April 12th, 2015, the Panel set Monday, April 13th, 2015, as the date for a hearing on prices and conditions of sale for the species lobster.

The Panel also noted it had been advised by the Department of Fisheries and Aquaculture that the Seafood Producers of Newfoundland and Labrador, hereinafter referred to as "SPONL", represents processors that purchase the majority percentage of the species Lobster. As a result, pursuant to Section 19(11) of the *Fishing Industry Collective Bargaining Act*, hereinafter referred to as the "Act", should a hearing be required for the species lobster, the parties appearing before the Panel would be the Fish, Food and Allied Workers Union, hereinafter referred to as "FFAW" and SPONL.

Section 19.11(1) of the Act, and the regulations, 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. The Panel further advised that no other submissions would be accepted by the Panel, and should representatives of this species wish to attend the hearing, concurrence from both parties to the collective bargaining must be obtained.

The hearing for lobster, if required, was scheduled to take place at 10:00a.m., Monday, April 13th, 2015, at the Labour Relations Board Hearings Room, Beothuck Building, 20 Crosbie Place, St. John's.

The Panel convened the hearing for the species lobster at 10:00a.m., on April 13th, 2015. The only party appearing before the Panel was the FFAW. The parties had previously exchanged final offers and filed them with the Panel. (copies attached). The FFAW reviewed its submission and final offer to the Panel. The FFAW advised that discussions have been ongoing with SPONL since January on a method to establish a "price to market" formula based on the lobster fishery in this province. Formal negotiations had begun on April 9th and did not result in an agreement.

The FFAW submission reviews the issues related to the pricing of lobster and the attempt to have prices directly related to the fishery in Newfoundland and Labrador. The Panel has accepted the FFAW final offer over the past four years in the absence of agreement. The lobster schedule provides that prices are to be determined on a weekly basis, adjusted in accordance with Urner Berry price listing for 1¼/lb. live lobster FOB New England. The lobster schedule, which has been adjusted twice by the FFAW, at the request of SPONL, provides a formula to adjust prices taking into account exchange rates, from a minimum price, to a predetermined sharing of incremental increases in the market return. In the absence of any other acceptable or agreed to method, the Urner Berry price listings are used.

It is acknowledged that the Urner Berry price listings are not directly related to the sale of lobster from this province. At best, they do reflect the swings in prices on a weekly basis in a fairly volatile lobster market.

The FFAW has in the past, and has now, stated its willingness to develop a methodology for pricing based on the sales receipts of buyers in this province. The Panel in previous decisions has outlined the issues and the attempts of the parties to deal with the matter. The Panel has also noted what seemed to be a lack of effort by the parties during the off season to put in the required effort to arrive at a consensus.

It seems from the FFAW submission that a much better attempt has been made this year. In p. 1 of the submission it states, "There was a significant discussion undertaken to establish a price to market formula in 2015. In February of 2015, the FFAW met with the SPONL Chief Negotiator where a tentative plan to establish a price to market formula was thought to have been agreed upon."

The FFAW asserts that: "Opposition of lobster buyers at disclosing their receipts has been the primary stumbling block for creating a price to market formula." The concept involves processors that purchase the majority of lobster landings providing receipts, on a weekly basis, to an accounting firm, which would result in a price determination applicable to sales. The method potentially has merit in that prices to harvesters would be directly related to the market returns received by the buyers. Unfortunately the parties have not been able to put the concept in place.

The FFAW has insisted that the accounting firm be provided with receipts from previous years, to establish a base and refine the formula to be applied by the accounting firm. SPONL has stated only the receipts of the current year will be provided.

By letter, dated March 12th, 2015, the accounting firm of Quinlan Taylor made a proposal to the FFAW and SPONL, outlining in some detail a proposed market analysis of lobster. This proposal was rejected by SPONL prior to the April 9th, 2015 negotiating meeting.

The FFAW submission to the Panel is made as a consequence of no agreement with SPONL on a "foundation" of a price to market formula which requires the agreement of the parties. The FFAW has submitted as its final offer a "rollover" of the 2014 Lobster Schedule. In their view: "Lobster buyers and harvesters have used this system for four years and it is the best system that currently exists".

In the absence of SPONL at the hearing the Panel has had no input from processors and buyers of lobster. What has been submitted to the Panel is a proposal made to the FFAW dated April 9th, 2015. A copy of the submission is attached but can be set out here as it is very brief:

"April 9, 2015

Company proposal – Lobster 2015.

Clarification of verbal proposal.

Price determined by Quinlan & Taylor from actual receipts provided. (2015)

Minimum Price for 2015...\$3.25

Price received in the market place:

		<i>Fishermen's share</i>
<i>Example:</i>	\$5.00	\$3.50
	\$6.00	\$4.20

This proposal will allow Fishermen and buyers to share benefits of up market and risks of down market evenly.

*George Joyce
April 9, 2015"*

The Act stipulates quite clearly that price and conditions of sale must be defined prior to the start of a fishery. In this instance the deadline for the parties and the Panel is April 16th, 2015. Since SPONL did not attend the hearing in support of its final offer, the Panel has no other information to support how the offer would in fact be implemented. If it were to be accepted by the Panel, it would not result in a final and binding solution on price and conditions of sale for the 2015 lobster fishery.

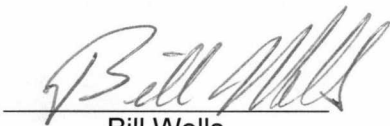
As the FFAW notes in its submission it would take some time to set up the arrangement with Quinlan & Taylor, sort out the buyers to be involved, and the methodology to be accepted. There is also the question of costs for this service, who would pay, how would it be shared. The FFAW had earlier taken an initiative to seek government assistance. Since SPONL rejected the proposal from Quinlan & Taylor, just prior to the negotiations, nothing has been done to complete the details required to put the new system in place.

The FFAW advised the Panel they were meeting with SPONL on April 14th, 2015. The Panel advised the FFAW that if an agreement were reached on lobster prices between the parties, the Panel would step aside. There was, however, an issue. The Act requires that the pricing of lobster must be in place by April 16th, 2015. Unless, the Minister of Department of Fisheries and Aquaculture changes the timelines at the request of the parties, in the absence of agreement between the parties, the Panel will file its decision on April 16th, 2015.

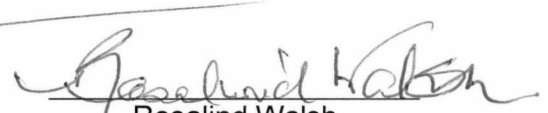
At this point, the Panel must choose one of the two positions submitted. In this instance, the proposal of SPONL is far from complete. It does not provide a complete or final way to determine the issue of pricing of lobster for the 2015 season. On the other hand, the FFAW is proposing the continuance of the 2014 Lobster Schedule, which has been used for the past four years, at times with the agreement of SPONL.

It is the decision of the Panel to accept the position of the FFAW for Lobster prices of 2015. The prices for lobster will be set in accordance with the 2015 Lobster Schedule attached, which will form a collective agreement, binding on all processors that buy the species lobster.

Dated the 16th day of April, 2015.


Bill Wells


Max Short


Rosalind Walsh