



Pacific Salmon Treaty (PST): Chapter 4 (Fraser River Sockeye & Pink Salmon) Renewal and Response to Feedback

Forum on Conservation and Harvest Planning
for Fraser Salmon, December 18 to 20, 2018

Outline

- Consultation Process - May/June 2018
- Key Issues identified and DFO response
- Update on Fraser Panel Small Group meeting
- Questions and Discussion – where to from here?

Thank you!

- DFO would like to thank all of the First Nations participants who took the time to participate in Tier 1 and/or Tier 2 sessions, and who contributed to the thoughtful input on Chapter 4 renegotiations.
- The points which follow are initial thoughts on the various points raised, with an effort made to narrow down the focus on how we move forward on bilateral discussions with the US.
- Issues raised which do not involve bilateral negotiations are important will still be a focus of further discussion with First Nations.

Consultation Process

- May/June meetings:
 - DFO provided background, set the context of current arrangements and reviewed key issues from recent Chapter 4 re-negotiations in 2013, as well as identified the list of items that have been raised to date in informal discussions with the US and PSC
 - Worked with the First Nations Caucus members of the Fraser Panel and the Fraser River Aboriginal Fisheries Secretariat to support Tier 1 and 2 discussions

Issues identified by First Nations Caucus of FRAFS EC and DFO response

- In a letter from the First Nations Caucus of FRAFS EC to DFO, the following fourteen items highlighted as key issues for First Nations:
 1. **UNDRIP** – lack of clarity on application to the treaty.
 - **DFO Response** – Government of Canada is committed to implementation of UNDRIP. Further discussion is required on how implementation can be reflected in the Pacific Salmon Treaty.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

2. **Duty to Consult** – more capacity/meetings to ensure FN are informed of what's being discussed at the tables.
- **DFO Response** – this is a vital component of Canada's approach to PST renewal. Numerous meetings have been held for the renewal of all Chapters in the PST over the past two years and more are anticipated for Chapter 4.
 - Consultation approach has been co-developed and jointly implemented with FNs.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

3. **Panel Representation** – FN want 50% representation on the Fraser Panel and to see the appointment process modified.
- **DFO Response** – FN currently comprise 30% of the non-government Panel positions. The Fraser Panel is tasked to make run size and commercial fishing decisions in Panel waters. FSC fishing decisions are made in bilateral meetings with the Department. Further discussion on this topic can occur and input as to how to strengthen the effectiveness of FN participation in the Panel process is welcome.
 - This is a domestic issue.

Issues identified by First Nations Caucus of FRAFS EC continued

4. **Aggregate Management** – FN would like to see more than 4 management groups to address WSP implementation. Clear definition of conservation required in the treaty.
- **DFO Response** – Paragraph 3 of Chapter 4 identifies the Panel currently has the ability to manage to more than 4 management groups as agreed to by the parties. Domestically Canada has the ability to manage to more management groups as appropriate and as such the PST should not be a hindrance to implementing WSP.
- A definition of conservation is a broader treaty issue and could be pursued.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

5. **Aboriginal Fisheries Exemption (AFE)** – FN would like to see the AFE increased from 400,000 to 1.1 million. Also expressed concern about language in the proportional distribution of the AFE indicating that the 20% Early Stuart allocation was too high. Would like a retrospective analysis done to determine if a higher AFE would have resulted in better achievement of sec 35(1).
- **DFO Response** – the 400,000 amount was based on the level of FSC harvest when the PST was originally negotiated in 1985. FSC allocations have since increased to 1.1 million but the AFE has remained at 400k as the US would prefer to have no AFE at all. Increasing to 1.1 million would eliminate US TAC in a number of years since 2001 making this unpalatable to them.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

5. Aboriginal Fisheries Exemption (AFE) cont.

- Under current arrangement (AFE -400k, US share- 16.5%) from 2001 to 2017 US has no share in 7 of 17 years.
- With AFE increased to 1.1m and US share at 16.5% US has no share in 8 of 17 years and total share over this time period is reduced from 7.23m to 6.14m.
- To get US total share back to 7.23m would require an annual share of 19.4% but still would have no TAC in 8 of 17 years.
- Canada's total share increases from 41.0m under current arrangement to 41.5m at 1.1m and 19.4% share however total share is not available to be harvested due to stocks of concern.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

5. Aboriginal Fisheries Exemption (AFE) cont.

- US may seek a share higher than 19.4% to offset reduced years with share, which will reduce Canada's share and may also seek CNS exemption.
- Increasing the AFE to 1.1m would not change how sockeye are currently allocated in Canada as current approach does not allocate any sockeye to commercial or recreational fishers until the Canadian share exceeds 1.1m.
- Primary constraint to FN achieving section 35(1) is stocks of conservation concern (Early Stuart, Early Summers and sometimes Lates).

