

INTER-TRIBAL FISHING TREATY

BETWEEN INDIAN NATIONS



A TREATY OF MUTUAL PURPOSE AND SUPPORT

INTER-TRIBAL FISHING TREATY BETWEEN INDIAN NATIONS: A TREATY OF MUTUAL PURPOSE AND SUPPORT

WHEREAS our ancestors have treated among themselves and have declared, made known, and never ceded their rights including the aboriginal right to fish, we respect their wisdom and carry forward their struggle for fairness, justice and recognition within our respective homelands. We come together today to re-assert our aboriginal right to fish and to accept our inherent responsibility to care for the Fisheries of our waterways, and specifically of the Fraser and Columbia Rivers. We acknowledge that care of the Fraser and Columbia River Fisheries necessarily includes Conservation; Management and Environmental Protection throughout the habitat including the ocean, frequented by the salmon and other freshwater fish during the whole of their natural life cycles.

WE ADOPT as our fundamental assertion of right and our basis for unity, the Memorial to the Honourable Frank Oliver, Minister of the Interior, given by our ancestors on the 10th day of May, 1911, and attached herein as Appendix "A".

WE RECOGNIZE the sovereignty and distinctiveness of each Nation, the importance of the Fraser and Columbia Rivers as fish habitats, Fishing as the lifeblood of the Indian people of the Nations on the Fraser and Columbia Rivers, the responsibility of our Nations to ensure the Creator's gift of salmon survives not only for our children but for untold generations to come; and that in the event of conflict between individual and group rights concerning the Fraser and/or Columbia River Fisheries, that the common good shall prevail over the individual rights of any Nation.

IN CONSIDERING the current unilateral jurisdiction of the Canadian Government over the Fisheries of the Fraser and Columbia Rivers, the failure of the Government to fulfill the responsibility concomitant with the rights it has attempted to take from us, the conflicting demands placed on the Fisheries of the Fraser and Columbia Rivers and elsewhere by others than ourselves; and considering the failure of the Government to listen to our ancestors, to hear our voice, or address our concerns: It is imperative for our Nations to again be self-governing, to re-assert control, and to take measure to ensure the continued survival of our Fisheries and our way of life based on the salmon.

WE HAVE COME TOGETHER as sovereign Nations to recognize the right of each Nation to be self-governing and to accept our common responsibility for the survival of our Fisheries.

AND THEREFORE AGREE AS FOLLOWS:

ARTICLE I DEFINITIONS

As used in this Treaty:

- 1) "Care" means the Management, Conservation and Enhancement of fish as well as

Environmental Protection including pollution control of fish habitat. Care includes all activities required to ensure the survival of salmon and freshwater fish.

- 2) "Citizen" means any person who is a member of a Tribal Nation which is a Party to this Treaty.
- 3) "Codification" means the written form of a set of laws which when complete forms a code.
- 4) "Columbia River" means the Columbia River, streams, lakes and tributaries thereto.
- 5) "Comprehensive Claims" means grievances based on the loss of Inuit and Indian traditional use and occupancy of lands.
- 6) "Consensus" means the reaching of an agreement or decision through discussion without reliance upon a vote in which all participants unanimously accept the agreement or decision in its final form.
- 7) "Conservation" means controlling the harvest of fish in order to conserve the stock, and ensure the number of spawners will be sufficient to regenerate the stocks.
- 8) "Enhancement" means all activities related to preserving, rehabilitating and enhancing fish stocks including improvements to natural habitats and the use of reproduction technology. Enhancement may include but is not limited to improving spawning beds, stream rehabilitation, removal of obstructions, construction of fishways and artificial spawning channels and the development of hatcheries and incubation systems.
- 9) "Environmental Protection" means the complete spectrum of activities pursued to maintain an environment conducive to the maintenance and reproduction of fish stocks. It includes the control of pollution and habitat destruction.
- 10) "Fishing" means the activity of harvesting or seeking to harvest salmon and/or other freshwater fish.
- 11) "Fishery" means all activities associated with fish throughout their life cycle including but not limited to harvesting, management, protection and enhancement.
- 12) "Fraser River" means the Fraser River, streams, lakes and tributaries thereto.
- 13) "Management" means the long term strategy to ensure the preservation of the habitat that fish depend upon and control of the harvest in order to conserve the stocks and ensure the number of spawners will be sufficient to regenerate the stocks. Size limits, gear restrictions and time and area closures may be evoked. Management is a general term which includes Enhancement, Conservation and Environmental Protection. Policies of management may include:

- i) who may fish;
- ii) what stocks may be fished;
- iii) when fishing may occur;
- iv) pre and post season management programming;
- v) policies of selling and tribal trading;
- vi) enhancement and habitat management;
- vii) monitoring, control and enforcement; and
- viii) such other matters as the Nation sees fit.

