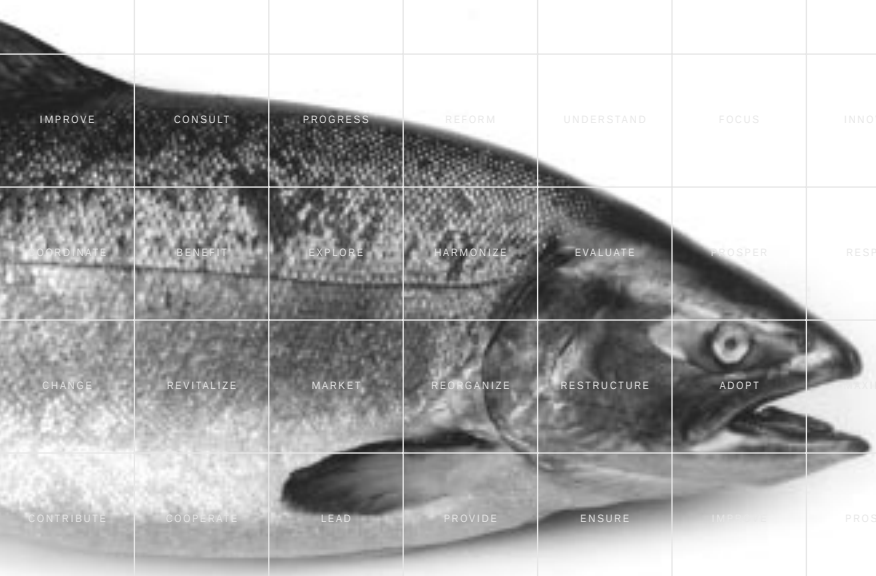
Treaties and Transition

Towards a Sustainable Fishery on Canada's Pacific Coast

Donald M. McRae | Peter H. Pearse | April 2004



Contents

Chapter 1 Introduction

From Port Edward to Steveston there is a pervasive sense of apprehension and anxiety out on the fishing grounds on Canada's Pacific coast. During our investigation, we quickly became aware of a deeply troubled fishery, faced with uncertainty about resources and markets, unprecedented structural changes in the industry, pressures from tough new environmental laws to protect endangered stocks, and from treaties with First Nations.

As this report was being prepared, Canada's Minister of the Environment was petitioned to make an emergency listing of sockeye salmon running into two coastal watersheds as endangered – an action that could curtail substantially the salmon fishery in Georgia Strait. The future reallocation of rights to fish under treaty settlements has raised questions about the cumulative effects on established fishers. Many fishers fret about their place in a post-treaty world and worry they might be forced to bear the burden of these settlements.

There is some good news. Some smaller fisheries, including halibut and shellfish, have made important economic gains and are now among the highest-value fisheries in B.C. However, the commercial salmon fishery is verging on bankruptcy.

Historically the backbone of the commercial, aboriginal and recreational fisheries, salmon declined sharply during the last decade both in abundance and in market value. While some stocks have recovered, markets have not.

Prices for salmon declined for the ninth consecutive year. Sales of herring roe in Japan were the worst on record. Coastal communities suffered the closure of more processors. Recent shifts in exchange rates have cut prices across the board. And seafood producers in other fishing countries have been reorganizing themselves, increasing the competition in foreign markets.

Change and instability are not new to the Pacific fisheries. Fishers are accustomed to fluctuations in fish stocks and fish prices. But these changes can not be described as the traditional cyclical nature of fishing – and their long-term implications are far from clear. Indeed, in the face of these new pressures, governmental policy itself is often perceived as unclear, incoherent and lacking direction.

Underlying these problems is the fact that the social and economic contributions of the fisheries have, for many years, fallen far short of their potential. In spite of the high-valued resources of the Pacific coast, the fisheries have been marked by overfishing and depleted stocks, over-expanded fishing fleets, low earnings, unstable employment and internal conflict. These failures directly diminish fishing benefits, whether purely economic, as in the commercial fishery, or in the form of cultural and social values, as in the aboriginal and recreational fisheries. But these shortcomings have been particularly conspicuous in the commercial salmon fishery and, with increasing competition in international markets, the failures of management and inefficiencies in production threaten that fishery's economic viability.

The need to examine carefully the changes taking place in the fisheries – where they are leading and how they can be reconciled with the public interest in both treaty settlements and prosperous, sustainable fisheries – is the reason for our inquiry. Responding to widely held concerns, the governments of Canada and British Columbia resolved to cooperate in a review of their approaches to fisheries settlements in treaties and to see where these and other issues affecting the fisheries are leading. An agreement signed in July 2003 between the federal Minister of Fisheries and Oceans and the province's Minister Responsible for Treaty Negotiations and Minister of Agriculture, Food and Fisheries, provided for an independent, two-person Task Group to undertake this review.

The two governments appointed us to carry out the work. We were asked to define a "vision" of the fisheries in a post-treaty era, and to make recommendations that would provide certainty for all participants in the fisheries, ensure conservation of the resource, provide for sustainable use and effective management, improve the economic performance of the fisheries and provide equitable arrangements among fishers and fair treatment of those adversely affected by treaty settlements. These terms of reference are broad, but they do not include some important issues of fisheries management such as habitat protection, international agreements and aquaculture, and therefore we have not investigated these.

This report summarizes our conclusions, based on intensive consultations and investigations during the past eight months, and contains our recommendations for improvements.

We benefited throughout our consultations from the thoughtful contributions of many groups concerned with the fishery and received a number of detailed submissions. We have considered all of these views carefully and, although we have not always endorsed them in this report, they have all in different ways influenced our thinking. While our work was underway a First Nations Panel on Post-Treaty Fisheries was established to look at many of the issues before us. We also benefited from discussions with the members of that Panel.

We begin with a brief outline of the changes taking place in the commercial, aboriginal and recreational fisheries and the challenges they face. We then describe a vision for the post-treaty fisheries, which we believe offers a substantial but nevertheless achievable degree of progress toward the two governments' broad objectives for them. The following chapters deal with the reforms needed to realize this improvement and produce the sustainability and economic certainty the Pacific fishery needs.

During our investigation, we came to conclude that sweeping changes are required to respond to new challenges – treaty settlements, stricter requirements for resource conservation, and measures to save the salmon fishery from economic ruin. We recognize that the impact, especially on the commercial fishery, is likely to be profound and the adjustments that must be made will inevitably change long-established traditions and fishing practices. It will require understanding, leadership and cooperation from governments and fishing organizations. Our report, then, is a call to action.

Chapter 2 The Changing SeaScape

To set the stage we begin with a brief sketch of the fisheries, the changes, challenges and new opportunities.

The marine fisheries of B.C. are commonly divided into three sectors: the commercial, aboriginal and recreational fisheries. Although they all target the same fish, they are markedly different in size and structure, in catch and in technology used.

Table 1 shows the catches of the major species of fish caught on the Pacific coast grouped into four broad categories.

