

Snow Crab Fishery –2009

The Standing Fish Price Setting Panel, hereinafter referred to as “the Panel” issued its Schedule of Hearings for 2009 on February 13, 2009. Pursuant to Section 19 of the *Fishing Industry Collective Bargaining Act*” hereinafter referred to as “the Act”, the Panel set Friday, March 27, 2009, as the date by which collective agreement(s) binding on all processors in the province that process crab must be in effect.

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” represented processors that process the majority percentage of the species snow crab. Accordingly, under Section 19(11) of the Act, should a hearing be required for crab, 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 required 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 submissions 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 for crab, if required, was scheduled to take place at 2:00 pm, Saturday, March 28, 2009, at the Labour Relations Board Hearings Room, Beothuck Building, 20 Crosbie Place, St. John’s.

The parties met in negotiations from Tuesday to Friday, March 24-27, 2009. The parties having exchanged their final positions (copies attached), the hearing commenced at 2:00pm, March 28, 2009. The written submissions of the parties were supported by oral representation in main argument and rebuttal.

The parties and the Panel have had the benefit of a market presentation by Mr. John Sackton of Seafood.com. (copy attached). Mr. Sackton provided a comprehensive review of the market price history for snow crab going back to 2004. One thing that seems to be reasonably clear is that there is a price resistance in the US market in the food service sector at \$4.50lb. This was demonstrated in 2008, according to Mr. Sackton who retraced the buildup of market prices for snow crab in the United States from the lows of 2005.

In 2008, the Japanese had the benefit of favourable exchange rates and were a major factor in the market. Anticipated declines in the price of sections in the US market did not occur. In fact things went well with firmer prices and very little inventory carryover at year’s end. The Panel issued a second decision on crab in 2008 in response to an application by the FFAW under Section 19.14 of the Act. The effect of that decision was to set a minimum price for crab under the collective agreement for 2008 at \$1.50lb. While this was a marked departure from the “price to market” formula, which had been in the collective agreement for crab since 1997, it does not seem to have had any negative effect. The 2008 markets stabilized as noted, not necessarily as a result of that decision.

What has happened in the interim is the economic meltdown in the global economy. The firming prices of last year were in part the result of the strong demand from Japan, with less crab going to the US section market. In 2008, the Canadian dollar was on par with the US currency and the success of the provincial crab industry rested entirely on the strength of the market price.

The economic decline has taken its toll on crab prices in the United States even though there is little crab in inventory. Prices for crab in the US market began to soften late last fall. The food service sector is weak as restaurant sales have declined, reflecting the general economic situation. This places a much greater emphasis on retail sales. In Mr. Sackton's view, retailers did not promote crab in 2008 because it was too expensive. He was of the view that retailers may be prepared to "return" to crab in 2009.

Generally, as Mr. Sackton pointed out, US prices for crab sections have declined in the April/May period. Again, generally they increase for the remainder of the year, a notable exception being 2005. As noted above, prices have been dropping in 2009 on low inventories, and according to Mr. Sackton, 5-8oz sections were expected to be in the range of \$3.25lb – \$3.50lb. There was also an interest in crab by the buyers which in his opinion would hold if product was moving through the market.

The point to note is that the US market has priced in a reduction for crab in 2009 from the US \$4.35lb for 5-8oz sections on which the parties based their positions in March of 2008. This would mean disaster for the crab fishery in this province this year except for the fact the Canadian dollar is down substantially against the US dollar this year. While US buyers are pricing in their market, currently above \$3.50 US lb., the net affect on the return to processors has varied little. The opening price in 2008, with 5-8oz sections at US \$4.35, was \$1.59. At US \$3.38 for 5-8oz sections, ASP proposes a price of \$1.50 lb. That in their opinion is within the range projected by Mr. Sackton.

At first glance, it appears that the parties are very close in their positions. ASP proposes that the \$1.50lb price be varied, up or down, by moves in the exchange from US dollar equal to a \$1.25 Canadian. They also propose a price re-opener if 5-8oz sections go lower than US \$3.20lb.

The FFAW's proposal sets the price to harvesters at \$1.50lb, at an exchange rate of .83 or 1.25. Should the exchange rate go lower than .83, the minimum price for crab is proposed to be \$1.55.

CONSIDERATIONS

The US buyers are pricing in the changes expected as a result of the general economic decline. Up to now the decline in the Canadian currency or the increased strength of the US currency has offset the negative effect of lower US market prices. Current prices are expected to decline somewhat, we have to find a floor as Mr. Sackton puts it in slide 44 of his presentation: "...so that the market finds a floor and stops anticipating price declines". We also want to set a price that will sell all the crab produced in this market

environment to avoid any inventory buildups which might negatively impact markets going forward.

The question is what is the market clearing price? Retail sales are the key to moving crab in volume in the US market. It is impossible to predict exchange rates as well as other variables impacting on market results. What is clear to the Panel is that the buyers in the US have substantially priced in the market clearing prices at this time.

The differential in the prices proposed for raw material by the parties is not so great that one or the other will have a different market impact in terms of the US market clearing price. While it may reasonably be expected that prices will decline from current levels to the range indicated by Mr. Sackton, the price to harvesters will not in effect "blow" a market opportunity. It may also be reasonably expected that prices in the market will stabilize within the range projected by Mr. Sackton even if they do not improve throughout the remainder of the year. As the Panel and the parties have been cautioned by Mr. Sackton on numerous occasions, buyers are more concerned about stability in pricing than the actual price in a point in time.

There is merit in either proposal. ASP proposes to ride the currency to a point however, regardless of currency, if the US market decreases by .18¢/lb. for 5-8oz sections, they have a built in price opener. The Panel is reluctant to commit to a specific market price occurrence, in advance, that would indicate some adjustment on the price of raw material is in order. That could lead us open to a downward market price spiral and as we noted earlier in reference to Mr. Sackton's comments, we do not want to anticipate market price declines. Actions taken by the Panel may have some impact in the market amongst buyers. On the other hand we have absolutely no impact or control on exchange rates. Should the circumstances be such that a review is in order we can react at that time, without setting out preliminary markers related to market pricing and the consequent pricing for raw material.

At this time the Panel is of the view that the position of the FFAW is preferable and establishes a base within the parameters of current market conditions. Obviously, we are living in volatile times and should there be an extraordinary change in any of the variables, there is an avenue open to either party to come back to the Panel.

It is the decision of the Panel, that the price for the 2009 snow crab fishery will be as set out in the FFAW final offer:

Raw Material price will be adjusted based on currency adjustments as follows:

- 1. Based on 14-day currency intervals, ending on Friday.**
- 2. First currency interval will be the two week immediately preceding the opening date. Fourteen day intervals thereafter.**

3. If the Cdn/US exchange rate as per Oanda website is .83 or greater, the minimum raw material price will be \$1.50 for 4" crab or greater and \$1.20 for <4" crab.
4. If the Cdn/US exchange rate is <.83, the raw material price will be \$1.55 for 4" crab or greater and \$1.25 for <4" crab.

This price schedule is binding on all processors that process the species snow crab in the province and will form a new collective agreement or part of a collective agreement with the FFAW.

Dated the 31st day of March, 2009.


JOE O'NEILL


BILL WELLS


MAX SHORT