

STANDING FISH PRICE-SETTING PANEL

SNOW CRAB FISHERY 2021

The Standing Fish Price-Setting Panel, hereinafter referred to as “the Panel”, issued its Schedule of Hearings for 2021, on February 25, 2021. Pursuant to Section 19 of the *Fishing Industry Collective Bargaining Act*, hereinafter referred to as the “Act”, the Panel set Thursday, March 25, 2021, as the date by which collective agreement(s) binding on all processors in the province that process Snow Crab must be in effect.

The Panel also noted, at that time, that it had been advised by the Department of Fisheries, Forestry and Agriculture 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 Snow Crab, the parties appearing before the Panel would be the Fish, Food and Allied Workers’ Union, hereinafter referred to as the “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 the collective bargaining must be obtained.

The hearing, if required, for Snow Crab, was scheduled to take place at 10:00 a.m. on Friday, March 26, 2021. The Panel convened its hearing for the species Snow Crab at 10:00 a.m. on Friday, March 26, 2021, via Microsoft Teams virtual meeting capabilities. Appearing before the Panel were the FFAW and ASP. The parties, having previously exchanged their final offer submissions, and filed copies with the Panel, (copies attached) supported their submissions in main argument and rebuttal.

The parties and the Panel had the benefit of three market reports prepared by Gemba Seafood Consulting, Meros Consulting and John Sackton Seafood Datasearch as well as information provided by the Department of Fisheries, Forestry and Agriculture, including data on NL landings, production and export statistics and recently published articles related to Snow Crab markets.

There was no disagreement between the parties as to whether the market was strong. However, ASP is of the view that there are risks in the market. It believes the market is highly concentrated and will decline. The FFAW feels that it is time to give the benefit of doubt to the market that exists. It believes that the U.S. retail market of last year, particularly from July onward, will grow again this year but is unsure as to what level.

Sackton states in respect of 2020, “The magnitude of this change is hard to overstate”... “Within the frozen category, nothing did better than crab. Crab sales at retail increased year over year by 63%. During the summer and fall, at times sales were 87% higher than the previous year’s totals”.

Sackton goes on to say on page 4 that:

“There has been a significant expansion in the number of consumers buying Snow Crab. Basic economics suggests that an expansion of demand for a product with limited supply leads to higher values. The unknown is the market clearing price that matches the limited supply to the new demand”.

With respect to price, Sackton notes on page 36 that:

“Urner Barry stopped quoting street prices for Canadian Snow Crab in January, the earliest they have ever pulled this quote. The reason was that they could not find enough trades to establish a price”. He also states that: “...prices and volume of Russian Snow Crab imports continue to rise, suggesting a very tight market where sellers have room to raise prices”.

With respect to the U.S. retail sector, Gemba states on page 2 of their report that:

“Instead of consuming Snow Crab and other Crabs in a food service situation (hotel, restaurants, cruise), the Snow Crab is consumed as ‘home-dining’ which moves the demand and prices in supermarkets upwards in 2020 and the first part of 2021”. Generally, it goes on to explain that: “In 2021 the prices started at a historical high and inventory is empty or very low. The catch season starting now (US) and in April (Canada) will add resources to the craving market and may impact the market price, but the prices are expected to stay at a historical high level in 2021”.

Sackton offers some rationale for optimism in 2021. He states on page 30 that:

“So far, the factors attracting retail users to Snow Crab have not changed in 2021 and retailers report they are maintaining their sales levels compared to the prior year”. Sackton continues to suggest that: “there are also strong supportive factors for Snow Crab that will not change in 2021. They include the expanded interest in frozen foods, the expanded experience of eating Crab at home rather than in a restaurant and the continued interest in healthy eating”.

Sackton also indicates that expectations for the food service sector have improved. He states this on page 27 that:

“There are several factors now in place that may support a foodservice recovery that is faster and stronger than initially thought. First, the new stimulus bill will provide significant income support to most Americans Second, there seems to be strong pent-up demand to go back to social events like eating out and spending time in restaurants and bars”.

