

Pacific Salmon Treaty Chapter 4 Renewal First Nations Session

June 18, 2018 | Prince George, BC

Draft Meeting Summary

Annex 1: Participants List

Annex 2: DFO Presentations

Annex 3: Meeting Agenda

Highlights of Participant Input

- Concerns about the appointment process for First Nations Commissioners, and Panel members
- Need to recognize what is outlined in UNDRIP (e.g. article 18 &19) and how we move forward with implementation
- Interest in raising the AFE of 400,000 for more protection
 - Would like more information about the trade off, including the value to US, the cost to Canada and the impact on FN before providing advice
- Clarity around Canada's FSC fisheries and Treaty exemption, potential impacts of Fraser Panel decisions on FSC access
- Duration of the chapter
- Clarification of Fraser Panel waters
- Conservation is the priority for the treaty and would like that to be carried through in the negotiations including specific Upper Fraser concerns
 - Protecting weaker stocks in the mix and preventing overharvesting of these weaker stocks

Welcome and Introductions

Mike Staley, Fraser River Aboriginal Fisheries Secretariat (FRAFS) and Angela Stadel, Manager, Consultations, DFO welcomed participants and walked through the agenda and format for the day. Mike and Angela noted that time could be set aside after lunch if participants wanted to hold a Tier 1 discussion that day. A quick round of introductions took place. Thomas Alexis provided a welcome on behalf of the Carrier-Sekani and acknowledged the traditional lands of the Lheidli T'enneh Nation on which the workshop was being held. The main focus of this meeting will be to develop an understanding of Chapter 4 Fraser River sockeye and pink salmon and hear from participant's key interests and information to inform the renewal of the chapter.

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

Ken Malloway, Fraser Panel member, provided some introductory remarks and background on the Hells Gate slide, the salmon in the Fraser River, and the international treaty between the U.S. and Canada. Ken noted the past and current First Nations representation on the Fraser River panel and the need for more First Nations participation. Ken noted the importance getting as much input from as many First Nations as possible including the upcoming July 9 Tier 1 meeting in Kamloops.

Marcel Shepert, Fraser River Panel member noted the importance of participants having a clear understanding of how this treaty would affect priority access rights as an Aboriginal person on the Fraser River. Marcel also noted the past and current First Nations representation on the Fraser River panel and the need for more First Nations participation. Being that this is a mostly First Nations fishery, due to 3 out of 4 years the commercial fishery is not fishing, it is important that First Nations engage fully and ask lots of questions. Marcel also stressed the importance to think long term as the chapter is usually in place for 10 years.

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 & Pink Salmon)." 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 walked through key elements of the current chapter, objectives and considerations for the chapter renewal, the role of the Fraser River Panel and Technical Committee, and regional issues related to Fraser River Sockeye and Pink salmon for participants to have a common understanding of Canada's commitments and obligations. See Annex 2 for the presentation.

Comments and Questions

(DFO responses noted in *italics*)

- **I don't think we have been doing a lot of enhancement (maximizing production) in the treaty. There is controversy around enhancement. We have 4 red listed stocks. We cap exploitation rates on early summers. Moving forward under a new treaty chapter, this idea of allowing more escapement is in our best interest in the Upper Fraser from a First Nations perspective.**
 - *Enhancement can mean different things. It is not just hatchery production. At a recent Fraser Panel meeting we put habitat restoration on the list of Fraser Panel Southern Endowment Fund potential categories for funding. Enhancement can also mean increasing escapement to terminal areas.*
- **Do you think the Pacific Salmon Commission will ever have to move from the Robson Street location due to costs?**
 - *The lease is reviewed regularly so part of overall financial management planning.*
- **Will you discuss how the American Tribes work in the Pacific Salmon Commission?**
 - *Yes we will. After the Bolt decision, US vs. Washington, the US Tribes were given a 50% share of the harvest of salmon and 1/3 of the decision making through representation in the Pacific Salmon Commission.*
- **Does the Fraser Panel have control over the whole Fraser River?**
 - *The 2 countries manage the Total Allowable Catch. We don't need to seek regulatory steps from Commission to open fisheries north of the panel water area. We need to resolve some discrepancies of what is panel waters. The diversion rate is around what proportion of sockeye are swimming outside vs inside of Vancouver Island. When fish come down the outside of Vancouver Island they usually swim into US waters. That diversion rate tends to shift through the season. It's higher earlier in season and shifts to the inside passage as the season goes on.*

