



Pacific Salmon Treaty Chapter 4 Renewal First Nations Session

May 28, 2018 | Chilliwack, BC
Draft Meeting Summary

Annex 1: Participants List
Annex 2: DFO Presentations
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Highlights of Participant Input

- Overview of Pacific Salmon Treaty Chapter 4 Fraser River Sockeye and Pink Salmon:
 - Interest in raising the AFE of 400,000 First Nations would like more information about the AFE and the impact on First Nations before they provide advice
 - Concerns raised about the appointment process for First Nations Commissioners, and Panel members and a need to recognize what is outlined in the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP)
- Fraser River Sockeye and Pink Chapter Renewal:
 - First Nations want conservation to be the priority for the treaty and would like that to be carried through in the negotiations
 - It is premature for First Nations to be presenting specific interests and advice right now. Tier 1 meetings are scheduled for July and the fall and the hope is the output from those sessions will be well articulated points First Nations would like DFO to carry forward for negotiations.
 - The Mission hydroacoustics site has an impact on the Sumas First Nation and affects their ability to access Food, Social, and Ceremonial (FSC) and economic opportunities. Request for the Government of Canada and DFO to get together with Sumas First Nation to discuss the site.
 - DFO/Canada needs to do more engagement and provide more opportunities for First Nations to provide input into the trade-offs Canada will take as negotiations progress. First Nations want to ensure the process is iterative and they are involved throughout the negotiations.
- Update on Renewal of other PST Chapters, including Chapter 3 Chinook:
 - Technical components of Chinook and the treaty are highly complex and challenging and there is a need to build capacity in First Nations and engage First Nations leaders and technicians in this process.

Welcoming Comments

Angela Stadel, Manager, Consultation Secretariat and Mike Staley, Fraser River Aboriginal Fisheries Secretariat (FRAFS), welcomed participants to the workshop.

Ken Malloway, provided a welcome from Tzeachten First Nation and acknowledged the traditional lands on which the workshop was being held.

Workshop Objectives and Agenda Review

The co-facilitators reviewed the objectives of the workshop, as follows:

1. Provide information and support understanding of how Chapter 4 of the Pacific Salmon Treaty works and has been performing.
2. Seek feedback and perspectives to inform development of Canada's approach to negotiation of a renewed Chapter 4.

See Annex 3 for workshop agenda.

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

Ken Malloway, Chief of Tzeachten First Nation provided some introductory remarks, with a history of the slide at Hell's gate and the origin of the Pacific Salmon Treaty as well as the appointment of First Nations to the Fraser Panel and other Pacific Salmon Commission panels and committees. Ken highlighted the interest in seeing higher representation of First Nations, especially as the commercial harvest has only been happening once every four years. Ken also highlighted the following:

- Emergency listing process for Steelhead, and how this may constrain other fisheries.
- There are 4 management groups – Early Stuart, Early Summer, Summer, then late Summer used by Fraser panel and modelling and prediction is complicated
- Importance of consultation and these four sessions across the province in order to get information and interests early. We're consulting in Campbell River because they have access to Fraser River stocks, on the east coast of Vancouver Island. 150 of 203 bands in the province have access to Fraser River stocks.

Next, Jennifer Nener, Fraser River Panel Canadian co-Chair and Director of Salmon Management and Client Services, DFO, presented an overview of the "Pacific Salmon Treaty Chapter 4 Fraser River Sockeye and Pink Salmon". The presentation included an overview and background on the Pacific Salmon Treaty (PST) and the Pacific Salmon Commission (PSC). In addition, the presentation included key elements of Chapter 4, the role of the Fraser River Panel and Technical Committee, and regional issues related to Fraser River Sockeye and Pink salmon. See Annex 1 for the presentation.

Questions/Discussion

(Responses by DFO staff are noted in italics)

The following questions/comments were raised about the representation on the Fraser Panel.