Issues identified by First Nations Caucus of FRAFS EC and DFO response

- Pro's to increasing the AFE to 1.1 million
 - In years where the total TAC is less than 1.1 million the total allocation would be assigned to First Nations FSC fisheries
 - At TAC's between 400k and 1.1m the allocation to First Nations FSC fisheries would increase by 16.5%.
- Con's to increasing the AFE to 1.1 million
 - US would likely ask for an increased share to something in the 20 to 25% range or higher OR argue to eliminate AFE.
 - With a higher share US would likely harvest more Early Summers and Summers in years when the TAC is over 1.1m which would increase the constraints on all Canadian fisheries.
- **Developed assessment tool to enable exploration of options.**

Issues identified by First Nations Caucus of FRAFS EC and DFO response

5. Aboriginal Fisheries Exemption (AFE) cont.

- Current AFE distribution across the 4 management groups with Early Stuart at a maximum of 20% is based on the recommendations from First Nations.
- The actual AFE for Early Stuart is updated in-season to what is projected to be caught (usually in LAER) and the AFE is then recalculated for other management units – providing some protection for other stocks.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

6. **US shares and overall production** – distribution of benefits is not commensurate with production.
- **DFO Response** – The US share of Fraser sockeye and pink salmon is defined in the treaty because Fraser sockeye and pink salmon swim into US waters – without a defined share there is no limit and impacts could be very high in some years.
 - US had involvement in rebuilding Fraser sockeye following the slide in the Fraser canyon in 1913 and the Canadian harvest of US produced coho and Chinook.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

7. **Conservation and weak stock management** – DFO should be considering lower exploitation rate caps during low cycle years.

- **DFO Response** – The Department has been consulting annually on total mortality caps and has evaluated in the FRSSI process.
 - Domestic issue.

8. **Stock specific harvest** – FN support stock specific harvest in terminal areas and language should be considered in new chapter.

- **DFO Response** – Terminal harvests have been occurring regularly in the last decade and have not been flagged as an issue by the US.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

9. **Climate change** – climate change should be included in Chapter 4 language and overall treaty.

- **DFO Response** – This is a concern for both Canada and the US and is currently incorporated in Fraser Panel activities via implementation of the Management Adjustment (MA) factor to assist in achieving sockeye escapement objectives. The MA attempts to address increased water temperatures and discharge levels that are influenced by climate change.
 - New Chapter 2 provisions
 - Can discuss language, part of conservation.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

10. **FRSSI's role in the future** – needs to be a linkage between FRSSI process and Chapter 4 negotiations

- **DFO Response** – outcomes from the FRSSI process are directly linked to the implementation of Chapter 4 through the sockeye escapement plan which Canada provides on an annual basis. FRSSI is a domestic process that does not need to be or benefit from being captured in chapter language.
 - Development of escapement plan is Canada's responsibility under treaty.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

11. **Test Fishing and FN interests** – FN want increased role in test fishing. With respect to payfish FN recommend the following;

- Only minimum number of fish killed to support assessment.
- Extra fish should not be taken in one year to fund future years programs.
- Minimal harm to fish until all stocks have reached productivity goals.
- FN have an opportunity to participate and needs to be a review on funding options.
- **DFO Response** – FNs have significant involvement in test fisheries and are able to apply when they are open for application. Payfish have not been taken in low return years.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

12. **Dealing with underage and overages** – language is needed in Chapter 4 on what payback provisions are required to address US overages.

- **DFO Response** – there is explicit language in Paragraph 8 of Chapter 4 to address this issue.

13. **Accounting for Alaskan bycatch** – data is required in-season from Alaskan fisheries. FN suggest a cap be applied to Fraser sockeye bycatch in Alaska.

- **DFO Response** – This would be very challenging to address. In-season stock assessment is not currently done in these fisheries and would be very expensive to do and may not be timely. Fraser sockeye bycatch is very small in most years in fisheries that harvest millions of Alaskan pink and chum salmon. Recent negotiations on Chapter 2 should benefit Fraser sockeye.

Issues identified by First Nations Caucus of FRAFS EC and DFO response

14. **Duration** – FN recommend a maximum term of 4 years.

- **DFO Response** – this will be taken into consideration. Should discuss pros and cons of aligning timing with other Chapters.

Fraser Panel Small Group Meeting – November 6

- Canada and US Panel members met as a small group with PSC staff and two US Commissioner shadows on November 6 to initiate discussions on items for renegotiation
- An issues tracking table was developed which identified the following elements;
 - Definition of Panel Waters
 - Clarifying Roles and Responsibilities of the FRP, FRPTC, parties and PSC staff
 - Duration of the Chapter
 - AFE language
 - Test Fishery catch, funding, locations and revenues

Next Steps:

- Discussion about where to from here:
 - How best to move forward with input received (a mix of international/treaty issues and domestic issues)
 - Key Chapter 4 issues raised by First Nations appear to be the AFE, the number of Management Units, and the Test Fish/Pay Fish issue?