

## STANDING FISH PRICE-SETTING PANEL

### RE-CONSIDERATION DECISION

#### SNOW CRAB FISHERY - 2022

In the matter of the *Fishing Industry Collective Bargaining Act*, hereinafter referred to as the “Act”, and an application by the Association of Seafood Producers requesting that, pursuant to Section 19.14 of the Act, the Standing Fish Price-Setting Panel reconsider its decision of April 1<sup>st</sup>, 2022, setting price and conditions of sale for the species Snow Crab.

The Panel received an application from the Association of Seafood Producers, hereinafter referred to as “ASP”, dated May 12, 2022, requesting that the Panel reconsider its decision dated April 1, 2022, concerning the price and conditions of sale for Snow Crab in 2022.

The Panel reviewed the ASP’s rationale for requesting a reconsideration and conducted a preliminary review of the market information available on short notice. The parties were advised by the Panel on May 12, 2022, that it had reviewed the market information available, specifically Urner Barry pricing and market commentaries. Based upon the review, the Panel concluded that the Snow Crab market is significantly lower than considered at the time of the initial Snow Crab hearing. Therefore, the Panel was prepared to reconsider its 2022 Snow Crab pricing decision. The parties were requested to meet, with the assistance of the Facilitator, to exchange perspectives on the market and positions on pricing going forward in 2022.

In the event the parties were unable to agree on a common position through negotiation, a Snow Crab hearing was scheduled to take place at 1:00 p.m. on Saturday, May 14, 2022, via WebEX virtual meeting capabilities. The Panel, pursuant to Section 19.14(1) of the Act, also requested that the ASP and the Fish, Food and Allied Workers’ Union, hereinafter referred to as the “FFAW”, the parties to the decision of the Panel on April 1<sup>st</sup>, 2022, provide their price positions for Final Offer Selection by 9:00 a.m. on Saturday, May 14<sup>th</sup>, 2022.

The Regulations made pursuant to the Act state at Section 3(3):

*“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.”*

The Act and Regulations also stipulate that in deciding under Section 19.14(2) of the Act:

*“...final offer selection shall be the only form of arbitration used.”*

The Panel convened its hearing on the application at 1:00 p.m. on Saturday, May 14, 2022. Appearing before the Panel were representatives of the parties who supported their written submissions in argument and rebuttal. The Panel and parties had the benefit of market materials compiled by the Department of Fisheries, Forestry and Agriculture, including Urner Barry price reports, recent news articles, and the Seafood Datasearch (Sackton) May 13, 2022 Crab Market Update Report.

At the hearing, both parties agreed that markets have declined significantly since the Panel's price decision of April 1, 2022, warranting consideration of an adjustment of the price to harvesters. However, they differ on the level and sustainability of market prices over the coming weeks. The FFAW is seeking \$6.55/lb., a decrease of \$1.05/lb. (13.8%) from the ASP offer of \$7.60 which was selected by the Panel on April 1, 2022. The ASP is offering \$6.15/lb. This is a decrease of \$1.45/lb. (19.1%) from the current price of \$7.60/lb. While both sides are putting forward a significant price decrease from their original offers, there remains a significant gap in final offers of \$0.40.

Market updates obtained by the Department of Fisheries, Forestry and Agriculture over the past two weeks from Seafood Data Search (Sackton) and Urner Barry indicate there has been a continuous decline of Snow Crab market prices to date in 2022. The market updates note that these prices are based upon limited sales activity in a market with weak demand and significant inventories.