- **What is the difference in the role between alternates and not?**
 - *Altogether, we have 12 Canadian participants. 6 panel members, 6 alternates. In practice, we don't distinguish between who is an alternate and who is a full panel member. Operationally, whoever attends participates and is actively involved.*
- **The one seat Tony Roberts Jr. occupies is an alternate, is that a First Nations sea**
 - *When Brian Assu was appointed to be a Commissioner, we had to fill his vacant seat which was a combined First Nation/Commercial seat so we went to First Nations Fisheries Council (FNFC) to seek nominations. We do seek three nominations. We did request a commercial fishing representative and it is a First Nations seat.*
- **When will Canada or DFO look at the structure of the Panel? The comments I heard earlier in the 90s is that it was commercial driven. When I look at the panel representation, it looks lopsided with 3 First Nations, 6 commercial, and 1 recreational. You mentioned Ken represents Lower Fraser. I would challenge that he serves the interest of lower Fraser. Canada has to find a better way, Nation to Nation, government to government. When I look at this, mid-river isn't served on the Fraser Panel. There's a gap DFO and Canada need to work on.**
 - *We look for FNs to bring perspectives on the area, so not to represent all First Nations in the area. I know it's very challenging in-season for everyone on the panel to reach out to their constituents as we literally have minutes to hours to make decisions and there isn't anybody who has time to reach out to their constituents. Pre-season and post-season is a little different but in-season is extremely challenging. In terms of composition of the panel, yes, it is 6 commercial, 3 FNs, 1 recreational. It used to be 7 commercial and 2 FNs, so it is shifting over time. One challenge is when there are TACs to support commercial fisheries. Those decisions have to be made in the room. The two countries have regulatory control of those waters for Fraser River sockeye, so we need panel members to make the appropriate fishing recommendations. The panel doesn't make decisions about FSC, only commercial. All the FSC are domestic management decisions once we know what the run sizes are. We need to have more discussions about this over time.*
- **If you look at the trends in the last several years, trends reflect that 1 out of 4 years are relevant to commercial fisheries so if you look at trends, it's the way the representation should reflect.**

The following questions/comments were raised about the 400,000 Aboriginal Fisheries Exemption.

- **What was the 400,000 exemption based on?**
- **My recollection of the discussion and if you look at the records, 400,000 was the reported catch for food and social, prior to this concept of FSC before the Sparrow decision. In the 80's the estimated harvest was approximately 400,000. There were a couple of First Nations participating around the negotiations and brought in to provide perspectives, based on their understanding at the time. It wasn't an unreasonable number. It wasn't an allocation, it was a number US agreed to before a proposition of shares (Fraser River Panel Member).**

- **Prior to the 1985 treaty being negotiated harvest of Fraser sockeye and pink salmon were shared equally between the two countries. Between the 1985 and the 1999 agreements sockeye shares for the US were in the 25-35% range. During this time the WCVI coho fishery was declining rapidly, and Canada was no longer catching large amounts. The balance of total harvest for all species was larger for the US and had to be reduced. To balance harvests the US shares for sockeye needed to be reduced to about 15%. The US offered 20% because it was 10% for the tribes and 10% non-Indians They stood their ground on 10% so the non-Indians agreed to reduce the share to 6.5% in exchange for 10 million from the endowment funds, to buy back much of their gillnet fleet. That's why the northern fund is 160 million, southern fund is 140 million. The last year of the initial 8 year arrangement was 1992. In-season the US only had about 35,000 left to harvest with substantial numbers of fish in their waters. The US said we're still fishing, so they breached the treaty. There was no arrangement leading up to 1999, there were only one year deals. This time of lack of trust and agreement is referred to as the salmon wars. It was a low point in the relationship between Canada and US.**

- **The AFE set aside, was this for all Fraser watershed or a portion of it?**
 - **At time the 1985 Treaty was being negotiated, this 400,000 number was the estimated harvest in the Fraser River by First Nations for FSC purposes. Initially this number was only applied to in-river harvests for FSC but over time has evolved to being applied to wherever Fraser sockeye are harvested in South Coast marine or in-river FSC fisheries. It is recognized by DFO that this does not currently cover the full FSC licensed amounts of 1.1 million Fraser sockeye, but the remaining amount after the AFE is removed (700,000) is allocated to FSC fisheries before any recreational or commercial fisheries are permitted on Fraser sockeye.**

 - *The US would love for the AFE not to be on there at all. There is a dial in number for every Fraser River panel meeting, you can dial in and listen and you will always hear in-season PSC staff coming forward with harvestable projected forecasts. Paragraph 14 is really about Alaskan sockeye, Fraser. Alaskan fisheries target pink salmon and there are provisions in chapter 2 that are supposed to regulate the fisheries to reduce by catch of Skeena and Nass sockeye in that harvest. Concerns that climate change is resulting in later run, so more Fraser sockeye potentially being caught in pink fishery in Alaska. We do receive data on those stocks from Alaska but we use different DNA technology which is conducted post-season so not used for in-season management.*

