

CRAB FISHERY 2013

The Standing Fish Price Setting Panel, hereinafter referred to as "the Panel", issued its Schedule of Hearings for 2013, on March 5th, 2013. Pursuant to Section 19 of the Fishing Industry Collective Bargaining Act, hereinafter referred to as "the Act", the Panel set Thursday, March 28th, 2013 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. As a result, 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 the "FFAW", and ASP. Section 19.11(1) of the Act, and regulations made pursuant there to, 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 the collective bargaining must be obtained.

The hearing, if required, for crab was scheduled to take place at 2:00 pm on Thursday, March 28th, 2013 at the Labour Relations Board Hearings Room, Beothuck Building, 20 Crosbie Place, St. John's.

The Panel convened the hearing for the species crab at 2:00 pm on March 28th, 2013. The parties appearing before the Panel were the FFAW and ASP. The parties having previously exchanged written submissions, copies attached, supported their positions in argument and rebuttal.

The parties and the Panel have the Crab Market Report 2013, prepared by Seafood.com for the Minister of Fisheries & Aquaculture, Department of Fisheries & Aquaculture. (copy attached) The principle of Seafood.com, Mr. John Sackton compiled his report for this year in accordance with a new template for market reports set up with the Department of Fisheries & Aquaculture to regularize market information. The report is comprehensive and detailed with respect to the issues and opportunities that might arise with respect to the market prospects for snow crab from this province in 2013.

As the Panel noted in its 2012 Report, 2011 was a banner year for snow crab markets, for the second year in a row prices in the market did not decline after the fishery commenced, instead they increased. In 2012, it was expected and predicted that there would be a decrease in market returns, however, no one could determine in advance by precisely how much. The Panel accepted the final offer of the FFAW which represented a decline of some 9% in the price to harvesters from 2011. The alternative was a decline

of approximately 19% proposed by ASP. While market prices declined, as we will discuss later, the price to harvesters remained in effect throughout the 2012 season. In fact, while not duplicating the results of 2011, 2012 was comparatively a very good year in the industry. At this point in time it appears to be the consensus that 2013 will also be a good year for the industry even if the returns are somewhat less than 2012.

The FFAW was quite upset by the course of events in the collective bargaining this year, as outlined in their submission and amplified upon during the hearing. The issue was alleged representations to their members from processors representatives over the course of the winter and up to the commencement of bargaining, that prices to harvesters in 2013 would be better than last year. At the bargaining table, ASP made it clear that increases were not part of its bargaining position, confirmed by an opening offer of \$1.55 lb. Subsequently, the system of offers between the parties broke down. The FFAW final offer is \$2.00, an increase of .5¢ lb over the 2012 price.

The FFAW argument is essentially that we should now base our decision on what is known at this time and not on what might happen. It cites the price increase in the Alaskan fishery, lower Alaskan quotes, the latest price for 5-8 oz sections from NL, and the fact there is no inventory buildup. Reference is also made to the unfavorable exchange rate with respect to the Yen, and the more favorable exchange rate with respect to the U.S. dollar.

The FFAW then review what they term as things which, "might happen", which in their view implicitly "might not happen". While acknowledging that it is difficult to make accurate predictions on market forecast they cite a number of examples where Seafood.com predictions turned out to be incorrect, also noting that others had been correct. The point is that:

"all kinds of things can happen... that can cause all kinds of well-intentioned and apparently well founded predictions to go out the window."

This is the only response of the FFAW to the facts and issues laid out in the market report. The FFAW further points out that under the Act, if circumstances change, an application can be made to the Panel for a reconsideration of an initial decision.

As noted above, the FFAW final offer proposes an increase of .5¢ lb to \$2.00 lb.

ASP basis its submission on the situation of the market; supply, demand, currency factors and the analysis contained in the market report. It is pointed out the FFAW prediction of last year that market prices would not decline was demonstrably wrong as the facts indicate. The issue is, will things go as well as they did last year given the circumstances and issues related to the 2013 season. In the ASP submission they take excerpts from the market report outlining Mr. Sackton's analysis of the situation to support their position.

In ASP's view, with no product in the market, the current market highs for example 5-8 oz sections will inevitably decline, as they did last year, to the \$4.60 range. In looking at 2012, their prediction of where the market would go is vindicated by the facts of what actually happened. As of matter of fact, ASP is of the opinion that had the Panel known what would actual transpire it would have in reason and logic accepted the ASP final offer in 2012.