- We've been without fish for decades in our area. Only lately in the last 60 years have we had problems. We tried to get FSC from coastal island Nations and even from Haida but we were told this is not allowed. This is stepping on our inherent rights.
 - *There are lots of complex issues related to allocation and access. Our focus today is on the international arrangements with the US but we will note domestic issues you raise and ensure these comments are also shared with colleagues who are working on FSC allocation and access.*
- You call it domestic, I call it international. We have tribes on both side of the border. Canada needs to support us because we are supporting the commercial fishery more than the food fishery.
- When is the last time there was Total Allowable Catch under the Fraser River chapter?
 - *2014, and a little in early 2015, zero in 2016/2017. For pink salmon we have had a little each year.*
- The Aboriginal Fisheries Exemption is about 400,000. How will it play out once some of the First Nations treaties are finalized? There is a fisheries allocation to these treaties. How would this play out with this exemption?
 - *The Chapter sets out what the Aboriginal Fisheries exemption is and how First Nations harvest is distributed. Some of this harvest will be from FN treaties and the rest from regular FSC fisheries. All treaty and FSC harvest above the 400,000 AFE become a part of the First Nations total allocation of 1.1m.*
- Does the US have the same 400,000 exemption?
 - *This is Canadian only. The US does not have an equivalent exemption. The Food Social Ceremonial amount is more than the exemption amount of 400,000 and this is a domestic management issue.*
- How is the Total Allocation number determined? Are people counting as they go into these management units?
 - *Test fisheries and protocols are in place to compare data from year to year. DNA analysis and scale samples give us stock identification information.*
- Do all management units put together attribute to the 400,000?
 - Yes.
- This does affect us in the Upper Fraser quite dramatically. The language in the treaty regarding the Early Stuarts is 20% of 400,000 (80,000). We need to update this language. We take very little Early Stuarts. Pressure gets shifted to Early Summer and Summers. It does put an unnecessary strain on some weaker stocks in early summer. Having the exemption out of the way early puts unnecessary pressure on our stocks in the upper Fraser.
 - *We try to spread the Total Allowable Catch out over the management units. If there are large returns of Early Summers in the lower river in Chilliwack, we factor that into allocations and fisheries decisions. Actual procedures are laid out in those paragraphs for how the Aboriginal Fisheries Exemption is distributed based on the harvest seen in the last 3 cycles. If there is no Total Allowable Catch available for Early Summers it shifts to the group that does have Total Allowable Catch.*