 - *For Fraser Pink, it is a little easier, there's only one management unit, and then there's language about how the two countries manage decisions. It has been fairly collaborative. We haven't had any substantial issues.*

Other questions/comments

- **Just wanted some clarity around Alaskan interception, are those stocks of concern, Early Stuarts, Early Summer interceptions? I think even in 2010, and 2014, it was upwards to 100,000, which is ok if there is abundance but if we still have stocks of concern.**
 - *The main time period when sockeye are caught in district 104 is end of July and into middle of August. By then, if you're an Early Stuart sockeye, you probably wouldn't make it to the spawning grounds, generally summer runs and lates. So there will be lates (Cultus fish, potentially), but generally more abundant stocks. Because of this, we did have our hand up on Chapter 2 renegotiations on Skeena/Nass sockeye, a. Chapter 2 is still in negotiation.*
 - *Regarding test fisheries, we do have quite a few test fisheries that run during the season and provide us with information on the magnitude of the returns and take DNA samples, which are run in season. Then we have other marine test fisheries, south end of the island. We have 12 test fisheries altogether, with different purposes, some gillnet, troll. So a lot of sampling because we do need to know what's out there. It is expensive and in years of low return, it's harder. We did come up with an interim solution to pay for the test fishery and we have had reviews of both test fisheries and hydro acoustics.*
- **You made arrangements to pay for test fisheries, what kind of arrangements?**
 - *Canada and U.S. agreed upon different thresholds, and pay different amounts. So in conservation zones, to meet escapement goals and FSC, the countries share 50/50. Principle is there's different trigger points, if we meet aboriginal fisheries exemption and some TAC, and don't meet FSC, then Canada offered to pay the whole bill but US has agreed to pay 16.5%. Once the FSC amount is achieved, then we can take so called "pay fish". Is there an amount you're allowed to take? That is addressed each year in the IFMP planning discussions. In terms of the number of fish, it can be, at the lowest number 50,000-60,000 to truly cover the costs and roughly 100,000 or maybe a little more in some years. But we've been nothing close to that in recent years. We weren't even meeting our sample size objectives.*

Fraser River Sockeye and Pink Chapter Renewal

Lester Jantz, DFO and Fraser Panel member, presented an overview of the Chapter 4 renewal, "Fraser River Sockeye and Pink Chapter Renewal". This portion of the presentation included changes from the last renewal period, and what Canada's objectives are with this round of negotiations. See Annex 1 for the presentation.

Questions/Discussion

(Responses by DFO staff are noted in italics)

- The “reconciling the definition of the panel waters”, what does that do and what does that mean? Why are they reconciling? *It’s more to get what the panel waters and what the panel process is right now. Right now, there are no discussions on what’s going on in fisheries occurring in the lower Fraser River. They get the information but it’s not part of the process so why is it captured as “panel waters”? Prior to 1985 when International Pacific Fraser Salmon Commission (IPFSC), they did everything, escapement, enhancement in the watershed but there was no discussion about FSC fisheries within that process, it was still domestic. The marine environment is subject to changing ecosystems and on their journey they go past a lot of fish farms.*
- *If you go to the articles, the treaty is broad enough on all fisheries but practice has been commercial. And one description of Fraser panel waters left is commercial, which is left over from the convention language so that gave the IPSFC the authority/ability to do work, stock assessment, spawning ground prior to 1985 so it was a U.S./Canada organization that was in the waters practicing and handling fish so that language gave them the authority. It was never taken out, but the U.S. does not want to have anything to do with that. There are outstanding questions, how to treat economic fisheries in the river, above Mission, where Mission is upper boundary of commercial fishing, pilot sales after 1992, particularly Harrison, and potentially ones in Shuswap and further up river. The US has been silent, but every once in a while, they ask about the commercial fisheries up there, especially if they get big. If the Chilcotin government decides to take fish, potential for them to be a harvestable amount that might be equal to U.S.*
 - *It depends on the circumstances. These terminal fisheries are not going to influence their catch or their international TAC so they may raise issues but it won’t influence the outcome in season or what they can harvest. The only circumstance I can think of where the U.S. may be concerned is some of these terminal fisheries, there’s way too many fish and spawning is going to be really low which will influence future productivity.*

Following the presentation, participants were asked:

What interests and issues would you like to see considered in the renewal of Chapter 4?