14) “Nation” means the same as Tribe and is the territorial division between people of different tribes as defined, agreed upon and respected by the members of the bordering tribes; it is a sovereign and self governing body.

15) “Party” means a Tribal Nation represented by a signatory to this Treaty.

16) “Specific Claims” means grievances made by Indians against the federal government which relate to the administration of land and other Indian assets and to the fulfillment of Indian Treaties or promises.

17) “Treaty” means the Inter-Tribal Fishing Treaty Between Indian Nations: A Treaty of Mutual Purpose and Support.

ARTICLE II **PARTIES TO THE TREATY**

1) The originating Parties to this Treaty shall be the following Indian Tribal Nations:

- 1) Cariboo Tribal Council
- 2) Carrier Sekani Tribal Council
- 3) Chilcotin Ulkatcho-Kluskuus Tribal Council
- 4) Kootenay Indian Area Council
- 5) Lillooet Tribal Council
- 6) Nicola Valley Indian Administration
- 7) Nlaka’pamux Nation Tribal Council
- 8) Okanagan Tribal Council
- 9) Sto:lo Nation Society
- 10) Sto:lo Tribal Council
- 11) Shuswap Nation Tribal Council

Each Tribal Nation represents the interests of its membership for the purposes of this Treaty.

2) The right to negotiate with and include any and all Tribal Nations as parties to this Treaty that are not now signatories is hereby reserved. Such negotiation shall be conducted by the

Working Committee.

- 3) Participation in this Treaty must be at the Tribal Nation level as the right to sovereignty and the right to treat are rights exclusive to nations.
- 4) Given the far reaching importance of matters agreed upon in this Treaty each Party, according to proper custom and manner, has obtained full and complete authorization from its members to be a Party to this Treaty.
- 5) Those Parties to the Treaty whose homes are not on the Fraser or Columbia Rivers are party to this Treaty in recognition of their support for the objectives herein and in recognition of all peoples' responsibility to care for the gifts of the Creator.

ARTICLE III OBJECTIVES

- 1) The objectives of this Treaty are to:
 - a) ensure the survival of the salmon;
 - b) protect and enhance the Fisheries of the Fraser and Columbia Rivers and pursue a policy of Environmental Protection;
 - c) recognize and exercise the aboriginal right to fish of the Parties to this Treaty, a right entrenched in the Constitution Act of 1982. It is a right that has been exercised by us throughout all of our traditional territories from time immemorial. It is a right that has sustained and nurtured our people physically and spiritually. It is a right which does not have its roots in a legislative enactment or government policy decision;
 - d) recognize and respect the autonomy and right to self determination of each party including recognition and respect of the fishing laws of each Nation;
 - e) adhere to a policy of Tribal non-interference between Parties;
 - f) create a binding Inter-Tribal Fishery policy on general principles of Management on the Fraser and Columbia River Fisheries to be respected and adhered to by all Parties and to be consistent with the principle of Tribal autonomy and self-government to the greatest extent possible;
 - g) adopt the principle that Inter-Tribal rights supercede individual Tribal rights if the two are in conflict in order to ensure the survival of salmon;
 - h) develop the trade and sale of fish;

- i) codify the unwritten laws of our ancestors;
- j) provide solidarity among the Nations party to this Treaty;
- k) create an environment of support and trust among the Parties so as not to fall further victim to the divide and conquer policy of government and industry but rather to succeed in achieving the objectives of this Treaty;
- l) provide cohesive strength of leadership;
- m) coordinate the Parties' responses to other governments' initiatives; and
- n) exercise our rights as sovereign Nations.

2) Nothing in this Treaty is intended to alter or abridge any aboriginal or other legal right of any Indian Tribal Nation. Nor shall any term of this Treaty be used adversely against any Party in any litigation or Comprehensive or Specific Claim negotiations.