The commercial fishery dominates the catch in every category and accounts for 96 per cent of the total catch of all species measured by weight, although the weight of catch is not a reliable measure of value for any of the fisheries. The aboriginal and recreational sectors are heavily oriented toward salmon and both concentrate on particular species of salmon. Managing changes in the allocation of fish among these three sectors, expected to result from treaty settlements, underlies much of the discussion in this report.

table 1
Catches of Major Species by Sector (TONNES[a])

SPECIES	COMMERCIAL FISHERY	ABORIGINAL FISHERY[b]	RECREATIONAL FISHERY[c]	ALL FISHERIES[d]
Salmon	23,000	3,373	2,020	28,393
Herring[e]	25,775	n.a.[f]	—[g]	25,775
Shellfish[h]	18,375	n.a.[f]	672	19,047
Groundfish[i] and Other[j]	114,600	n.a.[f]	1,624[g]	116,224
Total	**181,750**	**n.a.**[f]	**4,316**	**189,439**[k]
Per cent of total[k]	**96**	**1.7**	**2.3**	**100**

[a] 1999 – 2002 four-year averages (B.C. Ministry of Agriculture, Food and Fisheries), except for recreational catch (see footnote b).
[b] Includes only salmon for food, social and ceremonial purposes.
[c] Data from the 2000 National Sportfishing Survey. Salmon and groundfish catches, reported in numbers of fish, have been translated into tonnes using estimates of average weight. Catches of herring and other species are included in groundfish.
[d] Includes only commercial and recreational catch for species other than salmon.
[e] Includes roe-herring, spawn-on-kelp, food and bait herring.
[f] Data not available.
[g] Catches of herring are included in groundfish.
[h] Includes geoduck, intertidal clams, prawns, crab, shrimp, sea urchins, sea cucumber, etc.
[i] Includes halibut, hake, sablefish, Pacific cod, rockfish, sole, etc.
[j] Primarily tuna.
[k] Excluding aboriginal catches of species other than salmon.

THE COMMERCIAL FISHERY

Fishing was one of the first commercial activities of Europeans settling here. And since that time, it has undergone almost continuous change in size and structure, the products it produces and in methods of production. These changes are driven primarily by the interplay of shifts in the abundance of species, technology and international markets.

The first commercial industries were based on sea otters and whales. These responded to keen demand in foreign markets, and then declined sharply as stocks were depleted. Fisheries based on sturgeon and pilchards similarly burgeoned and then collapsed. In turn, the advent of canning technology late in the 19th century gave rise to the salmon industry, supplying high-quality food fish to markets around the world. Similar innovations in processing technology have enabled the development of a progression of new fisheries and fish products. They continue to do so. Within the last few years, the salmon industry, for decades the overwhelmingly dominant fishery, has been overtaken in terms of landed values by new fisheries such as geoducks, hardly known a decade ago.

Table 2 shows some economic dimensions of the commercial fishing sectors. Particularly noteworthy is the relatively low productivity in the salmon fishery. Although this fishery recently generated only 11 per cent of the value of landings, it employed 43 per cent of the fishers and 59 per cent of the vessels in the fishing industry. The commercial salmon fishery is heavily reliant on one species of salmon – sockeye. Over the past four years, sockeye have accounted for an average of 65 per cent of the landed value of all salmon (and in one year as much as 78 per cent) – making the commercial fishery especially vulnerable to changes in sockeye abundance.

table 2
Dimensions of the Commercial Fishery

SPECIES	LANDED VALUE [a] (THOUSANDS $)	NUMBER OF ACTIVE VESSELS [b]	ESTIMATED NUMBER EMPLOYED IN FISHING [b]
Salmon	41,700	1,700	3,570
Herring	47,400	495	1,645
Shellfish[c]	113,900	630	2,950
Groundfish and Other	150,600	810	2,000
Total	**352,975**	**2,885** [d]	**8,375** [d]

Sources: 2001 & 2002 B.C. Seafood Industry in Review and GS Gislason, 2003, SWOT Study: B.C. Seafood and Recreational Fishing

a Value of the catch before processing. Average during the four-year period 1999 – 2002 (B.C. Ministry of Agriculture, Food and Fisheries).

b Department of Fisheries and Oceans for 2002.

c Excludes cultured shellfish.

d Total is less than the total of the column of numbers because many vessels and fishers operate in two or more fisheries.

The striking changes that have beset the fisheries over the past decade are clearly revealed in *Table 3* below. One is the general decline in production. Landings, measured in tonnes in all fisheries taken together, declined by 37 per cent, and the decline was felt in all major fisheries. The main cause was reduced abundance of fish, believed to be mainly a result of a prolonged cyclical decline in the productivity of the ocean, which has recently shown signs of reversing. More conservative fishing policies also contributed to the decline.

Another change is the drop in the value of landings, but by a lesser proportion – 19 per cent – because some fisheries benefited from price increases over the period. A third is the general contraction of the commercial fishery by about half, measured by the decline in employment and active vessels.

As shown in *figure 1*, the value of salmon landings (measured as the average of the four-year period 1999 to 2002, compared to a similar period a decade earlier) fell by a remarkable 80 per cent, due mainly to decline in the harvest, aggravated by declining prices. In contrast, the value of the harvest of shellfish, groundfish and minor species rose, in the case of shellfish by 115 per cent, even though the quantity harvested fell. Herring experienced a decline of about a third in the value of production, all attributable to lower harvests, but herring belongs with the fisheries that showed economic improvement, because reorganization of the herring fishery led to reduced costs, which have improved earnings considerably.

table 3
Changes in the Commercial Fishery over the Past Decade

	% CHANGE
Total landings (TONNES)	-37[a]
Value of landings ($ MILLIONS)	-19[a]
Total wholesale value ($ MILLIONS)	-14[a]
Number of fishers employed	-47[b]
Number of fishing vessels	-50[b]
Number of salmon licences	-51[b]

[a] Per cent change from 1990 – 93 four-year average to 1999 – 2002 four-year average (B.C. Ministry of Agriculture, Food and Fisheries).
[b] Per cent change from 1989 to 2002 (Department of Fisheries and Oceans).

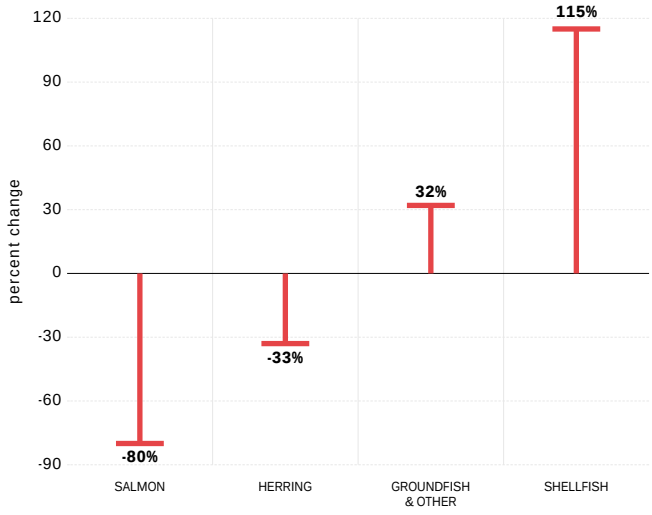
Thus, the economic condition of the salmon fishery has been in a perilous slide over recent years, while other fisheries have improved. The explanation for this difference is complicated by the disruptive changes besetting the fisheries – shifts in the abundance of resources, price fluctuations, new market competition and regulatory changes, among others. But, undoubtedly, a primary factor leading to the improvement in other fisheries is the fundamental restructuring associated with their adoption of individual quotas, which have enabled fishers to concentrate their efforts on maximizing their economic returns, rather than on simply competing for their catch. These innovations have not, so far, been extended to the salmon fishery, where an over-expanded salmon fleet, coupled with the declines in salmon abundance, catches and prices have resulted in an industry in crisis.