Questions/Discussion

(Responses by DFO staff are noted in italics)

- **The Wild Salmon Policy (WSP), are you ever going to think about how to address what the WSP is supposed to do with the Conservation Units? Are we going to be bringing WSP considerations into the chapter?**
 - *That would be challenging to do with the U.S. They prefer not to be influenced by a single stock. Domestically yes, we can be addressing those things. We try to, we do take additional management actions to protect stocks like Cultus that don’t influence U.S.*

- **But they want to know what's happening on test fisheries. If they worry about that, then not worry about the big one like Chilko this year, I think it should be somehow addressed. Because using MUs, all the big guys survive but all the little ones don't survive.**
 - *We do try to address that with our escapement plans, to take into consideration the lower productive stocks, the late run Adams return is harvested at a lower exploitation rate than it could withstand to allow Cultus fish to escape, so we're trying to make some compensation with our own escapement plan. Canada can address it in our own small way, through the current process, but it's certainly something we factor into our escapement plan.*

Tier 1 Meeting

A Tier 1 meeting took place for 30 minutes after lunch. Following the Tier 1 meeting, participants reconvened for a Tier 2 meeting.

A summary of points from the Tier 1 discussion includes:

- **In dealing with the exemption of 400,000 and based on discussion this morning, there is interest in raising it for more protection for First Nations FSC harvests. What is the impact on First Nations? This would help them when providing advice to Canada on what they should do.**
- **A reminder that the treaty and a foundational point from First Nations is conservation. Having the fish around and the environment they live in is paramount, and have that recognized in the language in the treaty. Point is that conservation be carried through in the negotiations, as the priority. It's not just about harvest, where there's history to support it, where focus and objectives have been for commercial interests. Recently, it's been about primary fishers for First Nations for FSC, been more of a conservation agreement than harvest. Somehow reflect that in the position Canada takes, certainly from the First Nations perspective. The language that's in UNDRIP, these are their fish, these are their resources. Canada is the manager at this point in history and they want those around for them to manage in the future.**
- **Wanted to make a point in the process. This may be more of a domestic issue, but there are concerns about the appointment of commissioners, panel members and the process that Canada's used. From the UNDRIP, it says if they choose their representatives, this morning, Jennifer used the word representative and participant at times and you need to be careful. If they're going to be representatives, if there's a First Nations process to choose reps for PSC, those be respected, not just recommendations. That's my understanding from UNDRIP around "their representatives".**

- **Point about Tier 1 meetings – It’s premature in terms of putting together interests and advice. There are tier 1 meetings scheduled for July and the fall. The output of which will hopefully be a set of fairly well articulated points First Nations would like you to carry forward for negotiations.**
- **I want to make a comment on the Mission hydroacoustics. It really is about Sumas First Nation interests. When the Mission hydroacoustics site became operational in the 70s, there wasn’t recognition for engagement or consultations. Sumas, and DFO have tried to come to an arrangement there but that hasn’t happened. It affects our ability to access FSC and economic opportunities and with decline in stocks, to get fish in our freezers and on the table. This year might be a rare year not only for FSC and economic purposes but even with that year, that hydroacoustics site has an ability to impact our fishing. There’s a boundary that’s 500 yards and DFO need to get together with Sumas to talk about that. Last year, in 2017, Sumas created their own declaration and we have policies, operational regimes, to share with DFO and Canada.**

Update on renewal of other Pacific Salmon Treaty chapters, including Chapter 3 Chinook

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 1 for the presentation.

Questions/Discussion.

(Responses by DFO staff are noted in italics)

- **I shared this during our Tier 1 meeting but for chinook, it was an eye opener with all the technical components. For chinook, it is so complex and over the 5-6 years, it’s been a both a challenging and good experience just to learn. How do we engage First Nation leaders and technicians? Especially over 1-2 meetings. It’s literally taken me 5-6 years to get a general understanding, let alone the technicians. The Americans, and the Alaskans in particular, truly have a lot of technical folks. We have good folks on our side, on the Canadian table. I look forward to closing out this treaty period. Sue, wondering if you can speak to Chapter 2 complications/ implications? I look forward to wrapping up chapter 4 as well, as part of the negotiations, and seeing if we put it back on the schedule with the other chapters.**
 - *I have to say that this negotiating the chinook chapter was truly a learning experience for everybody. We will need the capacity of your technical folks and understanding of your peoples in the communities. Your capacity is building, we need you. I think we should think hard and we are talking about how to fund, engage and build capacity in communities who don’t have the capacity. There will be opportunities and I would encourage you to take them.*

- *We are setting up a call on chapter 3. We're working on a date, and an email is going out tomorrow so look out for that.*

Questions/Discussion on Chapter 5.