ARTICLE IV **TRIBAL AUTONOMY**

- 1) This Treaty recognized the right of each Tribal Nation to be autonomous and self-governing.
- 2) The Parties to this Treaty mutually agree to recognize and respect each Nation's fishing laws.
- 3) There shall be a policy of Tribal non-interference, meaning that for any stretch of the Fraser River or Columbia River which is within the territory of a Nation, the Nation shall have the right to make laws and policies relating to, but not limited to:
 - i) who may fish;
 - ii) what stocks may be fished;
 - iii) when fishing may occur;
 - iv) pre and post season management programming;
 - v) policies of selling and tribal trading;
 - vi) monitoring, control and enforcement; and
 - vii) such other matters as the Nation sees fit.
- 4) No laws provided for in Article V shall be in conflict with the Common Inter-Tribal Fishery Policy attached as Appendix "D". The Parties recognize this is a limit on their right to autonomy but accept this limitation as being necessarily incidental to the management of the Fraser and Columbia River Fisheries, so that all Parties shall be assured, to the extent possible, of sufficient fish to meet their needs.
- 5) If and when a Party codifies its traditional laws pursuant to Article VI, such code shall be

attached herein as an annex to Appendix “E”.

- 6) The codified, traditional laws of a Nation may be reviewed by the Working Committee to ensure such laws are consistent with the Common Inter-Tribal Fishery Policy. Such interference shall be as minimal as possible to achieve the objective of compliance.

ARTICLE V COMMON INTER-TRIBAL FISHERY POLICY

- 1) The Common Inter-Tribal Fishery Policy (the “Policy”) when completed and approved by all Parties shall be attached herein as Appendix “D” and shall form an integral part of this Treaty.
- 2) The Policy shall be developed and ratified in accordance with Articles VI and IX.
- 3) It is recognized fish are a matter of common concern for all Parties.
- 4) The Policy shall be made in recognition that the Fraser and Columbia River Fisheries extend the length of the rivers and efforts to manage and enhance the Fisheries require coordination throughout each river system. Conservation, Management, Enhancement as well as over-fishing and habitat destruction all have a global effect on the Rivers. The Policy shall seek to ensure that there will always be a fishery over which, to the extent possible, Tribal Nations will be self-governing within their own territories.
- 5) Each Party shall be provided with a copy of the Policy.
- 6) Each Party is responsible for informing its Citizens of the Policy and ensuring compliance.
- 7) If self-regulation and enforcement are not adhered to, the Working Committee shall designate an enforcement sub-committee pursuant to Article VIII. The sub-committee shall create a formal system of regulation and enforcement.
- 8) Any amendments to the Policy shall be made by Consensus of all the Parties to this Treaty. If a consensus can not be reached after a reasonable period of discussion as determined by the chairperson, the matter shall be proposed as a resolution and voted on. 75% of the Parties to this Treaty must vote in favour of the amendment resolution in order for it to pass.

ARTICLE VI CODIFICATION OF UNWRITTEN LAWS

- 1) In recognition that laws, if written, may be more easily and more widely known and therefore respected, it is the objective of the Parties to codify the traditional Fishing laws of their respective Nations.

- 2) The Codification will include the modernization of traditional laws respecting fish as seen fit by each Nation.
- 3) When possible, Codification shall be in the Nation's own language and in English.
- 4) The fishing codes of Nations shall be attached herein as Appendix "E" with the permission of each Nation.

ARTICLE VII COMMERCIALIZATION

- 1) The Parties assert and recognize that there is an aboriginal right to sell fish.
- 2) The Parties acknowledge that implementation of any commercial fishery venture will have an impact on every Party's rights. Therefore, commercialization is specifically exempted from each Party's right to govern itself and follow its own Fishing laws. All indigenous commercialization shall be developed taking into consideration Conservation and sound Management.
- 3) Parties shall strive to cooperate to develop policies, infrastructure and processes for an Interior indigenous commercial fishery that will increase the value added to the resource. Participation in ownership of processing and marketing of fisheries harvest shall be actively pursued.

ARTICLE VIII WORKING COMMITTEE

- 1) Upon ratification of this Treaty, a committee to be known as the "Working Committee" shall be formed. The Committee shall be composed of one representative from each Tribal Nation which is a Party to the Treaty. The representative is to be chosen by the Nation and is to be given authority by the Nation to make binding decisions on behalf of the Nation.
- 2) Each Nation shall select a second representative who shall attend and shall vote in the place of the Nation's Working Committee member if the Working Committee member is unable to attend a meeting.
- 3) A Working Committee member may resign by giving one month's notice to the Working Committee. The resignation is to be in writing. A person may be terminated as a representative by the Tribal Nation they represent if they fail to meet their responsibility but such person must be replaced immediately by the same Tribal Nation. The procedure for termination is to be determined by each Tribal Nation for itself. The Working Committee may recommend to a Tribal Nation that its representative be terminated but the Working Committee cannot terminate the representative itself.