With respect to the recovering U.S. economy, Sackton states on page 6 that:

“Government support of incomes for people who were forced out of work has been a critical factor in the maintenance of consumer demand. This will continue into 2021 with new support programs passed in the U.S. The result should be an exceedingly strong economic recovery for the second half of 2021”.

Sackton notes that while there is room for optimism, there are downside risks. On page 11, he notes that:

“Alaska’s Snow Crab production has been delayed for over a month as major Crab plants in Unalaska and Akutan were shut down for weeks by Covid at the beginning of the 2021 Alaska Crab season. This will delay the arrival of Alaskan Snow Crab to the U.S. to around the time the Newfoundland season is getting underway”.

However, he notes that the share of Alaskan Crab in the market is much lower relative to Canada. Sackton states on page 16 that: *“represents a far lower percentage of total Canadian exports than when the Crab stock was larger”*. Also, on page 17 of his report, Sackton states that:

“In 2015 with 10,726 tons of sections, Alaska represented 27% of Canadian production for the U.S., while in 2020, it represented only 12.7%, despite the fact that Alaskan stocks are growing”.

On page 48 of his report, Sackton cautions that consumers may shift retail buying patterns more than expected with restaurants open. Also, that the pandemic recovery may be uneven, leading to lockdowns in some areas. He also cautions that new virus variants may impact the pace of economic recovery.

In terms of concern as to whether recovering food service sales will take away from retail seafood sales, Sackton indicates on page 48 that:

“Most retailers expect to see some fall off in seafood sales as customers go back to eating out and traveling. However, it is likely that the food service and travel sales, as they increase, will be additional demand and not replacement demand. Therefore, there may be some upward price pressure on items that have limited supply”.

Sackton also notes on page 49 that:

“consumers could react to higher prices if they are passed through” and “high prices could discourage foodservice uptake of Crab”. He states, “Although there is optimism about foodservice openings, many restaurants are in debt or operating on very low margins.”

In respect of supply, Sackton states on page 49 that: “... the global Snow Crab supply will continue to increase. This makes it harder to anticipate when the market might become oversupplied. This has not happened in recent years because the new demand for Snow Crab has outstripped supply”.

From the perspective of Meros Consulting, the expectation of what will happen in Japan is an optimistic reflection of what is expected to transpire in the U.S. market for NL Snow Crab. Meros states on page 21 that:

“The purchase volume of NL boiled sections (4-8 oz) is expected to remain low. This year's Canadian Snow Crab price is expected to be high, following the price trend of the U.S.”. There appears to be some opportunity, however, for NL Snow Crab in the raw product market. *“In the case of raw legs, NL is the only player*

that can supply this product to the market and as long as prices do not skyrocket in 2021, the industry's expectation is for demand and volumes to remain similar to 2020 levels" explains Meros.

At the hearing, both parties shared the view that last year's crab market exceeded all expectations (those expectations which existed at the time prices were set). The result was exceptionally positive for processors while harvesters experienced an abnormally low sharing of market returns. The FFAW feels this reflected a lack of transparency by processors last year at the time of negotiations and an unfortunate Panel decision. ASP felt it reflects the fact the FFAW were too early in their push for negotiations and a price reconsideration ahead of sufficient market activity to assess performance. Both parties acknowledge that no one could have foreseen the unprecedented market developments in the U.S. retail sector last year.

The parties, and market studies, document how the low market prices at the opening of the fishery recovered steadily leading to record market prices by the end of the year. These were the result of an unprecedented demand by U.S. consumers for Crab at retail outlets (a Covid-19 stay-at-home phenomenon). Parties agree that prices in 2021 will again be high given strong demand, primarily in the U.S., for Snow Crab. This is reflected in the final offers of \$5.25/lb. by ASP and \$5.73/lb. by the FFAW. Either of these positions, when combined with a 2021 quota increase of 29%, will result in record landed values in 2021 for Newfoundland Crab in the order of \$450 to \$480 million. However, the parties disagree on where market prices will settle out in 2021 and the level at which season opening prices should be established to facilitate market confidence.