- The problem with management units is you don't count them past Qualark. You may know Chilko (DNA) and other stocks like Late Stuarts but you don't know where they are in the mix. You may be adversely affecting the Late Stuarts.
 - *There are a number of elements in the Integrated Fisheries Management Plan. The escapement plan is to protect weak stocks. Each year we establish a low abundance exploitation rate. If for example there is no Total Allowable Catch on Early Summers then we set a limit of what is the maximum impact you can have Early Summers. Our understanding is that by capping the harvest rates (total mortality) at that level it should allow weaker stocks to pass through. We have also tried to move away from the larger mixed stock fisheries. There are a number of examples where we retired licences and have moved the harvest for in-river demonstration fisheries. Our escapement plan tries to protect the weaker stocks and lesser productive stocks in whatever management unit they belong to. We do try to manage domestically to protect those weak stocks.*
- How does the Fraser Panel manage the fisheries?
 - *We have a panel meeting on Tuesdays and Fridays but sometimes we meet every day and on the weekends. Every day we get an update on the catch and DNA from the test fisheries. If the Fraser Panel downgrades the run it affects the First Nations fishery. The PSC gives us advice, they might advise us to downgrade the run but sometimes we take the advice or sometimes we hold off until the next week to decide whether to downgrade the run. This allows a little bit more fishing in the river before we decide to downgrade the run. The Fraser Panel does not manage the Food Social Ceremonial fishery directly but the escapement planning and Fraser panel decisions on the TAC may impact the fishery.*
- When you are doing these numbers and run size estimates do recreational or charter fisheries numbers come into what the Pacific Salmon Commission does?
 - *Data is provided but not on the same timeline as commercial data. Commercial data is usually within 48 hours max. Many Food Social Ceremonial fisheries are the same. We do have pretty good information over time what we expect the run size to be. The recreational fishery does not start retention until we can identify the Total Allowable Catch being large enough to generate commercial TAC. Those discussions go on pre-season and in season. Normally the sockeye catch is pretty moderate except for big years like 2010 and 2014. Recreational fishery targets on chinook and coho in US reports using a mail in card system so it is a year later before we have any indication.*
- The US has non-retention sockeye?
 - *It is not normally a targeted chinook and coho marine recreational fishery in the US. Sockeye bycatch is usually pretty minimal.*
- How was the 400,000 Aboriginal Fisheries Exemption determined?
 - *The Aboriginal Fishery Exemption since 1985 has always 400,000. The US was quite opposed to even considering that approach at that time. The history behind the number comes to what Canada understood the Food Social Ceremonial catch used to be at the time and the negotiations that took place. In the early 1980's things were different. It was a negotiated number that US agreed to.*

- **Are there any thoughts of that number increasing?**
 - *In each session we have heard this and in the last round of negotiations this was of interest. For any negotiation in the treaty we need to be prepared for what we would give up.*
- **We require minimum one million fish. For 100,000 First Nations that is 10 fish per year. I've been fishing for my whole life and it's a sad situation. We used to get 100 fish in our net in one day. That is what we are used to. For First Nations 400,000 fish is only 4 fish per individual.**
 - *We don't distinguish between Treaty vs Food, Social, Ceremonial fishery. We are doing our best to get fish everywhere for First Nations. The last few years have been really hard because the fish just hasn't been there. We have been managing for conservation. We've been under the influence of the warm blob for the past few years. This presents challenges for juvenile fish that went out to sea. Any amounts that are negotiated in First Nations treaty agreements are a component that Canada domestically manages. This is not necessarily captured in the international treaty with the US. Now we have a Food, Social, Ceremonial amount of 1.1 million. We will not engage in commercial and recreational fisheries if there is no Total Allowable Catch. That catch comes out of whatever the commercial Total Allowable Catch would be in the normal year. That is captured in our domestic management approach and not in the chapter language. The US used to have 50%, then 20-30%, now 16.5% of Total Allowable Catch.*
- **How much language in the treaty affects the domestic management? Somehow the fish allocated to us on the coast does not get up here.**
 - *We have larger stocks in some areas that you do not have access to as they do not migrate to the upper Fraser. In the aggregate management approach there is Total Allowable Catch available to them. In order to pass all of the fish through to the Upper Fraser would mean no First Nations fisheries down-stream and even then you still may not get enough fish. That's why in 2017 it was shut down to only minimal bycatch and terminal fisheries. It's a complex issue and very challenging. We try to address this through reductions in allowable exploitation.*
- **There are 8 possible targets up for SARA listing. Concern we will create the language but when it comes down to domestic management we are not going to have enough based on the treaty for our First Nations rights. A listing decision would have a lot of implications for everybody. Why we are working so hard to minimize stocks of concern? There has been no habitat work done since 1940 in our region.**
 - *We did have habitat restoration in the southern endowment plan proposals. There will be a callout for project proposals which will include proposals for habitat restoration work.*
- **You do not have a number of fish that we actually need to live on as part of your domestic process. We had the possibility to get 300,000 but they were taken away in the second run. The terminal area is all the way down the river. You are managing the fish as they are and you don't actually have a goal for what we actually need. Every time the fish are in the river you only calculate the spawners backwards, not what is needed north of Prince George. You don't have a number of fish that we require.**

Fraser River Sockeye and Pink Chapter Renewal

Les Jantz, Fraser River Panel member, DFO focused on the renewal of Chapter 4 from the presentation titled, "Pacific Salmon Treaty (PST): Chapter 4 Renewal (Fraser River Sockeye & Pink Salmon)." Lester pointed to comments and concerns that were raised during the negotiations in 2009 and 2013 to help explain the current version of the chapter as well as what Canada's objectives are with this round of negotiations. See Annex 2 for the presentation.

