

Briefing Note

To: Forum on Conservation and Harvest Planning for Fraser Salmon

Date: Apr 07, 2015

RE: Salmon Coordinating Committee's proposal to update the Commercial Salmon Allocation Framework (CSAF)



Summary

- In October 2013, the First Nations Salmon Coordinating Committee (SCC) and the Commercial Salmon Advisory Board (CSAB) were engaged by DFO in a process to provide advice on updating the Commercial Salmon Allocation Framework (CSAF).
- The SCC developed a comprehensive proposal for a revised CSAF that: a) ensures that the CSAF is easier to understand, 2) identifies explicit harvest shares and the means for First Nations to increase their share, 3) is more consistent over multiple years, and 4) clearly recognizes First Nations communal commercial fisheries and provides harvest shares for these fisheries.
- DFO is proposing to implement three major changes to the CSAF in the 2015/2016 Pacific salmon season that have substantial agreement between SCC and CSAB, including:
 - 1) Moving from annual to longer-term allocation arrangements;
 - 2) Establishing harvest shares at the species, fleet, and fishery production area level; and
 - 3) Discontinuing the annual adjustment of shares using 'sockeye equivalents'.
- The SCC has reiterated to DFO that since the SCC is not a decision-making body for any First Nation or First Nation organization, DFO's engagement with the SCC on the CSAF does not satisfy the Crown's legal duty to consult with First Nations, which remains on a bilateral basis between DFO and First Nations.
- The SCC has encouraged BC First Nations and First Nations organizations to submit declarations and/or letters of support for the SCC's proposal to DFO by April 17th 2015; nonetheless, the SCC acknowledges and respects the diversity of First Nations perspectives on the SCC's proposed changes to the CSAF.

Background

- In October 2013, the First Nations Salmon Coordinating Committee (SCC) and the Commercial Salmon Advisory Board (CSAB) were engaged by DFO in a process to provide advice on updating the Commercial Salmon Allocation Framework (CSAF).
- The scope of this work, as defined by DFO, was limited to the allocation of the commercial shares of salmon in BC, and did not address recreational harvest, allocation of fish for financial purposes (draft "Use of Fish" Policy), nor did it address Aboriginal rights or title.
- The current CSAF shares the total value of annual salmon harvest allocations using a coastwide ratio of 22:38:40 among troll (Areas F-G-H), gillnet (Areas C-D-E), and seine (Areas A-B) fleets. Each salmon species is valued according to its "sockeye equivalent" value, and the total value of all species of expected harvestable salmon returns is tallied on an annual basis and divided amongst the gear types according to the ratio.
- First Nations have expressed several concerns with the current CSAF, which include but are not limited to issues such as uncertainties created by the annual negotiations of First

Nations communal commercial opportunities, difficulties in accessing Pacific Integrated Commercial Fisheries Initiative (PICFI) and Allocation Transfer Program (ATP) licences, a lack of First Nations input in DFO decisions on annual commercial salmon sharing arrangements, and the use of “sockeye equivalents”, which creates disincentives for value-added products.

The SCC proposal

- Over 18 months, SCC delegates worked together to develop a comprehensive proposal for a revised CSAF that: a) ensures that the CSAF is easier to understand, 2) identifies explicit harvest shares and the means for First Nations to increase their share, 3) is more consistent over multiple years, and 4) clearly recognizes First Nations communal commercial fisheries and provides harvest shares for these fisheries.
- The SCC proposal identifies initial harvest shares for First Nations’ communal commercial fisheries (“First Nations economic fisheries”) and each Area A-H licence group for each production area/species combination (e.g. South Fraser sockeye, Fraser pink salmon), based on the total number of Area A-H licences¹, which include PICFI and ATP licences.
- Under the SCC’s proposed revisions to the CSAF, harvest shares in these First Nations economic fisheries will be identified for multiple years with periodic reviews occurring every 5 years, and increases to these shares can be achieved through the ongoing conversion of Area A-H licences into First Nations economic fisheries harvest shares.
- The SCC’s proposed changes would also allow flexible fishing options in First Nations economic fisheries; any First Nation individual, group or governing body, including any First Nation owned company or First Nation who buys, owns, controls, or is assigned an Area A-H licence may either continue to fish that licence in a DFO authorized Area A-H fishery, or could transfer the harvest shares associated with their licence to an approved First Nations economic fishery.
- First Nations could then harvest these First Nations economic fishery shares using methods, times, and locations that may be similar to, or very different from, the methods, times, and locations for Area A-H fisheries.
- Therefore, potential benefits of the SCC’s proposed changes include: a) greater certainty for all fisheries, b) greater utilization of licences available for First Nations, c) commercial fisheries that work for First Nations, and d) a greater incentive for investment in fisheries stock assessment and management.

SCC role and context for SCC proposal

- The SCC has reiterated to DFO that since the SCC is not a decision-making body for any First Nation or First Nation organization, DFO’s engagement with the SCC on the CSAF does not satisfy the Crown’s legal duty to consult with First Nations, which remains on a bilateral basis between DFO and First Nations.
- The SCC proposal has been prepared for consideration by First Nations and DFO in the following context:
 - a. the implementation of the SCC proposal will not negatively affect or restrict First Nations ability to harvest and manage their section 35 fisheries;

¹ Excluding those classified as First Nations treaty licences

- b. the SCC proposal does not create, define, evidence, amend, recognize, affirm, or deny any Aboriginal rights, Aboriginal title, and/or treaty rights, and is not evidence of the nature, scope, or extent of Aboriginal rights or Aboriginal title or treaty rights;
- c. the SCC proposal does not limit or prejudice the positions First Nations may take in any negotiations or legal or administrative proceedings;
- d. the SCC proposal does not alter, define, fetter, or limit, or shall be deemed to alter, define, fetter, or limit the jurisdiction, authority, obligations, or responsibilities of the First Nation; and
- e. the SCC proposal does not create, define, evidence, amend, recognize, or affirm Crown title, rights or jurisdiction.

Next Steps

- Over the CSAF review process, the SCC had several Tier 3 discussions with the CSAB, facilitated by DFO, to discuss commonalities between the SCC's and CSAB's proposals for changes to the CSAF.
- As a result of these discussions, DFO is proposing to implement three major changes to the CSAF in the 2015/2016 Pacific salmon season that have substantial agreement between SCC and CSAB, including:
 - 1) Moving from annual to longer-term allocation arrangements;
 - 2) Establishing harvest shares at the species, fleet, and fishery production area level; and
 - 3) Discontinuing the annual adjustment of shares using 'sockeye equivalents'.
- Despite these common areas of agreement, the operationalization of proposed flexibilities in fisheries require ongoing discussions with the CSAB and DFO. The SCC will continue to have Tier 1, 2, and 3 discussions on these outstanding issues in the 2015/2016 fiscal year.
- Since January 2015, SCC delegates have communicated with various First Nations and First Nations organizations about the SCC's proposal, and encouraged BC First Nations and First Nations organizations to submit declarations and letters of support for the SCC's proposal to DFO by DFO's IFMP comment deadline of April 17th 2015.
- Some First Nations and/or First Nations organizations have already sent letters to DFO supporting the proposed changes to the CSAF, including the Union of BC Indian Chiefs, which passed a resolution supporting the SCC proposal. Nonetheless, the SCC acknowledges and respects the diversity of First Nations perspectives on the SCC's proposed changes to the CSAF, and anticipates that First Nations and/or First Nations organizations will send both letters of support and concern regarding the proposed changes.