THE ABORIGINAL FISHERY

Fish have always held an important place in the life of the First Nations of this region. Thus, increased access to fish resources and opportunities to advance their economic interests through fish production figure prominently in First Nations' approach to treaty settlements.

figure 1

Change in the Value of Landings over the Past Decade



There are two broad categories of aboriginal fisheries: a fishery for food, social and ceremonial purposes (aboriginal food fishery); and the commercial fishery.

The aboriginal food fishery has been recognized by the Supreme Court of Canada as a right enshrined in the Constitution, and thus has priority over all other fishing.

The commercial fishery, by contrast, has been held not to be a general aboriginal right but one that must be proved on a case-by-case basis in the light of the particular historical circumstances of each First Nation.

The aboriginal fishery is conducted under a variety of arrangements. Most are organized under agreements between First Nations and the Department of Fisheries and Oceans (DFO) under the Aboriginal Fisheries Strategy, which has provided for the aboriginal food fishery as well as for the commercial fishery. Agreements for the commercial fishery, known as "Pilot Sales Agreements" were intended as interim measures to provide First Nations with commercial access to fish, pending the settlement of treaties. These agreements were terminated in 2003 following a decision of the provincial court (known as the Kapp decision) declaring them contrary to the Charter of Rights and Freedoms. That decision is now under appeal.

The conclusion of treaties with First Nations is providing a different legal basis for the aboriginal fishery. To date, the Nisga'a treaty is the only modern-day treaty to have been concluded. However, six Agreements in Principle (AIPs) have since been negotiated, four of which have been ratified. In most AIPs provision for the aboriginal food fishery is included in the treaty itself, while the commercial fishery is included in a separate Harvest Agreement.

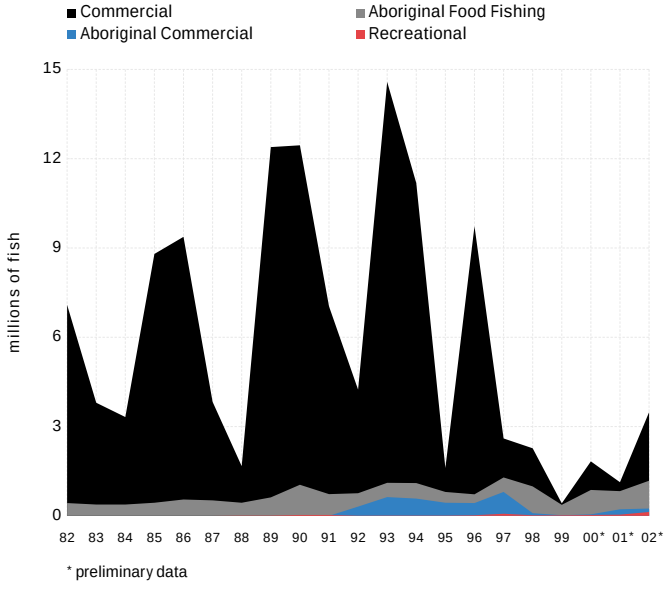
The aboriginal fishery involves a wide variety of species of fish and shellfish. However, salmon – and especially sockeye salmon – is overwhelmingly important. *Figure 2* illustrates the trend over the last two decades of aboriginal catches in relation to commercial and recreational catches of Fraser River sockeye salmon – stocks under particularly heavy demand from all sectors. The figure is dominated by the four-year cycle of sockeye abundance that has had a dramatic effect on commercial harvests. Over the decade 1992 to 2002 the aboriginal commercial catch under Pilot Sales accounted for an average of seven per cent of the total Canadian harvest of Fraser River sockeye and, as illustrated in *Figure 2*, showed no obvious increasing or decreasing trend.

Salmon are by far the most important species for the aboriginal food fishery; and sockeye accounts for more than 80 per cent of the salmon taken coastwide. Fraser River stocks account for more than half this total. Over the past decade, harvests of Fraser River sockeye for the aboriginal food fishery averaged 12 per cent of the total catch, but this portion has varied widely, mainly because the aboriginal catch remained fairly steady while the commercial catch fluctuated dramatically.

Surplus Spawner Licences, which provide for fisheries on surplus stocks in terminal areas, also offer important economic opportunities to First Nations. However, the catch is erratic and unpredictable and shows no clear trend. In recent years sockeye have dominated the catches of surplus spawners, although chum and other salmon are also significant. The bulk of these harvests are taken on the North coast, especially from runs of sockeye to the Skeena River. Data on these harvests is scarce, but in most years they account for close to three per cent of the total sockeye harvest.

figure 2

Estimated Catch of Fraser Origin Sockeye 1982 – 2002



ABORIGINAL PARTICIPATION IN THE COMMERCIAL FISHERY

In addition to fisheries specifically for First Nations, there is significant aboriginal participation as individuals, corporations and organizations in the general commercial fishery, as shown in *table 4*. Aboriginal people held or exercised 27 per cent of the licences issued for commercial fishing in 2003. An estimated 14 per cent of the value of all commercial landings is harvested under licences held by aboriginal people.

Aboriginal participation in the fishing industry varies widely by fisheries. For certain species, such as green sea urchin, it is insignificant, while more than 40 per cent of the value of salmon and 80 per cent of the spawn-on-kelp is landed under licences or other authorizations held by aboriginal people. Some 31 per cent of the jobs in commercial fishing are held by aboriginal people, although aboriginal employment is concentrated in the more labour-intensive fisheries such as salmon and clams.

Of the total 2,007 commercial licences held by aboriginals, 1,761 are in forms that cannot be transferred into non-aboriginal hands, including 1,085 licences held communally.

THE RECREATIONAL FISHERY

Marine fish provide unparalleled recreational opportunities in B.C. In 2002, saltwater sportfishers purchased 333,753 fishing licences; they fished an estimated 2.1 million fishing days, 1.65 million days of boat-based fishing and 0.45 million days of shore and other land-based fishing.

According to DFO's 2000 Survey of Recreational Fishing in Canada, residents of the province comprised 78 per cent of all anglers. The remaining 22 per cent were from outside the province or the country.

The recreational fishery supports a significant industry based on fishing resorts, guiding services and related tourist services and facilities. In 2002 marine sportfishing generated an estimated $550 million in sales – $120 million to lodges, $30 million to charters and $400 million to boat and equipment dealers, accommodation facilities, and various other retail businesses. That same year the recreational fishing sector provided an estimated 7,230 jobs, mostly seasonal.

table 4
Aboriginal Participation in the Commercial Fishery

	TOTAL NUMBER	ABORIGINAL NUMBER	ABORIGINAL SHARE (%)
Number of Registered Commercial Fishers[a]	8,142	2,100	26
Number of Vessels	2885	595[b]	21
Number of Commercial Licences	7,468	2,007	27
Landed Value of Catch ($ MILLIONS)	364	52	14

[a] Excludes employment in fisheries that do not require a Fisher Registration card, notably some clam fisheries, the Nisga'a fishery and fisheries based on escapements surplus to spawning requirements.

[b] 564 vessels owned and 31 operated by aboriginal persons.

Although DFO's website cautions "it is not advisable" to draw conclusions about the coastwide catch from their catch data, some trends are apparent. Salt water angling activity in B.C. declined over the past decade. In 2000 the number of angler days was estimated at 2.1 million, a significant decline from 1990 when there were 3.1 million angler days. The decline has been most apparent in Georgia Strait, and is undoubtedly attributable to the low abundance of chinook and coho salmon in recent years. In 2000 recreational fishers accounted for 8.8 per cent of the coastwide catch of salmon and a little more than two per cent of all species combined.