In his May 13<sup>th</sup> market update, Sackton's general overview was that:

*"The snow crab market is experiencing an unprecedented price retreat. The lack of market demand and falling prices have the potential to impose severe economic losses on any party holding crab inventory."* (page 1)

In terms of the general dynamics of the market, on May 5<sup>th</sup> Sackton stated that:

*"there is very little demand for snow crab, as inventories remain from last year at all levels in the supply chain. This has caused markets to freeze up, and the initial optimism about maintaining last year's pricing has evaporated. Urner Barry quotations on Newfoundland 5-8 sections have been dropping on average 57 cents per week for the past eight weeks. There is no sign of a market bottom yet."* (page 2)

He further explains the behaviour of buyers during these market conditions as follows:

*"While these prices are falling, most buyers will continue to stay on the sidelines. They will only come back into the market when they think the prices have stopped coming down. Once this dynamic takes hold, it is not the actual price that matters. Customers today could live with a crab price between \$10.75 and \$11.25, if it was clear that the market was stable. But if the market is rapidly falling, then they have no interest in locking in a particular dollar price. Instead, they seek to take advantage of the pressure of falling prices as much as possible."* (page 6)

The most recent Urner Barry market activity report (May 12) states that:

*The Canadian Snow Crab market continues to adjust lower on all sizes out of both Newfoundland and the Gulf. A few still lower offers continue to be noted. Some still lower offers and sales have been collected on the larger truckload volumes of 5-8s and 8-ups. Overall, sales are reported to remain light amid lackluster demand ... market participants report sales activity as mainly hand-to-mouth with buyers only purchasing for immediate needs."*

Sackton provides commentary on this Urner Barry report, explaining that: *"What this means is that although the quoted price is at \$10.50 [May 12], they are getting reports of lower sales, including lower sales on truckload quantities. US buyers reported this week of truckloads being offered at \$9.75. If these trends continue for another week, it is likely the market bottom may be between \$9.00 and \$10.00."* (page 7)

Sackton notes that in a normal year when inventories are low and market demand is steady, *"When crab is priced so as to clear the market, prices typically are at their lowest point in April/May, and then rise the rest of the year as crab is sold and buyers either try and replenish stocks, or pay the holding, finance, and storage costs that have accumulated since crab was landed and processed"*. However, he notes that in the more unusual years: *"when there is inventory overhang going into the new season, that pattern never gets established. Instead, whatever price is set in May tends to be the price for the rest of the season."* (page 9) In his view, 2022 is one of these unusual years in the Snow Crab market.

It is in the context of this market dynamic of a continuous decline of market prices and the lack of a clear market price floor that the parties have had to submit their price offers to the Panel.

The ASP submission echoes the market decline outlined by Sackton and states that this has created a dire situation for processors. They point out that the current price of \$7.60/lb. was premised on a market price of approximately \$12.00 US, but the current price (May 12<sup>th</sup>) is \$10.50 US and continuing to fall. ASP also notes that sales to date have been almost non-existent, even though NL producers have processed some 45 million pounds of raw material. ASP states that in this market environment, producers have paid out \$342 million in raw material costs alone. Most of their crab production to date is still held in inventory which they are currently unable to sell, while the market price continues to fall each week. ASP cautions that producers face real financial losses.

ASP states that their price offer does not attempt to recoup these losses but is based on their expectations for the market over the remainder of the season. They note Sackton's conclusion that the market price floor may be between \$9.00 US and \$10.00 US and have opted to select the mid-point (\$9.50 US) to determine their price offer. Applying the current exchange rate of 1.29 they calculate a market price of \$12.25 CAD, with 50% sharing for harvesters giving rise to their offer of \$6.15/lb.

The FFAW submission acknowledges there is a change in the market but notes that the ASP offer in March, 2022 which gave rise to the current \$7.60 price was premised on a market price of \$12-12.25 US, not the \$15.15 US which Urner Barry was quoting at that time. Therefore, the current Urner Barry

price of \$10.50 US represents a decline of \$1.50, not the more than \$5.00 decline which has occurred since the beginning of 2022. The FFAW contends that ASP's submission is a continuation of their recurring theme of "uncertainty" and "volatility". They point to similar comments made by ASP in 2020 and 2021 which they feel were unfounded.

The FFAW's analysis of the annual market price changes over the past decade demonstrates, in their view, that a low price in May is not indicative of a further price drop and suggests a level of stability and likelihood of a small price increase. They further note that retail prices are relatively stable, and that foodservice sentiment remains strong.

