

Pacific Salmon Treaty Chapter 4 Renewal First Nations Session

May 31, 2018 | Campbell River, BC

Draft Meeting Summary

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Highlights of Participant Input

- Need further clarity around Canada's Food, Social and Ceremonial (FSC) fisheries and the Treaty's Aboriginal Fisheries Exemption (AFE). A Tier 1 process is needed to discuss this and how it is shared.
- Interest in raising current AFE of 400,000. More information is required to explore this, including records, if available, that demonstrate the analysis undertaken in 2013.
- Interest in exploring flexibility with the number of management units.
- Concerns about the appointment process and representation of FN Commissioners and Panel members. Need to recognize what is outlined in UNDRIP (i.e. article 18 & 19) and how we move forward with implementation.
- Conservation is a priority and should be carried into negotiations (i.e. 'how do we grow the pie?').
- Need technical information to support further discussions on Alaska's catch, including what Alaska's catch is and the circumstances around it.

Welcome and Introductions

Mike Staley, Fraser River Aboriginal Fisheries Secretariat (FRAFS) and Angela Stadel, Manager, Consultation Secretariat, DFO welcomed participants and walked through the agenda and format for the day. Mike and Angela noted that while FRAFS was organizing two Tier 1 discussions, time could also be set aside after lunch if participants wanted to hold a Tier 1 discussion that day. Angela also pointed to the upcoming webinar on Thursday, June 14th on Chapter 3 and noted that invitations would be sent out shortly. A quick round of introductions took place.

Overview of Pacific Salmon Treaty Chapter 4 (Fraser River Sockeye and Pink Salmon)

Jennifer Nener, Director, Salmon Management and Client Services and Fraser River Panel Chair, provided an overview and background on the Pacific Salmon Treaty (PST) and Pacific Salmon Commission (PSC) from the presentation titled, "Pacific Salmon Treaty (PST): Chapter 4 Renewal (Fraser River Sockeye and Pink Salmon)." See Annex 2 for the presentation. She pointed out that Chapter 4 will expire on December 31, 2019 and how a high-level of cooperation between Canada and the U.S. is necessary to conserve and sustainably manage stocks. Jennifer noted that unlike other panels, the Fraser River Panel receives greater technical and in-season support from the PSC Secretariat due to its operational role in the fishing season. She also walked through the current chapter for participants to have a common understanding of the commitments/obligations. Jennifer noted that the chapter has performed well from a conservation perspective and how the U.S. has abided by and respected decisions when returns were low.

Comments and Questions(DFO responses noted in *italics*)

- **What is the financial contribution of each of the Nations to the Treaty? Is it an equitable cost sharing arrangement? Are we compromised by financial contributions?**
 - *Day-to-day operations are funded almost 50/50 by the Parties but within each chapter there are other arrangements as well. In addition to this, the objective of the endowment funds is to fund projects that gather information for a number of reasons, including habitat restoration, production, etc.*
- **In the past, we would work with a group of First Nations to assist in getting fish outside of our area. Does the Treaty take this into account? It's not just East Coast Vancouver Island but other parts that we are forced to get fish from. This represents a cost to our Nation since we have to hire someone to catch fish and bring them back to our area.**
 - *The Treaty recognizes Food, Social, and Ceremonial (FSC) fisheries.*
- **It's only 1 in 4 years that we can actually catch Sockeye. I see an increased demand on the 400,000 AFE now because we have to harvest in a non-traditional manner. We used to fish on a yearly basis but now we have no guarantee of the return so everyone comes with a different mindset now. They want to harvest more and in a different manner so that number (AFE) will fluctuate with increased demand. I don't want to be locked into the 400,000 AFE because 3 of 4 years are bad. First Nations are waiting to fish, knowing it's not on a yearly basis anymore.**
 - *It was pointed out that the FSC amounts Canada manages FSC fisheries to achieve is closer to 1.1 million when abundance permits. The 400,000 AFE is only the amount that is excluded prior to the calculation of International TAC.*
- **During the last renegotiation in 2013, the 400,000 AFE came up. Is it not possible to negotiate that number to be higher?**
 - *Canada could potentially raise this as part of the negotiations. However, it is a negotiation and we would need to consider what the U.S. might table/request in response and the implications for Canada.*
- **Is Canada considering more flexibility with the number of management units?**
 - *We could look into this. The more management units you have the more complex your management system is, the more constraints and obstacles you have to work around in-season.*
- **How should paragraph 14 (b) of the Treaty be understood? Is Alaska's Sockeye catch significant?**
 - *Alaska's catch varies each year; it's a combination of two things: 1) the run size (how much in total) and 2) other marine conditions that affect migratory patterns of Sockeye (i.e. warmer ocean conditions).*