Comments and Questions

- **The concerns we have cannot be achieved within the language of the treaty.**
 - *The treaty defines the US share when there is Total Allowable catch, and conservation by Canada determining the escapement plans. The fish are not distributed evenly in the watershed, so we try to work that out in the domestic management.*
- **In the years when the diversion rate was low, have the US come back with any proposals for when they missed fish?**
 - *No. There is an overage and underage provision. This is not something that would stimulate an underage. That would only happen if Canada harvests in advance of the fish going into US waters. In 2014 when the fish were all coming through the north the US asked us not to fish close to border. We went to the commercial and they agreed to not fish.*
- **Science branch recommended starting at P25 levels. Start at P50 level for planning purposes (in the PST). Where is the language for that?**
 - *Paragraph 13. In many years we have been aggressive in not having the US fish early. They like to start their fisheries in the last week of July because of the diversion rate. Their objective is trying to take their Total Allowable Catch when there are fish around. Although we develop a plan at P50 we are looking very closely in season. If things are not tracking at the level of P50 we are making run size adjustments. What matters is how things unfold in season. Johnstone Strait fisheries and in river commercial or economic opportunity fisheries are not part of the treaty.*
- **With respect to panel waters. What are the benefits/ non benefits on the river? If you take out the whole Fraser watershed then where does our money come from?**
 - *This is chapter 4 of annex 4. Annex 2 lays out the description of the Fraser Panel area and includes the tributaries and lakes. It would be nice to clarify this but in the current chapter it's not included where the panel waters start and stop. If you brought the panel waters to Mission, fisheries below Mission are economic. Area E is a panel controlled fishery (lower Fraser gillnet Mission down). Even though the current description includes those waters we haven't been challenged with openings there.*
- **Where do the in river fisheries fit within this framework?**
 - *They are in the river and not part of the regular Fraser Panel process. We do mention Food, Social, and Ceremonial and demonstration fisheries as a courtesy.*

- **So if you removed the Fraser River from the panel would it give DFO ease?**
 - *Don't know that it would make a big difference. If you read the treaty as a whole there's an internal inconsistency in 2 areas.*
- **A good year can look a lot like a bad year. What is left to escape in the Stuart looks like what a poor year would look like? Is this a mechanics of the treaty or domestic?**
 - *This is domestic. The 1.1 million FSC includes what the objectives are for the whole watershed. This comes off the top before any other fisheries in Canada. Abundances that turn up in those terminal areas are low due to low run sizes. There are no impacts from the current chapter language. That's a current management setting (forecast and escapement plan and en route mortality).*
- **I get the sense that Canada doesn't want to propose changes. Given that 9 Fraser stocks are the same as Cultus are there any means for which this gets addressed in the treaty?**
 - *It is a domestic issue. It can play out with how we set our escapement goals and escapement planning. It is not directly anything that we would put in the treaty. The US would not want to go down the road of single stock management.*
- **Is the pre-season planning that we work on with the US based on the FRSSI model?**
 - *It is based on escapement plans informed by the FRSSI process and consultations. Canada providing forecast and escapement plans are all that we need in the treaty language. We are under harvesting some stocks right now to protect weaker stocks. We are trying to deal with that in the FRSSI process with that escapement plan. We do involve US folks in our forecasting review. We have heard back from them on occasion but they know it is our decision.*
- **You keep saying that Food, Social, Ceremonial planning isn't a part of this treaty talk. When you talk about adjusting pre-season levels or in season estimate of stocks it does have a direct effect on everything including Food, Social, Ceremonial needs. It's been mentioned today that 3 out of 4 years that it has been a Food, Social, Ceremonial fishery. Some areas are really dependent on those in season fisheries.**
 - *We do make decisions that will have some influence on outcomes of Food, Social, Ceremonial fisheries. In general within all the chapters the goal is to keep as much domestic decision making out of the treaty as possible. We try to have as little disruption of domestic fisheries as possible. A conference call line is set up for every meeting in season that anyone can dial into. For each First Nation group we have an interior planning call on a weekly basis. We are trying to be as inclusive as we possibly can.*