Recreational fishing is not just about catching fish. Angling in tidal waters is outdoor recreation and encompasses all the attributes of enjoying the natural environment and the "opportunity and expectation" to catch a fish. On this basis it is apparent that the recreational sector generates substantial social and economic benefits from its relatively modest harvest of fish.

The recreational fishery is also susceptible to changing environmental and economic circumstances. Fish abundance, bag limits, area closures, selective fishing, and even perceptions of fishing opportunities, can have a major effect on participation rates and on fishing resorts and related service industries.

THE CHANGING SEASCAPE

The Pacific coast fishery, which historically has been so central to the identity of B.C., is changing. The salmon fishery is declining in value and the industry lurches towards insolvency. At the same time, fisheries virtually unknown in the past have grown in value and significance and now take economic pride of place in the fishery. The commercial fishery, still the dominant fishery, is thus undergoing a profound transformation. Parallel to this, and an integral part of this change, is the growth through treaty settlements of the First Nations fishery, particularly a commercial fishery. These settlements will have an impact not only on who will harvest the catch, but even where fisheries are located. Much smaller by comparison, in terms of catch, is a world-renowned recreational and sport fishery, which contributes importantly to the economic and social fabric of the province.

Chapter 3 Treaties and the Future of the Fisheries: A Post-Treaty Vision

We have been asked to provide a vision of the fisheries after treaties have been concluded. This is an important task. Stakeholders have impressed upon us the prevailing uncertainty and anxiety about where treaty negotiations and other recent developments are leading. This uncertainty about the future, and the consequent apprehension among fishers about their position in the fishery, undermines confidence in the treaty-making process, deters investment and long-term commitment and generates friction among fishing groups.

In order to consider what the future holds in a post-treaty era we must first consider what is happening in the negotiation of treaties and the implications of their outcomes. We will then turn to our vision for the fisheries.

THE SETTLEMENT OF TREATIES

Treaties are detailed, binding agreements between the Crown and First Nations. With the exceptions of a treaty extending into the northeast corner of B.C., the 14 Douglas Treaties signed on southern Vancouver Island in the 19th century and the Nisga'a treaty, which entered into effect in 2000, treaties have yet to be concluded with B.C. First Nations.

Currently negotiations are underway between Canada and B.C. and 55 First Nations at 45 separate negotiating tables. Meanwhile, four First Nations have ratified Agreements in Principle (AIPs), which form the basis for the negotiation of final treaties, and there are two further AIPs that have not been ratified. All these AIPs have included provisions for fisheries.

TREATIES AND HARVEST AGREEMENTS

The Douglas Treaties use only general language about the First Nations' rights to fish. However, the Nisga'a treaty provides for specific quantities of each species of fish for food, social and ceremonial purposes (aboriginal food fishery) including 10.5 per cent of the Nass River sockeye and 0.6 per cent of the pink salmon. The treaty also sets out arrangements for managing this fishery.

Provisions for an additional commercial fishery are set out in a separate Harvest Agreement referred to in the treaty but not formally a part of it. It provides the Nisga'a an additional allocation of 13 per cent of the allowable catch of Nass River sockeye and 15 per cent of the pink salmon for commercial use. The Harvest Agreement is a long-term, 25-year "evergreen" agreement, replaceable at the option of the Nisga'a after 15 years, with another 25-year agreement.

The importance of fisheries varies in treaty negotiations according to historical use, resource abundance, location and other factors, but the AIPs concluded so far follow the Nisga'a model in that they distinguish between provisions for fish in treaties and provisions for fish in Harvest Agreements. Generally the fish caught under treaty provisions must be used for the aboriginal food fishery and are not to be sold, whereas fish caught under Harvest Agreements are for commercial use.

Some AIPs do not provide for specific quantities of fish for the aboriginal food fishery but rather set out a process for determining these quantities with reference to the abundance of stocks.

Harvest Agreements create a new form of fishing right. They include provisions for the harvesting and sale of fish, the location of permitted fishing, catch monitoring and fisheries management. They provide for the transfer of licences to be held communally by the First Nation.

More importantly, they allot each First Nation a specific share of the commercial catch. Provisions are included in the Harvest Agreements to ensure that these fishing rights will be exercised on the same basis as the regular commercial harvest. For example, AIPs include provisions that First Nation fisheries are to have the same priority in fisheries management decisions as the regular commercial fishery. They also provide that fishing under Harvest Agreements is not to be conducted when other commercial fishing in the area is closed.

The combined effect of future treaties and Harvest Agreements will provide First Nations with defined shares of the catch for the aboriginal food fishery as well as for commercial purposes. The right to fish in the aboriginal food fishery will enjoy the security of constitutional protection, will be perpetual and will take priority over all other fisheries. The right to commercial fish will be a long-term, renewable contractual commitment, with the same priority as other commercial fishing.

SHOULD THERE BE HARVEST AGREEMENTS?

We heard much criticism of Harvest Agreements. Moreover, while honouring the Harvest Agreements that have been provided for in AIPs so far, the B.C. government has withheld its consent to future Harvest Agreements pending our report. Thus, we felt it necessary to consider whether Harvest Agreements were an essential part of the treaty-making process or whether they should be reconsidered.

Harvest Agreements are the mechanisms by which commercial allocations are provided to First Nations. The model was adopted in the Nisga'a Final Agreement to overcome opposition to giving treaty (and thus constitutional) protection to commercial rights to fish.

Opposition to Harvest Agreements is threefold:

First, the rights to fish granted in Harvest Agreements are viewed as reducing the size of an already diminishing pie; eventually there will be no more fish for the non-treaty commercial and recreational sectors. We address this concern later in this chapter.

Second, established commercial fishers fear that those who fish under Harvest Agreements will have an advantage over them in terms of the rules (and hence the cost) of fishing.

Third, there is concern that rights under Harvest Agreements will give First Nations priority over the non-treaty commercial sector. The former have long-term, guaranteed rights to a share in the fishery; the latter have only a limited, annual right to engage in a competitive fishery.

In our view, the concern that Harvest Agreements provide better rights than those of existing commercial fishers should be addressed not by reducing one group's rights but by ensuring that all groups have rights appropriate for the conduct of a fishery. The objective should be a fully integrated commercial fishery based on long-term security for all fishers. And in our view, the long-term rights provided by Harvest Agreements are well suited to commercial fisheries generally. Subsequent chapters of this report will set out how this same long-term security can be provided to all commercial fishers. Once an integrated commercial fishery is achieved with all operating under the same rules and regulations and no group with priority over the other, as the AIPs contemplate, Harvest Agreements will be just the historical basis under which shares were allocated to First Nations.

Thus, we have concluded that there is no reason to object to the conclusion of Harvest Agreements. If allocations of commercial fish are to be made to First Nations, there has to be some contractual arrangement for doing this. A Harvest Agreement is an appropriate mechanism for making such allocations.

The objective should be a fully integrated commercial fishery based on long-term security for all fishers.

IMPACT OF TREATY SETTLEMENTS

Treaty settlements are expected to transfer to First Nations increased access to fish. The questions repeatedly raised in our consultations were "How much?" and "Will there be any place left for non-treaty based commercial and recreational fishers?" During our inquiry more than a few people warned that the present approach in negotiations, as reflected in recent agreements, could have the cumulative effect of transferring all fishing rights to First Nations.