The FFAW also points out that while nearly half of the total Snow Crab quota is already landed, harvesters in Labrador and some of the smaller boat fleet on the Island have not yet been able to participate in the fishery. They have been unable to receive any benefit of the current \$7.60/lb. price and will now have to accept a lower price even though their costs, particularly for fuel, are rising dramatically.

The FFAW selected a market price of \$10.00 US as the basis for their price calculations. They note that considering the market price of \$12.00 US which corresponded to the \$7.60/lb. price in March, 2022, and taking into account a moderate exchange rate shift since then (1.30 vs 1.25), the difference in market price is \$1.98 CAD. Applying a yield figure of 62% provides a change in price for raw material of \$1.23 CAD (\$1.35 CAD at 68% yield). At a sharing of 80% to harvesters, the resultant adjusted market price for raw material would be \$6.52 (\$6.62 at 68% yield). Consequently, the FFAW price offer is \$6.55/lb.

While parties agree that markets have declined, there are divergent views as to where the market price will settle. In the view of the Panel, the key question is – how much further will prices drop, and when they reach a floor will they start to increase again or remain flat? A price of \$10.00 US appears to be a pivotal market price.

Sackton indicates that historically, two things have signaled a market floor. One has been when more than 50% of the total quota has been caught and buyers have a feel for how much Snow Crab is coming to the market and where prices are. While this level of landings has not yet been achieved, it appears that it will be within the next week. The second factor has been Japanese buying. Japanese contracts are paid FOB plant as product is shipped, which helps producers with their cash flow. However, Sackton anticipates the Japanese will get high volumes of low priced Snow Crab from Russia this year, and therefore will be under no pressure to establish contracts in NL. To date, there appears to be little Japanese activity in the province. On the basis of these factors, it appears that the market will continue to drop for another week or more and, according to Sackton, is likely to bottom out somewhere between \$9.00 US and \$10.00 US. Based on market declines in other difficult years, he sees a worst case scenario of \$9.00 US.

Another factor which could potentially stimulate buyers to start seeking greater supplies of Snow Crab would be depletion of inventories. However, the continued decline of prices week after week suggests that buyers still have adequate inventory to meet their requirements. Sackton mentions

reports that cold storage space is filling up with Snow Crab, with some Boston facilities telling customers that they have no further space for that product. It is therefore unlikely that inventory depletion will contribute to a solution to the current situation in the short term.

The Panel acknowledges the reasoning for the position of each of the parties. Based on each party's market price assumption, their position appears reasonable. The ASP position is supported at market prices in the mid \$9.00 US range, and it would take prices in the area of the pivotal \$10.00 US market level or above to support the FFAW position. The Panel notes that Snow Crab market prices as reported by Urner Barry have been in a continuous decline averaging \$0.57 per week over the past eight weeks. The information provided to the Panel by the market consultant and Urner Barry leads it to conclude that this decline will likely continue over the next week or more, and therefore prices below \$10.00 US are anticipated.

Under Final Offer Selection, the Panel only has the choice of picking one of the minimum price offers presented by the parties. On balance, the Panel believes there is reason to expect that the market price will continue to fall and reach a level in the \$9.00 US to \$10.00 US range.

It is the decision of the Panel to accept the final offer of the ASP. Depending on how the market price situation actually plays out, there remains an opportunity for the FFAW to seek a reconsideration by the Panel.

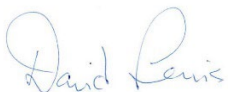
The prices for the species Snow Crab will be:

- \$6.15/lb. – 4" carapace and up.
- \$5.85/lb. – for legal size under 4".

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

NOTE: This decision comes into effect as of 4:00 p.m. on May 16, 2022.

Dated at St. John's, NL, this 16<sup>th</sup> day of May, 2022.



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David Lewis



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Earle McCurdy



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Bill Carter