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

Chuck Parken, Joint Technical Committee on Chinook, provided a brief presentation titled, "Pacific Salmon Treaty Renewal, Chapter 3 (Chinook) June 18, 2018." The presentation focused on Chapter 3 (Chinook) and provided an overview of elements agreed to in principle. (See Annex 2 for presentation).

Comments and Questions

(DFO responses noted in italics)

- **The last go round there was a 30% reduction. Is this 12.5 on top of that?**
 - *Yes, the new chapter would include up to a 12.5% reduction in the current allowable harvest levels under the Treaty, which include the 30% reduction in WCVI agreed to in 2009. For example, if the catch level in the 1999 Agreement was 100,000, then in the 2009 Agreement the catch was reduced by 30% to 70,000. For the 2019 Agreement, the 12.5% reduction is applied to the 2009 agreement catch level (70,000) which gives an allowable catch of 61,250.*
- **Is there a concern that Alaska has not reached reduction targets?**
 - *The new chapter includes accountability provisions through immediate payback for Alaska, and Canadian AABM fisheries, if they go over the preseason allowable catch limit. For example: If the preseason allowable catch limit is 100,000 and the fishery takes 120,000 then next year the overage (20,000) comes off of the preseason allowable catch. Individual stock based management fisheries will also have accountability provisions. Those rates will be evaluated over a 3 year period using a running average. The average will not use years when the stock has exceeded its exploitation limits and exceeded management escapement measures. If in 2 years the ISBM fishery has gone over there is one more year to reconcile the exploitation with the management objective. When a country doesn't meet performance criteria they have to come up with a plan for remedial management actions to bring forward to the Commission.*
 - *The chapter with proposed changes will be going up to decision makers in late August/September. These 5 chapters are to go up as one agreement. There is not an agreement on Chapter 2 yet which does have implications for Chapter 4. We want to have an agreement on those 5 chapters together.*
 - *Chapter 2 issue is related to Alaska's Skeena and Nass sockeye fishery in week 31 (last week of July). In the last few years the Skeena fish have been later. So these protections in the Agreement are not doing as much now as they used to do for Skeena and Nass, when the migration timing was earlier in the year. It's been suggested that Alaska extend that week of protection into week 32.*
- **We had spring and summer 5-2 chinook. Are there any considerations of reducing or protecting there? We lack information on chinook stocks. We used to depend on them. People would like to go back to harvesting chinook.**
 - *Spring 5-2 stock and the summer 5-2 stocks are identified as separate stock management groups. We have identified an indicator stock in the Chilcotin River for the spring 5-2 stock group and the Chilko River for the summer 5-2 stock group.*
- **Will the chapters themselves reference United Nations declarations in them?**
 - *It is an international agreement. UNDRIP has been raised in these meetings. In terms of going forward there is a policy review on how Government of Canada will proceed in collaboration with indigenous groups on implementation of UNDRIP.. There is some language at the front end of the treaty that is different for Canada and the US with regard to Indigenous rights.*

- **Stuart River and Salmon River stocks have had their escapement programs cancelled and we have asked about estimating the escapements there, but it has been dismissed year after year...not considered a stock for escapement estimation. Is there going to be an effort now to solidify proper management for those stocks. We only have 4 basic stocks.**
 - *The Salmon River is very challenging as it is a very large watershed, with many tributaries and the fish can go to many locations. This makes it difficult and very expensive to survey. There is potential to use other types of escapement methods on the Salmon, but there are also other locations nearby that are not surveyed and are they are likely more cost-effective. The Stuart River has this problem where every so few years there are wind events in late August on the lake which lead to increased turbidity in the river and the fraction of the population that is visible for counting changes (one can't see into the water very far in those conditions). This creates a problem using the data from one year to the next because the variability in visibility can't be measured separately from variability in abundance. Some years we can do these surveys and some years we can't, and we were getting consistent measurements to evaluate the escapement abundance. We tried genetic methods, but to the Stuart is genetically similar to the Nechako and we can't distinguish them with the current technology.*
- **In Chapter 3 and 4 a lot of the language is towards conservation methods. There is more push for habitat restoration. Is there anything that puts a push with the Pacific Salmon Treaty towards making sure all these stocks are rebuilt right from the headwaters?**
 - *There is a habitat component but it has not had as much focus.*

