

**STANDING FISH PRICE-SETTING PANEL
SNOW CRAB - 2019
RECONSIDERATION DECISION # 2**

In the matter of the *Fishing Industry Collective Bargaining Act*, hereinafter referred to as the “Act” and an application by the Fish Food and Allied Workers’ Union requesting that, pursuant to Section 19.14 of the Act, the Standing Fish Price-Setting Panel reconsider its decision of May 17, 2019, setting price and conditions of sale for the species Snow Crab.

The Panel received an application from the Fish Food and Allied Workers’ Union, hereinafter referred to as “FFAW”, dated June 1, 2019, requesting the Panel to reconsider its decision dated May 17, 2019, concerning the price and conditions of sale for snow crab in 2019. The application is based on the assertion that in the period since the Panel’s May 17, 2019 decision, the crab market has rebounded, with the price for 5-8 oz sections increasing from \$7.95 US to \$8.10 US, increasing by 15 cents. The FFAW asserts that this changes the trajectory of the market and is a significant change in the Panel’s market outlook when making its decision of May 17, 2019.

The Panel reviewed the FFAW’s written application and conducted a preliminary review of the market and production information available on short notice. The Panel also reviewed written correspondence from the Association of Seafood Producers, hereinafter referred to as “ASP” in which the Association claimed that the FFAW had failed to make the case for reconsideration as prescribed by the Fishing Industry Collective Bargaining Act and Regulations. On June 3, 2019, the Panel also held a meeting with the lead negotiators from both parties to discuss their respective positions and any available market intelligence over the past two weeks. The Regulations made pursuant to the Act state at Section 3(3):¹

“A decision respecting reconsideration shall be made by the Panel within 96 hours from the time the Panel has acknowledged receipt of the application for reconsideration.”

There have been two hearings in 2019 in respect of snow crab pricing. On April 3, 2019, the Panel decided to accept the FFAW position and set the 2019 crab prices at \$5.38 for crab of 4” carapace and up. At that time, the Panel noted that crab markets were in uncharted territory with record prices and there was a lack of 2019 pricing information to gauge the levels at which markets will open. However, market factors were such that it was reasonable to consider that 2019 prices could follow similar record levels observed in 2018.

Over the period May 13-17, 2019, the Panel, at the request of ASP, reconsidered its April 3, 2019 decision, received an independent market update and conducted a formal hearing. On May 17, 2019, the Panel set the current minimum price at \$4.90 (the ASP final offer). The FFAW final offer at that time was \$5.05.

The Act stipulates under Section 19.14(2), that in deciding whether to reconsider its earlier decision the Panel shall only reconsider its decision *“where it believes the failure to do so would jeopardize the conduct of the fishery to which it applies”*. Part 3(1) of the Regulations further instructs the Panel that:

“in determining whether the conduct of the fishery to which its decision applies is in jeopardy under subsection 19.14 of the Act, the Panel shall consider whether market or currency factors have changed significantly from the time the panel made its initial decision”.

The Parties were advised by the Panel on June 4, 2019, that considering improved prices for 5-8 oz crab sections, the Panel was prepared to reconsider its earlier decision. The parties were requested to meet to exchange perspectives on the market and positions on pricing going forward in 2019. In the event the Parties were unable to agree on a common position through negotiation, a crab hearing was scheduled for 1:00 p.m. on Wednesday, June 5, 2019. The Panel, pursuant to Section 19.14(1) of the Act also requested the FFAW and the ASP, the parties to the decision of the Panel on May 17, 2019, to provide their price positions for Final Offer Selection by 11:30 a.m. on Wednesday, June 5, 2019.

The Panel convened its hearing on the current application at 1:00 p.m. on Wednesday, June 5, 2019 at the Ramada Hotel, St. John's, NL. Appearing before the Panel, were representatives of the parties who supported their written submissions (copies attached) in argument and rebuttal. The Panel and Parties had the benefit of information compiled by the Department of Fisheries and Land Resources including Urner Barry price reports, crab production statistics to date in 2019 and recent articles on crab markets.

At the hearing, the ASP made a final offer of \$4.95 up from its May 17th position of \$4.90 which was accepted by the Panel. The FFAW made a final offer of \$5.07 up slightly from its May 17th position of \$5.05.