ASP points out that this is still a "good" market, any \$4 + market for 5-8 oz sections implies a good year for the industry as a whole. There is however, nothing to support higher raw material prices, or a market price that would command them.

It is also pointed out by ASP, that we are setting minimum prices; pricing should be such that it allows the market to buy, currency risks are borne by the producers and Japanese government has an economic policy to devalue the Yen. As well, we can not expect the Japanese to lead the market as they did in 2012 in price and volumes, which allowed the NL industry to leverage prices to the U.S.

Given the circumstances within the industry and the markets, and in light of the Panel decision in 2012, the ASP final offer is \$1.83 lb. In both FFAW and ASP offers there is 30¢ less for crab under 4" carapace.

The Panel has extensively reviewed the market report and noted all the variables that might impact market prices going forward in 2013. What is clear is that in 2012 the Japanese buyers, under favourable currency conditions moved early to sign contracts and eventually purchase 45% of the NL production. This reduced the pressures in the U.S. markets which were heavily dependent on promotions in the retail sector which cleared inventory. This was a crucial factor in 2012.

Given the exchange rate between the Yen and the Canadian dollar this year, the price of 5-8 oz sections would have to be in the range of \$4.40-4.60 this year to maintain the same costs to the Japanese buyers, according to Sackton. He also attributes the fact that there is so little snow crab in the U.S. market to the fact that we were so successful in selling to Japan in 2012.

The market report clearly concluded that success for our industry this year depends on the continued promotion of crab (shellfish) by retailers in the U.S. and the amount purchased by Japan in 2013. All of that will be price dependent. In other words, our prices must be within an acceptable market range to be successful in avoiding price drops resulting from a buildup in inventory.

It is noted at page 2 in the market report that the cost to Japanese buyers increased by 26% from winter 2012 to winter 2013. As a result, Japanese buyers have cut back purchases from Alaska by almost 30%.

The market report reviews in some detail the pricing trends and supply to the market and concludes that we can expect a more competitive market in the U.S. in 2013. That is

because less U.S. snow crab will be shipped to Japan and more crab will be imported into the U.S. from Argentina and Russia. It is also strongly contended at page 20 of the market report that:

"In 2012, the 20% price reduction in Newfoundland crab served to keep retailers in the game. Without that price reduction, they would have walked away from snow crab promotions."

The market report expects higher prices early in the season and a declining market after that. It is not a negative report by any means but it is related to the factors involved within our markets in 2013, and the impact of the currency especially the Yen. To quote at page 29:

"Overall snow crab continues to be very popular, and can command a strong price in the U.S. and Japan. However, in my view, this price is more likely to settle out in the \$4.00 to \$5.00 range by this summer, rather than the \$5.00 to \$6.00 range... to maintain the same price level as last year in mid summer, i.e. around \$4.65 to \$4.80 would be a sign of a strong market. It is not clear that price level can be achieved, but it may be possible if buyers are not frightened away by unrealistic seller price expectations at the start of the season."

The Panel must choose one of the two positions presented. There is nothing to indicate in the information before the Panel that the market prices will increase in 2013 over 2012. Whether they can be maintained at 2012 levels or decline is the issue. The FFAW propose a price increase to harvesters but it is difficult to define, at least in their presentation, on what basis. The Urner Barry price reports clearly indicate that the high spring prices in early 2012 were not maintained. The market report notes the average prices for mid season 2012.

Given the substantial issues in play with respect to the Japanese market and within the U.S. market will the 2013 market return be lower than 2012. One can not conclude on the basis of the information that prices to harvesters should increase. On the balance of probabilities it is more likely that the market will be no better or perhaps less rewarding in 2013.

In each year, neither the Panel or the parties to negotiations, know by how much a market may move either higher or lower. We have much better success in determining trends. At this time, it seems that the trend points towards decline, in fact if the markets are the same as last year, as ASP points out, the Panel might well have accepted their position, if it had known precisely what was to occur.

It is the decision of the Panel to accept the final offer of ASP. The prices for the species crab (snow) will be:

- \$1.83 – 4" carapace and above
- \$1.53 – Under 4" carapace

These minimum prices for crab will form a collective agreement or part of a collective agreement binding on all processors that purchase the species snow crab.

DATED at St. John's the 2nd day of April, 2013.



Joe O'Neill

Bill Wells

Max Short