No one, of course, can predict the outcome of treaty negotiations. Each set of talks is conducted independently, each with its own dynamic and priorities. In particular, some First Nations historically have had greater involvement in fishing than others. Some see fish mainly as a source of sustenance, others as an economic opportunity; and each faces a myriad of other challenges at the negotiation table.

While we have little quantifiable data upon which to draw, given the widely held anxiety about this controversial issue we have taken a detailed look at the agreements to date and their implications for post-treaty fisheries. Our analysis suggests the fears that there will be no room left for non-aboriginal fishers if treaty settlements continue on their present path are exaggerated.

We examined the settlements so far with regard to allocation of sockeye salmon, the species in strongest demand and specifically provided for in AIPs. We expect future settlements for other species will have smaller allocations.

For the six AIPs negotiated so far, we calculated the increase in the provisions for sockeye for both food fisheries and commercial use over the First Nation's actual catches during the past decade, and extrapolated this increase across all First Nations in B.C.

Based on our calculations, if future settlements increase sockeye allocations by the same magnitude as the AIPs agreed to so far, the cumulative result after all treaties are settled will be an allocation of 33 per cent of the total coastwide catch of sockeye to First Nations under their provisions for food fishing and commercial use combined.

We must emphasize the statistical basis for making these estimates is weak. However, we experimented with alternative ways of analyzing and extrapolating from these data – by region, with reference to catches under Pilot Sales and allocations under the Aboriginal Fisheries Strategy – and all tended to confirm this order of magnitude; none exceeded 38 per cent.

However, we must emphasize once again the limitations of these calculations and consequently, the inferences that can be drawn from them; they merely indicate where negotiations so far are leading. We also note that these calculations do not include the rights held by aboriginal people and communities in the regular commercial fishery.

Nevertheless, this is the best evidence available on which to base expectations about reallocations of fish through treaties and related settlements and it suggests that there is no justification for the view that the present approach to fisheries settlements will leave no place for non-treaty based fishers. Thus, our vision of post-treaty fisheries includes substantial opportunities for all sectors – commercial, aboriginal and recreational.

A VISION FOR THE FUTURE

We have remarkably rich fish resources here on Canada's Pacific coast. Our fishing and fish-processing sectors are well established, technologically advanced and supported by a highly skilled labour force. The world outlook for seafood products is bright. Our fish resources contribute to the social and economic quality of life in this region. These opportunities allow a vision of the fisheries with an abundance of healthy natural resources, managed sustainably and used efficiently for maximum value – a vision that we believe is realistically achievable with a willingness to make necessary reforms, and with committed and effective leadership.

There are four critical elements to our vision of a post-treaty fishery. It is a fishery that is sustainable. It is a fishery in which the participants are treated equitably and fairly. It is a fishery that is managed effectively. It is a fishery that realizes its full economic and social potential.

SUSTAINABILITY

Our vision of the future includes, first and foremost, healthy resources. Conservation of fish resources has traditionally meant protection of stocks from overfishing and habitat disturbance; although we see improvement in these functions, our vision goes beyond this to the more modern, higher standard of sustainability of aquatic ecosystems. It calls for precautionary management in the face of uncertain events or limited scientific knowledge about stocks and their interdependence, protection of weak stocks and endangered species, more sensitive and rigorous management of harvesting, more sensitive and selective fishing methods and the establishment of marine protected areas.

Our vision of post-treaty fisheries includes substantial opportunities for all sectors – commercial, aboriginal and recreational.

Consistent with the contemporary concept of sustainable development, our vision implies sustainability not only of natural resources but also of the economic benefits derived from them. Not all benefits are commercial; some are cultural and recreational. Our vision involves an organization and policy framework for the fisheries that will enable those who harvest fish to realize the highest possible value from them.

EQUITY

Our vision calls for equitable treatment of all those engaged in the fisheries. The issue of equity bears on our inquiry in four important ways.

First, there is the way fish resources are shared among stakeholders. Treaty-making resolves historic issues of inequity and provides for sharing of the fishery between aboriginal and non-aboriginal people. In this context, equity is achieved through the conclusion of treaties and Harvest Agreements and mutual acceptance of the arrangements outlined in them.

Second, equity involves fair treatment of different groups of fishers competing in the same fishery. In this context, the standard of equitable treatment is usually taken to mean equal or similar treatment for all the fishers in a given fishery, with none operating at an advantage over the others. In particular, equity involves commercial fishers operating under Harvest Agreements fishing alongside other commercial fishers operating under similar rules, in integrated fisheries.

Third, equity refers to the treatment of established fishers who are adversely affected by treaty settlements. It is well accepted that the cost of treaties should be borne by all Canadians. Thus, when rights to fish are transferred to First Nations under treaties, equity demands that fishers whose rights are thereby diminished, be fully compensated for their losses.

Finally, equity is often invoked in the context of transfers of fishing rights, such as arrangements for transfers among fishers and vessel owners. In this case, equity requires that bargains be effected between willing sellers and willing buyers.

Our vision of a post-treaty fishery incorporates all of these elements of equity in fisheries management regimes, providing a clear and acceptable policy framework for organizing fisheries and making changes to adapt to new circumstances.

EFFECTIVE MANAGEMENT

Our vision of a post-treaty fishery is one managed to ensure that the goals of sustainability, equity and economic improvement are met. Management will be designed to achieve conservation goals, to deliver fish to meet treaty commitments and at the same time ensure that fishers can make the most beneficial use of their catch and adjust their access to resources to best advantage. In short, an economically viable fishery will be achieved. Fisheries will be managed in accordance with an overarching plan for each major stock, within which individual and group obligations and targets can be reconciled and coordinated. There will be a single final authority with the power to ensure that fishing and fish-management activities are integrated and coordinated under the plan. The result will be an integrated commercial fishery. The same rules of fishing and the same standards for reporting catches will apply to all commercial fishers.

Our vision for the future includes a much-expanded role for fishers themselves in fisheries management. Co-management arrangements will enable fishers to participate constructively in managing the fisheries in a way that is both sustainable and consistent with the public interest. These arrangements will also ensure that the cost of management directly attributable to each fishery will be borne by those who benefit from the harvest.

AN ECONOMICALLY VIABLE FISHERY

Our vision of the fishery is one that is economically viable – where those who fish have secure access to the resources on which they depend, based on long-term, well-defined and quantified fishing rights. Secure rights, embedded in a clear framework of government policy, will provide the certainty fishers need to organize themselves, and to invest and operate to maximum advantage.

Our vision for the future includes a much-expanded role for fishers themselves in fisheries management.

The fisheries of the Pacific coast can be managed and utilized to realize their full sustainable economic potential. For too long they have fallen well short of that potential. An economically viable fishery is one where the users, responding to market incentives, allocate the resources amongst themselves in order to realize maximum value. Thus, those who harvest will be encouraged to utilize their fish to best economic advantage.

In spite of access to unusually valuable resources by world standards, the Pacific fisheries have been characterized by over-expanded fishing fleets, high costs and unstable incomes and employment. This must change. The public costs of managing the fisheries, providing support to fishers and vessel owners, and reorganizing the industry must no longer exceed the value of production.

Improved economic performance must extend to aboriginal and recreational fisheries as well. The benefits in these other fisheries are often not priced or marketed, but they can be enhanced. Aboriginal and recreational fishers should be able to utilize their fish flexibly and realize maximum economic and social value from them.

In short, we see real opportunities for all fishers – commercial, aboriginal and recreational – in the post-treaty world. We also foresee substantial achievement of the objectives set out in our terms of reference – sustainability, certainty and security for those who fish, equitable arrangements for sharing access to resources and transferring fishing rights, and effective and efficient management.