The Panel notes that currency is not an issue as the CAN/USD exchange rate has not materially changed since May 17, 2019 and there is a negotiated currency adjustment clause in place if this occurs.

In recording its May 17, 2019 decision, the Panel stated:

“While in an historical context the market remains quite strong, it appears to be lower than last year. With approximately 50% of the crab quotas already landed at \$5.38 per pound, producers have high priced inventories to sell into this weaker market in 2019. Given the final offers presented by the Parties the average minimum prices over the full year will be either \$5.14 (with the ASP offer) or \$5.21 (with the FFAW offer). Either of these will be a record price and reflects a need for a continuing strong Japanese and US

market for crab in 2019. Our ability to forecast market prices for the remainder of the year is limited. While we expect markets to remain strong, we know the current trajectory is downward. There is a risk this may reflect a growing resistance in world markets to the record high prices for crab products as being observed with brine frozen in Japan. While markets may stabilize there is uncertainty.”

The FFAW’s current application is based upon the increasing prices quoted under the Urner Barry index beginning with a \$0.10 US increase for 5-8 oz sections on May 28, 2019 followed by another \$0.05 US increase two days later May 30, 2019. During the period of this reconsideration, on June 4th, the Urner Barry issued a further market update which showed another increase to \$8.15. Urner Barry has also upgraded its outlook for Canadian snow crab *“5-8s out of both Newfoundland and the Gulf continue to adjust higher; a few still higher offers are also noted. Supplies of 5-8s are reported to be barely adequate for an active demand. The balance of the market is steady at listed levels and demand ranges moderate to active”*.

FFAW maintain this is significant in that it signals an upward market trajectory which they feel will continue this year. They also contend that Newfoundland harvesters are receiving much less than those in the Gulf where landed prices are holding. The ASP argues the Urner Barry price index is for less-than-truck -load quantities and are not indicative of the larger contract shipments by Newfoundland producers and that the change in market is not significant. At this point in the season, approximately 30% of the 2019 crab quotas is left to be landed.

In its May 17th reconsideration decision, the Panel noted a downward trajectory, a steady decline over four weeks from \$8.75 US to \$7.95 US (80 cents) for 5-8 oz sections. In addition, in making its decision it recognized there was market uncertainty going forward. The Panel also noted it expected markets to remain strong. The significant decline in the Japanese brine market was also acknowledged. The Panel was also cognizant of the fact that in addition to 5-8 oz sections there are several important product segments that make up the total snow crab market including sections of sizes greater than 8 oz and Japanese brine and raw products. The recent Urner Barry prices indicate that since our last decision the price for sections of sizes greater than 8 oz remain essentially the same at very high prices that are higher than last year in US and Canadian terms. There is no updated information available on the Japanese market since May 17th.

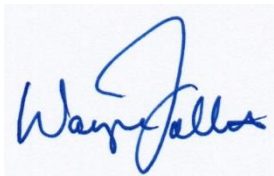
The May 17th reconsideration decision was necessary as it was evident the 2019 market would not be at the level experienced in 2018. Therefore, the original price of \$5.38 was no longer justified. At that point, the Panel was concerned that the market trajectory was downward, and the available market intelligence suggested there was considerable uncertainty going forward. The recent increases in the past couple of weeks for 5-8 oz sections may not fully constitute a significant shift in the market factors. However, given that the previous downward trajectory has reversed, and demand appears to have improved, the market outlook has significantly improved compared with the outlook of the Panel on May 17th when it accepted a price of \$4.90 versus \$5.05. A difficult decision, but one which reflected the downward trajectory and uncertainty at that time.

The Panel has carefully considered the presentations of the Parties. It sees less uncertainty and an improved outlook for the rest of the year. In the interest of fair sharing an improvement in price is warranted. It is the decision of the Panel to accept the FFAW offer.

The minimum prices for the species crab effective midnight Wednesday, June 5, 2019 will be:

- \$5.07/lb. – 4" carapace and up.
- \$4.77/lb. – for legal size under 4".

Dated at St. John's, NL, this 5th day of June, 2019.



Wayne Follett



Bill Carter



Brendan Condon