The ASP noted that Newfoundland processors sold most of its Crab production in the first three months of the season and prior to the record pricing later in the year. This is reflected in the 10% reduction in 2020 export prices, from 2019 levels. The ASP contend that last year's surge in demand in US retail was due to this lower pricing early in the season, which allowed retailers to promote crab and attract new customers to the product. This led to unprecedented demand in supermarkets which resulted in record pricing as demand outstripped supply toward the end of the year. The ASP feel supply to the U.S. market will expand as other countries are being attracted to the surging prices. They also note there will be quota increases in Newfoundland (up 29%), Alaska, Russia, and Norway. The Crab market is more concentrated than ever, focused primarily on U.S. retail.

The ASP also feels there is considerable uncertainty of market dynamics in a post-vaccinated world as other sectors open and consumers have increased choices for their disposable income. It contends that consumers will switch their preferences to other food items as restaurants re-

open. It feels consumer resistance to high prices will make it more challenging for retailers to pass on record prices. Pricing in support of retail promotions will be needed, otherwise adverse outcomes are likely. Overall, while the market demand remains strong, market prices will decline from those at the end of the 2020 season. They also point to the strengthening of the Canadian dollar in reducing returns to processors. They feel Canadian market returns in 2021 will be more in line with 2019 returns when the Panel accepted the FFAW offer of \$5.38 while noting the “right” price was probably lower.

In its submission, the FFAW takes a more positive stance. They contend that the increase in global supply will not be impactful. It notes that Russian production is sold later in the year after the Newfoundland production has been sold. Also, while there is a quota increase in Newfoundland, there is an expected quota reduction in the Gulf fishery. They further believe that 50% of the increase in Alaskan quotas will be destined for an expanding Japanese market and will not compete for U.S. market space. They also point to the fact Snow Crab inventories are currently depleted as the 2020 demand for Crab outstripped supply.

The FFAW takes the view that market demand will increase as other sectors reopen. The foodservice and restaurant recovery will create additional demand and not replacement demand. The U.S. economy is poised for significant recovery. This recovery, and crab demand, will be bolstered by the recently announced \$1.9 trillion Covid-19 relief package. They also believe the Crab market in Japan will recover from its 2020 decline. They maintain that in recent years, market predictions by ASP and market consultants of adverse customer reaction to rising Crab prices have never materialized and the same will hold true for 2021.

As in other Crab submissions, the FFAW notes the increased share of Newfoundland product which has been directed into premium market packs (raw and larger sizes) thereby increasing average pricing. While they acknowledge that the percentage of Newfoundland catch going into these sizes is declining, they feel the spread in pricing is increasing. The FFAW also repeated its assertion that harvesters have never fully benefited from yield improvements due to technological advancements over the past several years.

Last year, the Panel’s initial decision was to support the ASP offer. Shortly after, the Panel accepted the FFAW offer based upon a reconsideration request. In these decisions, the Panel noted the lack of active market data and the unprecedented uncertainty related to the emerging Covid-19 shutdown. In its initial decision, the Panel noted the concern that pricing may need to stay low to serve as an incentive for U.S. retail promotions so that sector could absorb as much Crab as possible. We now know that the demand and pricing in the retail sector

was unprecedented and outperformed everyone's expectations. The result was an anomalous sharing imbalance in 2020 which led to a significant financial gain for Newfoundland processors.

While parties agree that markets are strong, there are divergent views as to market trajectory and risks. The uncertainty in Crab markets has not gone away. In some respects, an emerging post-vaccine economy is as uncharted as the shutdown last year. In that regard, no one can predict with certainty what will happen. Establishing a price in the face of this uncertainty, while ensuring the fair sharing of risks between processors and harvesters, remains the preoccupation of the Panel.

Both the Gemba and Sackton reports lay out the market dynamics in play and identify the many factors that may positively or negatively impact market demand and prices. Only Gemba offers a consolidated market outlook stating that: "weighted against each other the factors that impact price development points toward a steady price in the short term (1-3 months) and a small decrease in the long run (4-6 months)".