Tier 1

Tier 1 facilitated by Mike Staley, Fraser River Aboriginal Fisheries Secretariat (FRAFS).

1. Interest in expanding the Aboriginal Fisheries Exemption. This may not ever be met but the targets should not be significantly less than the needs.
2. The test fishing issue. Supportive of direction by Canada that most fish need to be available by harvest for First Nations rather than pay for the programs. Consensus that there would not be the use of fish money carried forward to fund other years. Accounting would be done for the year of.
3. Aggregates - Particularly in this area there is an interest in having more of the ability to manage component stocks to determine their fate. In order to do that we need more aggregates. Not 24 but we have the data to inform us about more than the 4. We have 8 reasonable management calculations that have been done.
4. Representation – On the panel but also on the Commission. Fundamental shift needed, as it is an extremely important resource to indigenous people particularly in this region and BC. The Commission and panel level are places where big ticket things are discussed about access and growth of viability of that resource. UNDRIP, makes it quite clear that they have to be there and provide their own representatives.
5. COSEWIC Listings – Recognition that it's going to take a lot of work and there is probably one of those in almost every one of these aggregates.
6. Steelhead – Why did we not talk about steelhead? We don't have the information to say much about it. It is encountered in marine fisheries of all kinds and they are rare. We don't know where they are coming from. More on the US and how they deal with species at risk and how US would deal with it.

Summary and Next Steps

Mike Staley, Fraser River Aboriginal Fisheries Secretariat (FRAFS) and Angela Stadel, Manager of Consultations thanked participants for their feedback during the workshop. Mike pointed to FRAFS' upcoming Tier 1 sessions as an opportunity for participants to discuss technical issues and establish First Nations positions. Angela noted that if any Nations want meeting specifically bilaterally on Chapter 4 they will work with Jennifer Nener to set that up. Jennifer Nener, Director, Salmon Management and Client Services thanked participants for their participation.

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Annex 1**Pacific Salmon Treaty Chapter 4, First Nations Session
June 18, 2018 (Prince George, BC) Participant List**

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| Chief Ken Malloway | Fraser River Panel |
| Marcel Shephert | Fraser River Panel |
| Mike Staley | Fraser River Aboriginal Fisheries Secretariat |
| Christina Ciesielski | Carrier Sekani Tribal Council |
| Brian Toth | Lheidli t'enneh First Nation |
| Chief Jackie Thomas | Saik'uz First Nation |
| Ashley Watson | Saulteau First Nation |
| Darren Haskell | Tl'azt'en Nation |
| Kent Gerow | Ts'il Kaz Koh First Nation (Burns Lake Band) |
| Dave Feil | Northern Shuswap Tribal Council |
| Andrew Meshue | Northern Shuswap Tribal Council |
| Melissa Pierre | Ts'il Kaz Koh First Nation (Burns Lake Band) |
| Pete Erickson | Nak'azdli Whut'en First Nation |
| Shamus Curtus | Upper Fraser Fisheries Conservation Alliance (UFFCA) |
| Thomas Alexis | Tl'azt'en First Nation |
| Harold Prince | Nak'azdli Whut'en First Nation |
| Jennifer Nener | DFO |
| Lester Jantz | DFO |
| Melissa Warnock | DFO |
| Angela Stadel | DFO |
| Chuck Parken | DFO |
| Linda Stevens | DFO |
| Robin McCullough | DFO |

Annex 2

Pacific Salmon Treaty Chapter 4, First Nations Session
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PST Chapter 4
Consultation_May 20



PST Overview of
Chapter 3_Webinar_

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Annex 3

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