

LETTERS TO THE EDITOR

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Hard truths about fisheries arbitration 🚫

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The Telegram

Separating fact from fiction after the pre-emptive rhetorical flurry and fury from the FFAW/CAW last Wednesday past is not the challenge one might expect. It really is quite simple.

Fish prices in this province have been set by collective bargaining since 1972, Joey Smallwood's last piece of legislation before he left office. Since 1997, a binding arbitration mechanism was imposed on the industry players for those instances where negotiations failed.

Disputes went to an arbitration mechanism called single arbitrator FOS (Final Offer Selection: the arbitrator can only pick one of the two positions, not in between). That model collapsed in 2003 for all species, but was implemented again in 2004 and 2005 for shrimp by the agreement of the FFAW/CAW and producers. In 2006, government put the new panel in place, which producers say does not work.

With that background, let's consider the FFAW/CAW's response from Wednesday, and the real issue here: government's Standing Fish Price Setting Panel.

First, the FFAW/CAW says producers are holding a gun to government's head. If it's a gun, it's shooting blanks. Nothing has changed, except producers have said we are not obliged to participate in our own demise with an arbitration mechanism that does not work.

Second, the FFAW/CAW says harvesters are not allowed to fish until there is an agreement in place. More rhetoric. Everyone in the province knows the fishery never starts till after April anyway. We have had delays and shutdowns in the fishery in four of the past six years, and are headed for five out of seven.

No price, no fish

Third, the union has already said the boats will tie on if prices are not adequate, with 200 letters on my desk from the FFAW/CAW saying no fishery if shrimp is not 60 cents or more. That shrimp price would represent a 50 per cent or more increase in prices over last year.

But the boats will and are tied on anyway, because there is no 60 cents for shrimp, and no \$1.50 for crab (Alaska is at \$1.10). What the FFAW/CAW did last Wednesday past was confirm what has already been put in writing to me weeks ago, and agreed to at their convention last year: no fishery because the market is below what harvesters need.

Fourth, the FFAW/CAW says the issue producers have with government's imposed arbitration mechanism is union bashing. That's the most illogical part of this. Single-arbitrator FOS was the dispute resolution mechanism in place from 1997 to 2002 for all negotiated species, and again in 2004 and 2005 for shrimp.

Producers were prepared to accept that that model continue after 2004 if there were other fisheries related policy changes. We said we would then accept single arbitrator FOS again, in writing.

Producers are seeking a change to arbitration, not the end of collective bargaining or the union. We are seeking a change that the union itself accepted and advocated for from 1998 to 2003 for all species, and for shrimp in 2004 and 2005. Where is the union bashing in that?

Fifth, the FFAW/CAW says the producers have a hidden agenda. Hidden? We filed the court case in 2008 that was referenced in our letter, which the union has castigated us for in the media. We told the panel we do not want the panel. We told government that we do not want a panel. So what are producers' complaints about the panel? The best example is 2008, when all arbitrations ended 100 per cent in favour of the FFAW/CAW. Does anyone really think the FFAW/CAW would have accepted 100 per cent of decisions in favour of producers? There would not be a panel in place today.

Again in 2008, the panel unilaterally removed - at the request of the FFAW/CAW - the 10 year old price to market formula in crab, which set crab raw material prices based on the market and currency. We asked for it back last year, and the panel said they couldn't impose it unilaterally. Rich isn't it?

The market has a place

Setting prices irrespective of the market and currency is fundamentally wrong, and producers have no expectation that things will get better. Industry consultant John Sackton - paid in equal thirds by government, the union and the Association - said as much in November past, that is, that raw material prices in Newfoundland were set too high in relation to the market.

That is a recipe for killing our processing sector, and another nail in the coffin of rural Newfoundland and Labrador.

Now we come to 2010. Producers have participated for four years in a model we find fundamentally flawed, which leads to excessive and meddlesome arbitration. Producers have been patient in seeking change to a model that does not work. We are now saying so publicly, though we have said it before. Independent assessment of the arbitration decisions, we believe, would confirm that. We want a change to the arbitration mechanism.

Given the union reaction, Newfoundlanders and Labradorians should be left scratching their heads at the over-the-top reaction to some simple questions: is government's imposed price panel adequate to the task of arbitration in fish price disputes? Or has the four year experiment in a modified-FOS price panel now run its course? Fair questions.

The solution in all this? Put back a single FOS arbitration model, and producers will go to the table. If the FFAW/CAW says no to that, then the panel works. For them.

E. Derek Butler is the executive director of the Association of Seafood Producers.

08/03/10



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Brian Pollard from Bishop's Falls, NL writes: I'm not a supporter of the ASP however Mr. Butler's views on the FFAW reaction to this situation are correct. The FFAW is just grand standing in an attempt to look good in the eyes of the fishers of this province. The FFAW are running scared because of the support for the Coalition of Fish Harvesters is getting from fishers. This Academy Award Presentation by Mr. McCurdy was nothing but a political play in an attempt to justify and safeguard his \$104,000 salary plus expense account for the future.

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