Fraser River Sockeye and Pink Chapter Renewal

Les Jantz, Fraser River Panel DFO member, focused on the renewal of Chapter 4 from the presentation titled, “Pacific Salmon Treaty (PST): Chapter 4 Renewal (Fraser River Sockeye and Pink Salmon).” See Annex 2 for the presentation. Les pointed to comments and concerns that were raised during negotiations in 2009 and 2013 to help explain the current version of the chapter. He also outlined the Panel’s anticipated timeline for negotiations and noted the notional deadline set for completing negotiations was December 31, 2018 (to allow one year for domestic ratification). Les highlighted how DFO would be working closely with FRAFS and the First Nations Fishery Council (FNFC) between now and the deadline set to coordinate meetings and consultations. He also noted that DFO would hold a series of webinars in the fall and that following the PSC’s Executive Session in October that that Panel may have a better sense of what the U.S. is looking for in a revised chapter.

Les mentioned that both DFO and the Panel considered the Chapter to be working well and that this was largely due to the chapter’s focus on conservation, reasonable allocation split, priority to First Nations through the Aboriginal Fisheries Exemption (AFE), and good relations with the U.S. Issues identified by First Nations during the last round of negotiations were also outlined (see Annex 2 for the presentation).

Comments and Questions

(DFO responses noted in italics)

- **While First Nations raised issues with the AFE, was this brought to negotiations in the last round? Were there risks identified with doing this?**
 - *There was considerable discussion within the Canadian Section and the Fraser River Panel. However, I don't think it was formally tabled with the U.S. We'll need to do an internal analysis to explore this. This should be discussed in a Tier 1 discussion and later amongst the larger group.*
- **In all of our natural resource sectors, most of the energy goes to arguing over who gets what. I hear you speak to a conservation framework but with that said, how can the negotiations be influenced so parties have a greater interest in growing the pie we all share as opposed to arguing over this? To what extent is this being strategically placed into the negotiations? How do we grow the pie?**
 - *We do have discussions on that level with the U.S. and we do try to achieve the optimal number of spawners but there are other pieces that you mentioned that are more aligned with DFO's Wild Salmon Policy and its implementation plan. Habitat restoration is also being supported through PSC endowment funds. It should also be noted that we are now in a regime of low recruitment of Chinook, Sockeye, and Pink where due to lower productivity, the benefits we might have seen from actions implemented, we don't see because of poor survival situations.*

- What does the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) pose for this? Canada signed onto UNDRIP and so now we need to start implementing it. It's those on the ground that need to start implementing it.
 - *Currently, a national review is taking place on policies and how we collectively move forward will come from that assessment. Additionally, over the next 10 years, we're going to co-develop this work and we need to build capacity so Nations and DFO can develop approaches together.*
- Under UNDRIP (Article 18 & 19) it states that First Nations have the right to participate in decision making. Members on the Panel have been appointed by the Minister and the Regional Director General (RDG). I was nominated several times and was turned down but finally was appointed. I was nominated to be a Commissioner as well and also turned down multiple times. UNDRIP says we are supposed to make those appointments not the RDG or the Minister. UNDRIP is a powerful document and we keep pushing Canada to go along with it.
- What commitment does DFO have to fund the test fishing? It's up to the Government of Canada to manage these resources so why isn't this incorporated into DFO's budget?
 - *Canada has made contributions in recent years to the revolving fund. Everyone understands the issue and respects the fact that we cannot take pay fish while First Nations aren't receiving their Food, Social, and Ceremonial (FSC) fish.*
- There must be an examination of climate change and what impact that might have on the Treaty. We also need to understand how species at risk affect the fishery (i.e. Southern Resident Killer Whales).
 - *DFO Science is working on this. Depending on which model and scientist you look at there are a variety of outcomes but if we continue to see warming, then that's not going to be a good thing for salmon.*
 - *At the Fraser River Panel level, we don't know if what we're seeing is going to persist or if the situation will improve.*

After Lunch Discussion

Mike Staley, Fraser River Aboriginal Fisheries Secretariat (FRAFS), revisited issues raised by participants earlier in the session to provide further clarity and point to topics requiring Tier 1 discussion. Ken Malloway, Chief of Tzeachten First Nation, also explained how the number representing the Treaty's Aboriginal Fisheries Exemption (AFE) was agreed to. The number of management units was also touched on with Mike noting how fewer management units allowed for more flexibility while, a larger a number created less flexibility for harvest. Les Jantz, Fraser River Panel member, added that as you create more management units, in-season assessment becomes an issue. Les stated that the issue gets down to what is manageable, what can be assessed, and the costs associated with increasing assessment capabilities.