Our consultations have revealed a good deal of support for these objectives within the fishing community. We detect a new willingness on the part of all involved in the fisheries to work together to achieve this vision and to find practical solutions to the challenges posed by the post-treaty era in fisheries.

...we see real opportunities for all fishers – commercial, aboriginal and recreational – in the post-treaty world.

Chapter 4 The Management Challenge

Time and again, fishers and organizations we consulted were critical of the way fisheries are managed. Indeed, we found a general lack of confidence in the ability of the Department of Fisheries and Oceans (DFO) to manage fisheries. These concerns, together with new challenges to management posed by treaty settlements and conservation needs, have led us to focus particular attention on the question of management. In this chapter we examine the way in which fisheries are managed, especially the salmon fishery, and consider ways in which management can be adapted to meet these challenges. Our discussion focuses on the need to move towards co-management arrangements.

ALTERNATIVE MODELS OF FISHERIES MANAGEMENT

In the fisheries, management refers to the full spectrum of activities: conservation of fish stocks and their habitats, control of catches, provision of rights of access to resources, allocation among fishers, monitoring of harvests and regulatory compliance and enforcement. DFO has primary responsibility for all these.

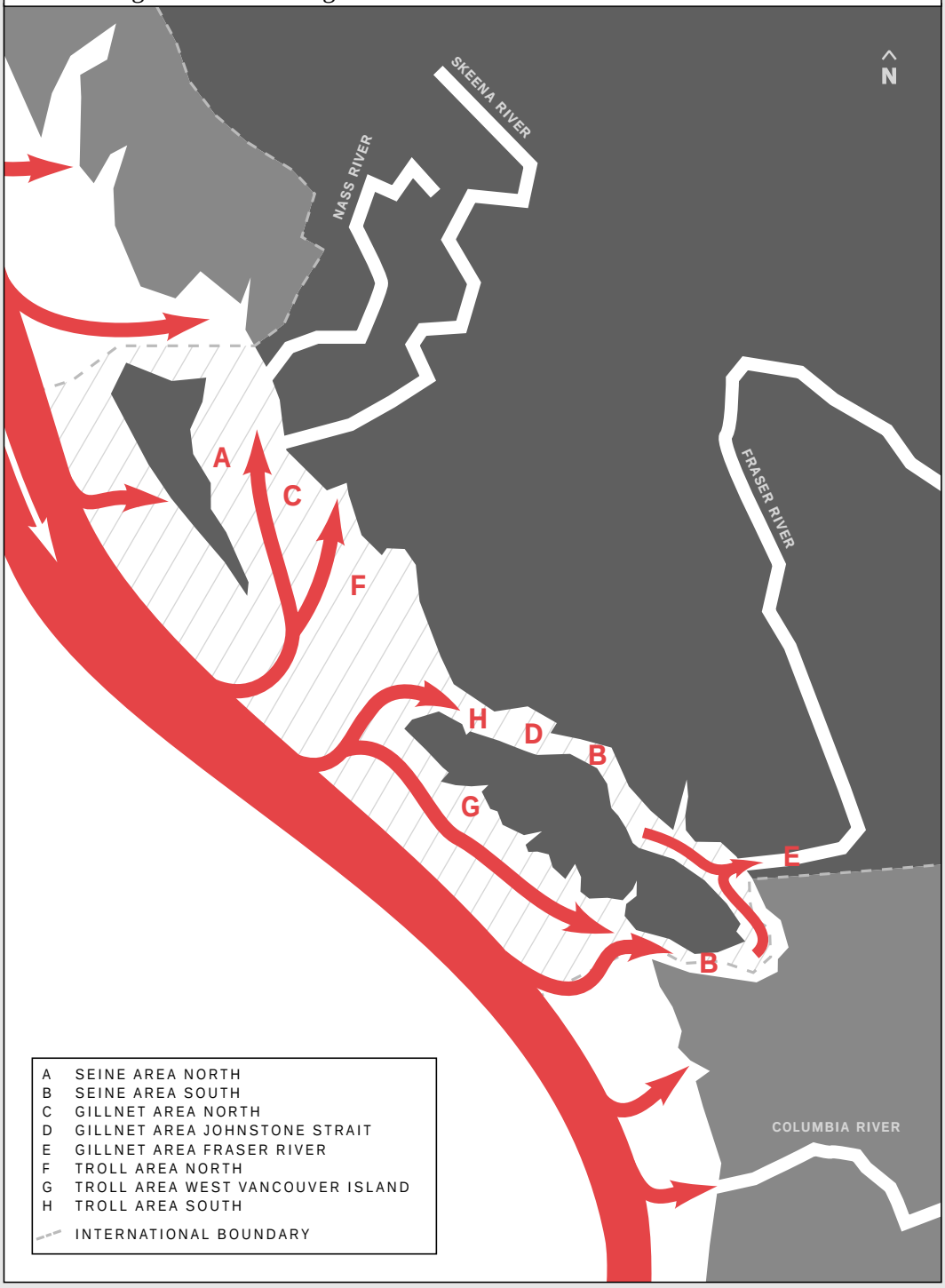
Fisheries on the Pacific are managed in a variety of ways, but they fall into two broad categories: fisheries managed under licences that convey a right to fish in competition with other fishers and those managed under individual quotas.

The traditional approach to managing fisheries is through licences that grant the right to fish in competition with others for an unquantified catch. The licences are limited in number and the total catch is controlled by restrictions on fishing methods, gear, time and area, but the catch by individual licence holders is unlimited, giving them an incentive to expand their fishing power even when the capacity of the fleet exceeds what is needed to harvest the available catch.

Canada's Pacific salmon fishery provides an example of a limited-entry, competitive fishery. It exhibits all the characteristics of a race to the fish, overcapacity and the inability to maximize the value of the product. As a result, during the past decade, many fishers have been unable to adjust to wrenching declines in harvests and prices.

The other, relatively new approach to fisheries management is through an individual quota system. Under quotas, each licensed fisher holds a right to harvest a specified share of the total allowable catch, which may vary with the abundance of the stock. Halibut, sablefish, groundfish trawl, geoduck, spawn-on-kelp, red sea urchin and sea cucumbers are managed under individual quotas. In the case of the roe herring seine fishery, where the capacity of the fleet usually far exceeds the number of vessels that can safely fish the stock, licence holders are required to form pools from which only a designated number of vessels may fish, and within which catches are shared equally.

figure 3
Salmon Migration and Fishing Areas



The move to quota management has led licence holders in these fisheries to restructure and rationalize their fishing fleets, improve efficiency and reduce production costs and, in most cases, improve product value.

