

Lumpfish (Roe) Fishery – 2014
Request for Re-Consideration

The Standing Fish Price-Setting Panel, hereinafter referred to as “the Panel”, issued its Schedule of Hearings for 2014, including the species Lumpfish (Roe), on February 11th, 2014. Under the provisions of the *Fishing Industry Collective Bargaining Act*, hereinafter to as “*the Act*”, the Panel set Monday, April 21st, 2014, as the date by which a collective agreement(s) binding on all processors in the province that process the species Lumpfish (Roe) must be in effect. In the absence of such collective agreement(s), the Panel set Tuesday, April 22nd, 2014, as the date on which the Panel would conduct a hearing regarding prices and conditions of sale for the species Lumpfish (Roe).

The Panel also noted at that time that it had been advised by the Department of Fisheries and Aquaculture that the Seafood Producers of Newfoundland and Labrador, hereinafter referred to as “SPONL”, represents processors that process the majority percentage of the species Lumpfish (Roe). Accordingly, under Section 19(11) of the Act, should a hearing be required for Lumpfish (Roe), the parties appearing before the Panel would be the Fish, Food and Allied Workers, hereinafter referred to as the “FFAW”, and SPONL. Section 19.11(1) of the Act and Regulations 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 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 Lumpfish (Roe), if required, was scheduled to take place at 2:00 p.m. on the dates indicated in the Schedule at the Labour Relations Board Hearings Room, Beothuck Building, 20 Crosbie Place, St. John’s, NL. At the request of the parties the Panel rescheduled the date for the hearing to May 15th, at 10:00a.m. at the Matthew Room, Ramada Hotel, St. John’s.

The only party to appear before the Panel, having earlier filed a submission, was the FFAW. No other representation or submission was made to the Panel. The FFAW advised that it met with SPONL, beginning on March 10th, 2014, and proposed a rollover of the 2013 schedule, including a starting price of \$1.50/lb. They received little if any response from SPONL and no specific offer from SPONL was made. SPONL had not made any submission or appeared before the Panel.

Following the clear directives of the Act, the Panel was obligated to accept the position of the FFAW in its entirety and issued its decision on the 16th of May, 2014.

On the 22nd of May, 2014, the Panel received a request from the FFAW/UNIFOR for a re-consideration of its decision of the 16th of May, 2014, concerning prices and conditions of sale for Lumpfish (Roe). In its request for re-consideration FFAW/UNIFOR reminded the Panel that:

“When we made our Lumpfish (Roe) presentation last week we indicated that the market was still unsettled, and we expressed the view that any reduction at that time to the opening price in our price agreement would be “sending the wrong message” to the market.”

Upon receipt of this request from FFAW/UNIFOR, the Panel through its facilitator, officially acknowledged receipt at 2:30 p.m., Thursday, the 22nd of May, 2014, with a copy to Mr. George Joyce, Executive Director of SPONL. In that acknowledgement the Panel also sought the position of SPONL with respect to this request. At 3:09 p.m., Mr. Joyce responded to the request, advising that he was, “Currently in the U.S.” On Friday, the 23rd of May, 2014, Mr. Joyce, on behalf of SPONL, contacted the Panel Facilitator by telephone to advise that his position was that the Panel should not alter its decision dated the 16th of May, 2014. The Panel facilitator invited Mr. Joyce to confirm this position verbally to the Panel as the Panel was in session at the time. Mr. Joyce declined to speak with the Panel. The Panel facilitator then asked Mr. Joyce to confirm his position to the Panel in writing.

Pursuant to the legislation, the Panel must decide on a re-consideration application within 48 hours from the time the Panel has acknowledged receipt of the application. This means the decision of the Panel must be made no later than 2:30 p.m., Saturday, the 24th of May, 2014.

FFAW/UNIFOR has requested the Panel to reconsider and subsequently vary its initial decision. It advises:

“To leave the initial Panel decision unamended would be to deny harvesters and processors an opportunity to conduct a Lumpfish (Roe) fishery in 2014.”

Section 3(2) of the Fishing Industry Collective Bargaining Regulations, 2011 provide that:

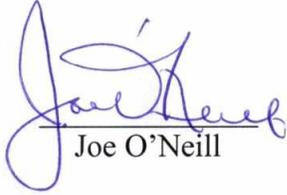
“In making a decision under Subsection 19.14(2) of the Act, final offer selection shall be the only form of arbitration used whether one or more of the parties appears before the Panel respecting the re-consideration application.”

The Panel has considered the positions of both parties in this request. It is the view of the Panel that in order to facilitate a commencement of the Lumpfish (Roe) fishery at this time, the Panel must select the position of FFAW/UNIFOR.

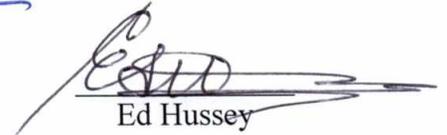
It is the decision of the Panel to accept the request for re-consideration from FFAW/UNIFOR of its original decision on prices and conditions of sale for the species Lumpfish (Roe), dated the 16th of May, 2014. The attached price schedule for Lumpfish

(Roe) will form a collective agreement, or part of a collective agreement, binding on all processors that process the species, Lumpfish (Roe).

Dated the 24th day of May, 2014.


Joe O'Neill


Max Short


Ed Hussey

2014 Price Schedule - Lumproe

The prices and related terms and conditions for lumproe for 2014 are as follows:

The parties agree that this schedule and the Master Collective Agreement dated May 9, 2011 together constitute a Collective Agreement between the parties for lumproe for the purposes of the *Fishing Industry Collective Bargaining Act*.

1. At market prices up to \$775 Cdn CIF Europe, fish harvesters will be paid \$1.25 per pound for lumproe.
2. If the market price as outlined in paragraph 3 below exceeds \$775 per barrel, prices to fish harvesters will be increased retroactively based on sales and shipments up to November 30, 2014. Retroactive payments will be due and payable no later than December 10, 2014.

For market prices between \$775 and \$900 per barrel, the raw material price will be increased at the rate of \$0.01/lb for each \$5 per barrel market price increment in excess of \$775 per barrel. (For example, at \$900 per barrel, the rate material price would be \$1.50 per lb.)

The raw material price will be increased at a rate of \$.01/lb for each \$4 per barrel market price increment in excess of \$900 per barrel. (For example, at \$1,100 per barrel the raw material price would be \$2.00 per pound).

3. Confirmation of average market prices received will be based on sales reports up to and including November 30, 2014 showing volumes and weighted average prices received per barrel (Cdn\$ CIF Europe) from Ocean Choice International (OCI), Beothic Fish Processors and Icedwater Seafoods. Verification through independent audit or prices received is at the discretion and cost of FFAW.
4. There will be no deductions from these prices for ice and/or water.
5. Temperatures must be controlled by icing and landed roe must be free of foreign material and excess water.

Earle McCurdy
FFAW-Unifor

George Joyce
Seafood Producers of Newfoundland &
Labrador

Witness

Witness

Date

Date