- 4) The Working Committee shall conduct the business created by the implementation and enforcement of the terms of the Treaty, including but not limited to:
 - i) development, implementation and enforcement of the Common Inter-Tribal Fishery Policy;
 - ii) negotiating the inclusion of additional parties to the treaty;
 - iii) controlling financial matters;
 - iv) reviewing Nations' laws;
 - v) public education;
 - vi) providing responses to government initiatives;
 - vii) review and approval of Treaty amendments; and
 - viii) anything incidental to achieving the objectives set forth in Article III.
- 5) The Working Committee shall appoint a chairperson, a secretary, and a treasurer. Each appointment is for a two year term.
- 6) The responsibility of the chairperson includes but is not limited to:
 - i) overseeing and directing the activities of the Working Committee;
 - ii) conducting general business meetings; and
 - iii) being an authorized banking signatory.
- 7) The responsibility of the secretary includes but is not limited to:
 - i) keeping minutes of all meetings;
 - ii) notifying Parties of meetings;
 - iii) making necessary arrangements for meetings;
 - iv) conducting correspondence;
 - v) maintaining necessary records; and
 - vi) being an authorized banking signatory.
- 8) The responsibility of the treasurer includes but is not limited to:
 - i) maintaining financial records;
 - ii) preparing budgets;
 - iii) doing the banking;
 - iv) providing financial reports and statements to the Working Committee as requested;
 - v) overseeing all financial arrangements; and
 - vi) being an authorized banking signatory.
- 9) No member of the Working Committee is to make personal gain by virtue of their position but may be reimbursed for any necessary expenses.
- 10) Non member of the Working Committee shall be personally liable for work done in the course

of their duties unless acting negligently or fraudulently.

- 11) The Working Committee is responsible to all Parties to the Treaty.
- 12) The Working Committee may enter into contracts and acquire property as necessary for the performance of its function.
- 13) The Working Committee has the authority to hire employees as required to carry out the terms of the Treaty and may delegate its duties to sub-committees. The sub-committees shall be composed of person selected by the Working Committee. At all times the Working Committee shall remain ultimately responsible.
- 14) The Working Committee shall meet once per calendar month. Additional meetings may be called by a written notice signed by two Working Committee members with the proposed agenda attached.
- 15) There is to be an annual general meeting of the Working Committee, the first to be held within 15 months of the coming into force of this Treaty at which time the Working Committee shall submit to the Parties an annual report on its activities and an annual financial statement.
- 16) Financial records shall be audited annually and shall be available to any party for inspection.
- 17) Notice of each general meeting of the Working Committee shall be sent to each Party and shall include the date, time and location of the meeting and the proposed agenda. A Citizen may submit in writing any item they wish to have placed on the agenda and if practically possible, the item shall be included on the agenda.
- 18) Business shall be conducted at a time and place to be decided by the Working Committee. Any Citizen may attend a general business meeting.
- 19) No business shall be conducted without a quorum present. A quorum shall be 50% of the Parties to this Treaty, excluding those Parties listed in Appendix "C".
- 20) The Working Committee shall make such bylaws and procedural rules for itself and for sub-committees established pursuant to Article VIII, as may be necessary for the exercise of their functions and the conduct of their meetings.
- 21) When a Consensus cannot be reached and it is necessary to vote on a resolution:
 - i) Each party not listed in Appendix "C" is entitled to one vote.
 - ii) Voting shall be by a show of hands.
 - iii) Proxy voting shall not be allowed.