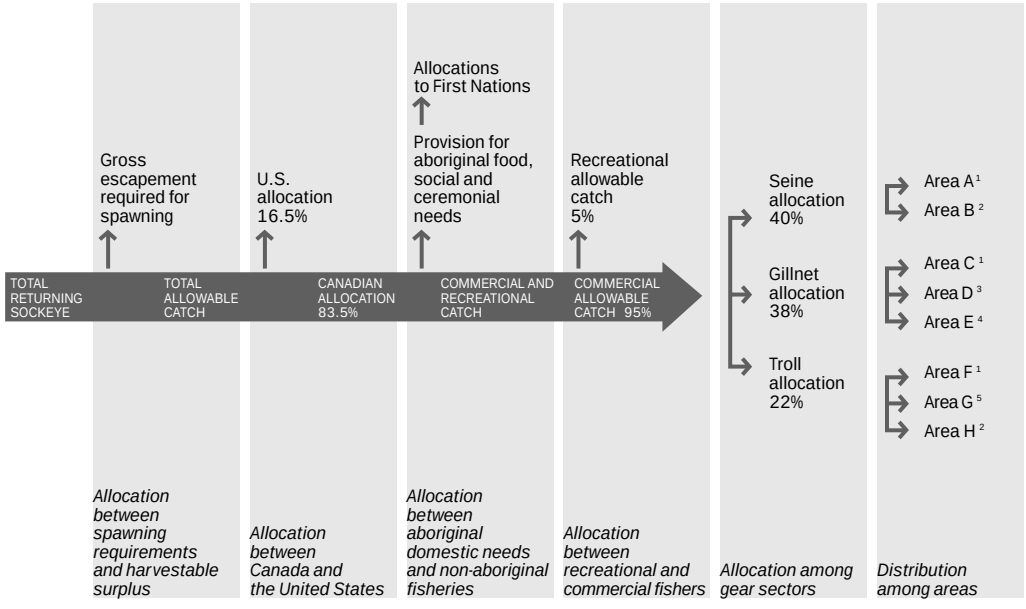
Fishers operating under individual quotas usually organize under co-management arrangements. They provide for the management of the fishery, cost sharing, and such matters as monitoring and enforcement.

THE CHALLENGE OF MANAGING SALMON

Salmon pose a unique challenge to fisheries managers. They comprise five species and hundreds of stocks, each with its particular life cycles, yield capacity and natal spawning grounds. Many are fished by Americans as well as Canadians, by three sectors of the commercial fleet as well as recreational and aboriginal fishers, at sea and in freshwater fisheries extending from the Queen Charlotte Islands to B.C.'s central interior. Knowledge of the abundance of stocks is often uncertain.

Complicating matters, because of the migratory nature of salmon, the government has to apply an order of priority to demands on the fish, opposite to the order in which the fish are encountered. The first priority is to provide for adequate spawners on the spawning grounds in the headwaters and tributaries of rivers; second is the provision for aboriginal food, social and ceremonial needs (aboriginal food fishery), mainly downstream along the rivers and estuaries but also along the coast; and the third is recreational and commercial fishing, mostly at sea.

figure 4
Allocation of Fraser River Sockeye



[1] North [2] South [3] Johnstone Strait [4] Fraser River [5] West Vancouver Island

This means that managers have to plan in reverse, providing for each of the main fishing groups in anticipation of higher priority demands on the fish further along their migratory path.

Figure 4 illustrates how fisheries managers must allocate the stocks of Fraser River sockeye (the stocks in heaviest demand) among the separately licensed gear sectors in the commercial fleet in each fishing area. First, the returning stock must be divided between the required escapement (the numbers needed to spawn to maintain the resource) and the harvestable surplus or total allowable catch. The next step is to deduct from the total allowable catch the 16.5 per cent due to U.S. fishers under the Pacific Salmon Treaty to obtain the Canadian allocation of 83.5 per cent. From this Canadian total allowable catch, the estimated requirements of Canadian First Nations for the aboriginal food fishery is subtracted, then five per cent of the remainder is deducted for the recreational fishery as provided by DFO's salmon allocation policy, to give the commercial allowable catch.

The next step is the allocation of the commercial allowable catch among the three sectors of the commercial fishing fleet, again according to DFO's allocation policy, which assigns seine vessels 40 per cent; gillnet vessels 38 per cent; and troll vessels 22 per cent of the total coast-wide salmon catch. These allocations are then broken down into the several species of salmon and distributed among eight established fishing areas, to provide a target allocation for each gear sector in each fishing area.

This whole allocation scheme is based on percentages, and is part of the pre-season management plan. As the salmon begin to migrate down the coast and the first estimates are made of the size of the run, the percentages are translated into numbers of fish, and a target catch, in numbers of fish, is thus established for each gear sector in each area.

This illustration refers only to sockeye salmon running to the Fraser River. There are many other species and stocks fished in other areas that raise different management complications.

The complex task of allocating stocks among all of the competing demands on them, which must be done promptly and progressively as the salmon move along their migration path, taxes the capacity of the fisheries management system, and targets are often missed. Indeed, allocation of the catch among user groups has become the primary preoccupation of fisheries managers during the season, at the expense of conservation and economic concerns. Recently, cyclical fluctuations in the stocks and price declines have aggravated conflict among sectors of the salmon fishery and strained the management system further.

NEW COMPLICATIONS

Although the salmon management regime is already under heavy pressure, three new developments are putting additional demands on managers of all fisheries. While these developments will significantly complicate the task of managing fishing, our consultations have left us with the impression that they, and their effects, are not widely understood within the fishing community.

The first development, in the form of a more conservative policy, is a response to increasing concern about the risks of fishing when abundance of stocks is uncertain. DFO has thus adopted a "precautionary approach," which involves, among other things, more conservative exploitation rates. As one example, in the last two years, the exploitation rate of Fraser River sockeye salmon has been reduced to 45 per cent, in contrast with rates of 75 to 80 per cent in the past. For some stocks and species, exploitation rates have been reduced even more, with obvious impacts on available harvests.

The second development is the enactment in 2003 of the Species at Risk Act, which obliges the federal Minister of the Environment to take measures to protect endangered species. Certain runs of salmon are in danger; a notable example is Cultus Lake sockeye, which have been reduced to a critically small number of spawners. Because these fish are not distinguishable from other stocks on the fishing grounds, protecting them from further depletion or extinction might mean restricting fishing at sea and on lower reaches of the Fraser River while the threatened stock migrates through. Other stocks are likely to be listed as endangered in the near future. The result will be that more salmon will have to be allowed to enter their natal streams before being fished, with obvious implications for established fisheries at sea and in rivers downstream.

The third new development is treaty-making with First Nations. New commitments will involve two levels of priority: allocations for the aboriginal food fishery will have the highest priority, equal among First Nations; while commercial allocations will have a priority equal to that of other commercial fishers.

The management task of ensuring adequate escapements of all stocks to their spawning grounds is daunting, given the succession of demands on the harvestable surplus and limited knowledge of the timing and size of the runs on their migration paths. Success has been mixed. Precautionary management, obligations under the Species at Risk Act and treaty-related commitments for commercial harvests in freshwater add a substantial new layer of complexity, which raises questions not only about whether commitments can be met, but also whether existing commercial and recreational fisheries can be sustained in the face of these added complications.

In our view, under the present salmon-management regime, the existing fisheries are not sustainable. The new developments we have outlined here will force managers to drastically curtail the established commercial fishery, making an already depressed salmon fishery no longer economically viable. But this outcome is not inevitable. We believe that with some important reforms, a manageable and economically viable salmon fishery can re-emerge.

THE NEED TO CONTROL FISHING EFFORT

The weaknesses of the present salmon-fishery management system, coupled with these new developments and their demands on managers, have led us to conclude a different approach is needed. The fundamental need is to find a way to adjust the number of vessels that fish to fit the circumstances of each fishery, so that stocks of low or uncertain abundance can be fished cautiously without risk of overfishing.