Comments and Questions

(DFO responses noted in italics)

- **Is there any debate over escapement between the U.S. and Canada?**
 - *DFO's Science Branch is looking into this and research is ongoing. Each system is unique in what it can support and there are consequences with a large escapement when the system is not accustomed to it. There is no one answer.*
- **Could you create a package that includes technical information to support further discussions on Alaska's catch, including what Alaska's catch is and the circumstances around it?**
 - *Yes, DFO we can provide this ahead of the Tier 1 meeting.*
- **Could you do a risk assessment to formally look at the risk of increasing the AFE of 400,000?**
 - *We can look into this.*

Update on Renewal of other Pacific Salmon Treaty Chapters (including Chapter 3)

Sue Farlinger, Lead Negotiator and Commissioner of the PSC, provided a brief presentation titled, "Pacific Salmon Treaty Renewal Update." The presentation included an update on the status of Chapters 1, 2, 3, 5 and 6 and next steps. See Annex 2 for the presentation. Sue focused on Chapter 3 (Chinook) and provided an overview of elements agreed to in principle. She also described Canada's domestic ratification process and the PCS's goal to have all chapters in force by January 2019.

Comments and Questions

(DFO responses noted in italics)

- **The U.S. failed to live up to terms of the last agreement while, Canada got close to where our agreement was and now you want to trust the U.S. to do what their saying? I don't think we should trust the U.S. 12.5% of stocks are going to Washington State and 7.5% to Alaska, seems that we're bending over backwards with no guarantee that the U.S. will do anything.**
 - *First, we have a reduction of 7.5% in the Southeast Alaskan fishery. Second, there is an immediate payback if the U.S. is over on the pre-season. We haven't had that before.*
- **As a technical person and member of the First Nations Caucus, the frustration I've had along the way is trying to figure out what this means in my territory. It's frustrating to have people ask what this means to our local Chinook and have to answer that question. Good to hear some funds are going to First Nations capacity but could you provide insight on how priorities are going to be placed to those funds?**
 - *One of our concerns has been not having good indicator stocks on our indicator stocks list. We have proposed Phillips and another new indicator stock. Whatever we negotiate with local First Nations about indicator stocks is something we would be looking to directly. In terms of Technical Committee participation, we do have a number of First Nation Caucus members who participate on those committees but the work is difficult.*
- **The reduction in the ISBM fisheries, have we done this before?**
 - *Canada has had a limit but this hasn't been an issue. There are benefits, including improved monitoring in the recreational industry.*

Summary and Next Steps

Mike Staley, Fraser River Aboriginal Fisheries Secretariat (FRAFS) and Angela Stadel, Manager, Consultation Secretariat DFO thanked participants for their feedback during the workshop and reviewed key comments identified during the session (see page 1). Participants were reminded that two additional sessions were scheduled in Kamloops and Prince George. Mike also pointed to FRAFS' upcoming Tier 1 sessions as an opportunity for participants to discuss technical issues and establish First Nations positions. Angela noted that a WebEx on Chapter 3 was also being scheduled for June 14th and that an invitation would be sent shortly.

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Annex 1
**Pacific Salmon Treaty Chapter 4, First Nations Session
May 31, 2018 (Campbell River, BC) Participant List**

Chief Ken Malloway	Tzeachten First Nation, Fraser River Panel
Tony Roberts Jr.	Wei Wai Kum, Fraser River Panel
Mike Staley	Fraser River Aboriginal Fisheries Secretariat
Kelsey Campbell	Fraser River Aboriginal Fisheries Secretariat
Eric Angel	Uu-a-thluk, Nuu-chah-nulth Tribal Council
Ken Barth	We Wai Kai Nation, A-Tlegay Fisheries Society
Frank Dragon	Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nation (KCFN)
Harry Flavian	Klahoose First Nation
Ronald Frank	Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nation (KCFN)
Tyee Francis Gilette	Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nation (KCFN)
Peter Hanson	Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nation (KCFN)
Donald Isaac	Namgis First Nation
Bernette Laliberte	Cowichan Tribes
David Schmidt	Gwa'sala-nakwaxda'xw Nations
Richard Thomas	Lyackson First Nation
Tony Hansen	Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nation (KCFN)
Andrew Jackson	Tla-o-qui-aht Nation
Darren Blaney	Homalco First Nation
Ted Assu	We Wai Kai Nation, A-Tlegay Fisheries Society
Sue Farlinger	DFO
Jennifer Nener	DFO
Lester Jantz	DFO
Angela Stadel	DFO
Sukhraj Sihota	DFO

Jamie Scroggie	DFO
Kent Spencer	DFO
Matt Mortimer	DFO

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Annex 2

Pacific Salmon Treaty Chapter 4, First Nations Session
May 31, 2018 (Campbell River, BC) DFO Presentations

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1. PST Chapter 4 2. PST Update_May
Consultation_May 20 June 2018.pdf

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Annex 3

Pacific Salmon Treaty Chapter 4, First Nations Session
May 31, 2018 (Campbell, BC) Agenda.

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