ARTICLE IX **PROCEDURE TO REACH AGREEMENTS**

- 1) It is recognized that it is necessary for all Parties to agree to the formal Common Inter-Tribal Fishing Policy. The Policy shall be developed and written by a sub-committee selected by the Working Committee. Experts shall be hired to complete the Policy as required. To come into effect, there must be unanimous acceptance of the Policy by the Parties through a process of Consensus.
- 2) Decisions to be made and agreements to be reached by the Working Committee in conducting the business created by the Treaty shall be reached by Consensus. If a Consensus cannot be reached by the Parties in attendance after a reasonable period of discussion as determined by the chairperson, the matter shall be proposed as a resolution and voted on. Unless noted otherwise, a simple majority (51%) of the Parties voting must be in favour of a resolution in order for it to pass.
- 3) Any agreement reached pursuant to the Treaty which will affect the rights and duties of Parties shall be attached as an appendix to the Treaty. The agreement shall form part of the Treaty, and shall be binding on all Parties.
- 4) It is agreed between the Parties that the priority of policy development shall be as follows:
 - i) aboriginal title and rights to the fishery;
 - ii) conservation and management;
 - iii) fish to meet the needs of the people; and
 - iv) commerce and tribal trading.

ARTICLE X **FINANCIAL ARRANGEMENTS**

- 1) There shall be a treasurer as provided for in Article VIII who shall be responsible for overseeing the financial arrangements necessarily created by the Treaty.
- 2) Each of the Parties excepting those Parties listed in Appendix "C" hereby agrees to be responsible for, and to pay in an equal number of shares as there are such parties to the Treaty, all costs incurred by the Working Committee in carrying out the legitimate business pursuant to the terms of the Treaty.
- 3) All funding related to the Treaty and activities done pursuant to the Treaty shall be received and distributed by the Working Committee. Distribution of funds shall be on an equitable, not necessarily equal basis, taking into consideration the differing needs, costs and efforts of Parties. Funding received by Parties for their own specific management programs or other own projects is not subject to this Article.

ARTICLE XI **DISPUTE RESOLUTION**

- 1) In keeping with the objective of the Parties to be self governing whenever possible disputes should be settled internally. Parties recognize that internal disagreements serve only to weaken their ability to achieve their common goals and therefore Parties are committed to resolving internal conflicts as quickly and as amicably as possible.
- 2) The Working Committee shall delegate a peacekeeping sub-committee which shall be responsible for negotiating a settlement between disagreeing Parties.
- 3) If negotiations fail, an independent arbitrator may be hired. The arbitrator shall assess costs of the arbitration against the Parties involved.
- 4) Parties agree to be bound by the decision of the arbitrator.
- 5) Disputes should be resolved with the spirit not the letter of the Treaty as a guide.
- 6) The peacekeeping sub-committee and/or arbitrator shall report its finding along with a statement of its reasons to the Working Committee.

ARTICLE XII **AMENDMENTS**

- 1) The Working Committee may appoint a sub-committee responsible for formulating and implementing amendments to the Treaty and agreements made pursuant thereto in response to the request of a Party or Parties for amendments.
- 2) Given the fundamental importance of amending the Treaty, any amendment must be passed by the Consensus of all Parties except those Parties listed in Appendix “C”. Article IX, paragraph 2 shall not apply. In the case of amending the Treaty, a vote shall not be taken. If a consensus can not be reached, the Treaty shall not be amended.
- 3) Notice of any proposed amendment shall be provided to all Parties ten days in advance of the proposed amendment being tabled to be passed at a meeting. A Party is deemed to have received such notice four days after the notice is sent in the mail to the Party.
- 4) Any proposed amendment must be discussed fully at a general meeting before being tabled to be passed. Each Party shall be given an opportunity to speak to the amendment.
- 5) If the Treaty is amended every Party shall be provided with a copy of the amended Treaty and shall be bound by the terms of the amended Treaty as though it were the original, signed Treaty.

WE, THE PARTIES TO THE TREATY, as represented by the under signed signatories, recognize the continual efforts on the part of our ancestors to obtain justice with respect to our aboriginal title and rights and recognizing the Federal and Provincial Governments refusal to treat with us, we agree to treat between ourselves as our ancestors did in the recorded historical declarations and memorials.

WE, THE UNDERSIGNED TRIBAL NATION REPRESENTATIVES, subscribe our names on behalf of our people, this 27th day of July, 1989 at Lillooet, British Columbia.

APPENDICES

Appendix “A”	Memorial to the Honourable Frank Oliver, Minister of the Interior
Appendix “B”	Map of Tribal Nation Boundaries
Appendix “C”	List of parties to the Treaty whose homes are not on the Fraser or Columbia Rivers
Appendix “D”	Common Inter-Tribal Policy on Fishing
Appendix “E”	Nations codified fishing laws