- **At the end of it, it became quite clear that the methodology to set the status, marine survival rates, is probably not going to be useful. Might be only useful for Fraser coho, but there's no process being analyzed for those other management units, lower Fraser and Georgia Strait. There was quite good discussion (at recent Coho reference point workshop) on what the output would be, being there as technical people, not as reps for First Nations, and I think for interior Fraser coho, the suggestion was made that it be marine survival rates and escapement data. It seemed odd to have spawning escapement numbers and abundance should be the setting status. If you have an abundance measure, maybe you should use it. There were some methodological changes that were recommended. The basic point, is for the MU for lower Fraser and Georgia strait, the ball hasn't been moved or rolled anywhere. That's still stagnant. That's from a scientific perspective.**

Questions/Discussion on Chapter 6.

- **Is there anything you can take from your experience with negotiating the Chum chapter and foretell on sockeye that we haven't heard yet from US?**
 - *We have heard consistently that their fisheries on everything are becoming very limited, particularly on the inside, and to some extent on the outside. They're in the mode of "we need fish". And the issue of the test fishery, the U.S. view is Canada should just use the fish to pay for the test fishery.*
- **The commissioners leave the southern panel with negotiations and chapter language changes and it was really a principle about conservation and maintaining what we had. As Sue said, the tribes came back and said, "We want more fish" and that was their principle. Southern Panel had provided their advice. That was the best mechanism we could find to conserve on the bottom end of their breakpoint, when there is abundance, was the best we could do.**

It appears like we're doing more for Chapter 4 than the other Chapters. And there's interest in having some input on the trade-offs Canada will make. If they're willing to roll over and not touch the allocation but in the event something like that comes up, you've started the engagement, you owe it to dialogue with FNs so they understand what trade-offs are needed for sockeye. We haven't had a firm statement from the U.S. that allocation is off the table.

 - *Regarding timing, we were hoping to have more substantive discussions with the US on Chapter 4 through the summer. What we've heard is they haven't been able to engage with their commissioners because they've been focused on other chapters.*
- **When we had our fishing meeting, it was pointed out our main food source was spring salmon and now sockeye so our sockeye needs to be looked after somehow by somebody. Make sure they come back.**

Participants were thanked and asked to provide feedback about the presentation, format, and level of information.

- **It's good information. We have different groups of people, Chiefs, tech folks, councilors. It's challenging to absorb in a day. I'm wondering how DFO/Government of Canada can do better for the next round of negotiations? I'm already thinking about 2019-2028. What's the investment for the treaty and how do you balance it across the chapters? I'm interested to see how DFO can spread the resources and how we look after the various species. People put focus on chum because there was an abundance but what about other species?**

Summary and Next Steps

The co-facilitators extended a thank you to participants for their attendance, participation, and feedback in the session. Participants were reminded that three more sessions were scheduled in Campbell River, Kamloops and Prince George in the coming weeks. In addition, an invitation to participate in a WebEx focused on Chapter 3 would be sent out shortly.

Annex 1:

Pacific Salmon Treaty Chapter 4, First Nations Session May 28, 2018 (Chilliwack, BC) Participant List

Chief Ken Malloway	Tzeachten First Nation
Mike Staley	Fraser River Aboriginal Fisheries Secretariat
Kelsey Campbell	Fraser River Aboriginal Fisheries Secretariat
Clifford Alec	Ts'kw'aylaxw
Carol Hope	Seabird Island
Murray Ned	Sumas First Nation
Carrie Milsop	Sumas First Nation
Kim Charlie	Sts'ailes
Chad Edwards	Spuzzum
Chief James Hobart	Spuzzum
Debbie Abbott	Nlaka'pamux Nation Tribal Council
Donald Sam	Nlaka'pamux Nation Tribal Council
Ralph Abbott	Lytton
Grand Chief Ronald John	Chawathil
Chief Mike Campbell	Boothroyd
Sue Farlinger	DFO
Jennifer Nener	DFO
Lester Jantz	DFO
Angela Stadel	DFO
Alison Chang	DFO
Matthew Parslow	DFO
Melissa Warnock	DFO

Annex 2

Pacific Salmon Treaty Chapter 4, First Nations Session
May 28, 2018 (Chilliwack, BC) DFO Presentations

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1. PST Chapter 4
Consultation_May 20



2. PST Update_May
June 2018.pdf

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Annex 3

Pacific Salmon Treaty Chapter 4, First Nations Session
May 28, 2018 (Chilliwack, BC) Agenda.

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