After a careful review of the market reports and submissions of the parties, the major factors considered by the Panel are as follows:

1. There is a strong economic growth forecast in the U.S. supported by significant stimulus spending. The downside risk is that the pandemic worsens with the emergence of vaccine resistant variants, but this is not a reality at this point. In any event, there is the 2020 positive retail experience to draw on should shutdowns return.
2. New eating habits and at home consumption of Crab has significantly expanded the consumer base for Crab at U.S. supermarkets. New customers have been introduced to Crab. However, some retail consumers will likely shift their food dollar to a more diverse restaurant offering in a re-opened economy. There may also be some delisting of Crab in retail if resistance to high prices sets in. The extent to which the retail customer base will decline once substitute opportunities come online is uncertain. However, Sackton suggests there is likely to be a net expansion in overall Crab markets when foodservice comes on stream. Foodservice demand will be in addition to retail demand which is expected to remain strong.
3. There will be some increase in overall world Crab supply due to quota increases. However, this is mitigated somewhat by the timing to market of Newfoundland Crab (i.e., compared to Russia). Also, with the reopening of economies (i.e., Japan, U.S.), there will be expanded outlets for Crab from Newfoundland and Alaska.

4. Worldwide Crab inventories are at historic lows, which bodes well for opening prices. It is expected that Newfoundland processors, as in previous years, will sell most of their production by the end of July.
5. The Alaskan fishery and timing of their product to market has been delayed due to Covid-19 slowdowns. Should a large quantity of Alaskan and Newfoundland product hit the U.S. market simultaneously, price declines could result. The extent will depend upon the strength of the U.S. market demand.
6. Urner Barry pricing of Canadian Crab sections 5-8.oz in January 2021 was at \$9.90 U.S., which is a new record high for that index. January 2020 prices were at \$9.26 and in January 2019, the price was \$8.56. Both these years were also record highs for January. Some reduction in the January 2021 price is to be expected once spring supplies enter the market. However, as supported by the submissions, strong and possibly record market prices are possible in 2021. The market studies, and the parties, have discussed prices in the range of \$9.25 U.S. or more.
7. The Canadian dollar has strengthened against the U.S. dollar in recent months and the USD/CAD exchange rate currently sits at \$1.26. This represents a 6%-7% decline in Canadian market returns compared to the past 2 years, when they were derived from an exchange rate in the \$1.33 to \$1.35 range. However, any further in-season currency changes are accounted for by the currency adjustment agreement in place between harvesters and processors and will not impact market returns.
8. Finally, there is an expectation that the Japanese Crab market will improve slightly over 2020 as the economy reopens and the 2021 Olympic Games take place. This will offer opportunities for Alaskan Crab, reducing competition in the U.S. market. Newfoundland processors will also have expanded opportunities for high priced premium raw Crab products for which they are the only suppliers.

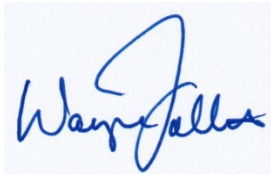
As is always the case, the Panel must choose one of the two positions that it feels is closer to likely outcomes. In doing so, the Panel recognizes that the 'right' price is often somewhere in between the two positions. The Panel also recognizes there is much uncertainty ahead. There are upside and downside risks, and predictions are extremely difficult. In making its decision, the Panel is fully cognizant of the fact that the opportunity for a reconsideration request is there to address any significant market changes that may arise as the fishery comes on stream.

Considering the overall improvements in Crab markets in the past year, the probability that these trends will hold and after a thorough review of the market reports and submissions of the parties, it is the decision of the Panel to accept the final offer of the FFAW. The prices for the species Crab will be:

- \$5.73/lb. — 4" carapace and up.
- \$5.43/lb. — for legal size under 4".

These prices will form a collective agreement or part of a collective agreement binding on all processors that purchase the species Crab.

Dated the 31st day of March 2021.



Wayne Follett



Bill Carter



Brendan Condon