Salmon managers today have to determine the abundance of stocks approaching the fishing grounds each year from the North Pacific – the critical starting point for managing fishing. Lack of information about the abundance of stocks is the fundamental problem facing fisheries managers. To get this information DFO organizes "test fisheries," in which single vessels take samples. But most experts agree that the best way to obtain abundance information is to open the commercial fishery for a brief period. However, this practice is currently not feasible because the salmon fleet has so much fishing capacity that it might overfish the stock, especially if the stock is weaker than expected. Commercial fishing is thus postponed until managers are sure the stocks can sustain the harvest, and this often results in foregone fishing opportunities.

This problem is directly attributable to the traditional approach to managing fisheries through licences that authorize fishers to fish competitively for unlimited catches, with openings available to all. Such an approach puts pressure on all licensed fishers to fish during their limited opportunities and the licensing system encourages each of them to catch as much as they can. Because the present regime forces DFO to open fishing to all licensees if it opens for any, it has had to limit openings to circumstances where a substantial harvestable surplus is certain. The seine and gillnet sectors, already reduced to openings of a few hours per week, are now threatened with the possibility of more restrictions, or perhaps no fishing at all.

...under the present salmon-management regime, the existing fisheries are not sustainable.

The issue will become even more acute with the restrictions of the Species at Risk Act and treaty-related obligations to make fish available in upriver locations. Obligations to deliver fish upriver, whether for aboriginal food fishery purposes, for commercial catches, or for conservation purposes, can be fulfilled without drastically curtailing the downstream and ocean fishery only if there is a way to adjust the fishing effort to fit the varying stock abundance and other circumstances of salmon fisheries, so that smaller stocks and stocks of uncertain abundance can be fished without risk. In practical terms, this means controlling the number of vessels that fish. Experience tells us that the best way to do this is by involving the fishers themselves in the management of fishing.

Thus, in our view, a reformed management system that will respond to the new developments affecting the fishery must have two characteristics. First, it must provide for flexible management of the fishing effort so that stocks can be fully utilized without risk of overfishing. Second, it must engage the fishers themselves in the organization of fishing, data collection, monitoring and other management functions. We consider first the way to manage the number of vessels that fish and then the needs of co-management.

CONTROLLING FISHING EFFORT

An essential element in the reform of the salmon fishery is some means to limit the number of vessels able to fish in any opening. In the herring seine fishery this was done when DFO required vessel owners to pool. In our view, in the salmon fishery DFO should have authority to determine the number of vessels that may fish in any opening, but it should be for the fishers in each area to decide how they will respond to those limitations. This could be done through the Area Harvest Committees mentioned below.

The ability to regulate the number of vessels can be expected to result in more fishing opportunities, and fuller and more manageable utilization of stocks. Whereas DFO has hitherto had to err on the side of caution because of the danger of overfishing, it will now be able to adjust fishing effort appropriately to varying circumstances. Fishers will thus benefit from their cooperative fleet management effort in the form of increased harvests.

Thus, we recommend that DFO be granted authority to specify the maximum number of vessels that may fish in any opening of the fishery. Each Area Harvest Committee should be free to decide how the limited number of vessels will be selected – by pooling, drawing straws or any other method acceptable to the fishers of that area. However, the obligation to comply with DFO's limit on boats must be a real one. Failure to comply

with the prescribed limit on the number of vessels has to result in closure of the fishery. With this provision for limiting the number who fish, individual fisher's rights and investments must be protected through arrangements for defining their shares of the catch, and for allowing them to combine their shares on the vessels allowed to fish, as in the pooling arrangements in the herring fishery. We propose specific arrangements in the following chapter.

This approach, in our view, will provide a major improvement in fisheries management. It will allow for more fishing opportunities downstream and at sea while ensuring that conservation or treaty obligations upstream are met. Nevertheless, increasing obligations upstream will limit the flexibility that managers have in providing for openings downstream. Many treaties remain to be settled on the Fraser system, and most will include commitments of fish. The already long-established trend of moving from traditional ocean fishing grounds to fishing closer inshore will continue.

To meet commitments of salmon at upriver locations, managers must ensure that the committed fish pass through all the commercial, recreational and aboriginal fisheries downstream and at sea. And because the committed stock almost always mingles with other stocks downstream, managers must allow enough of the other intermingled stocks to pass through the downstream fisheries as well, in order to ensure sufficient numbers of the committed stock reach the upstream destination. This prevents full and efficient utilization of the harvestable surplus, because the harvests downstream are restricted while the intermingled fish disperse to their various spawning streams and often cannot be harvested.

The challenge in treaty negotiations relating to the provision of fish in upriver areas is to minimize the impact on downstream fisheries. This can be done if selective fishing, fishing in estuaries and in terminal areas, surplus spawner opportunities and other approaches are adopted. The objectives of treaty negotiators should be to maximize both upstream and downstream harvests while ensuring that conservation obligations are met.

THE NEED FOR COORDINATION

On large rivers, especially the Fraser River, multiple treaty commitments of fish throughout the river and its tributaries will require careful planning and coordination to reconcile many demands on the same stocks. Experience so far suggests that the obstacles to cooperation and coordination should not be underestimated. However, in the course of our consultations, we found that most people involved in upriver fisheries, and all fisheries managers, recognized the necessity of such coordination.

In this regard, the fishing plans and related activities of the various groups who share the harvests of particular stocks of fish must be coordinated. Agreements in Principle (AIPs) provide for First Nations to be involved actively in the development of their fishing plans and look ahead to regional cooperation and coordination as other treaties and Harvest Agreements are concluded.

This broadening of coordination is important, but it must go further. Many First Nations must coordinate their fishing activities and collectively integrate their fishing not only among themselves but also with other commercial and recreational fishing on the same stocks in basin-wide fishing plans. The difficulties are most acute in the salmon fishery, especially on the Fraser and other large rivers.

Some progress has been made. Efforts over many years to coordinate fishing on the Fraser River have made slow, but perceptible progress. Developments on the Skeena are promising. And arrangements on the Nass are progressing well. But much remains to be done to build comprehensive, cooperative and effective organizations to coordinate the complicated new fishing activities expected to emerge from treaty settlements.

Ultimately, control must rest with the Minister of Fisheries and Oceans (Minister). It must be a condition of the Minister's approval of fishing plans that no fishing will be authorized except under fishing plans that are coordinated in an integrated management plan for the stock as a whole. As AIPs are developed into treaties and Harvest Agreements, it will be important to link the development of fishing plans under them to overall integrated management plans coordinated by DFO.

CO-MANAGEMENT

During the last decade the adoption of individual quotas as the basis for managing fisheries has led to a significant move toward cooperative management. Fisheries Associations have taken progressively more operational and financial responsibility for fisheries management, including catch monitoring, scientific research, fisheries planning and enforcement, as well as functions such as product marketing.

Many of these functions were formerly carried out by DFO, but most are either additions to the management program or maintained at a higher level than would be possible under departmental budgets. These co-management initiatives have improved fisheries management significantly. In our opinion, engaging those who hold the rights to harvest fish in the management of their fisheries is the most promising trend in the fisheries, and should be developed further.

Nevertheless, present provisions for Fisheries Associations and related matters are inadequate and need attention. Although DFO has accommodated the development of co-management regimes, it has yet to clearly articulate its position on these new arrangements. Further, there are no clear procedures, requirements or criteria for organizing Fisheries Associations and establishing co-management arrangements.

The integrity of Fisheries Associations depends on their ability to represent all the fishers and to raise funds from them for the work they collectively undertake. All the fishers in each fishery must participate; otherwise the stability of the organization is inevitably threatened by "free riders" that share in its benefits without sharing its costs.

At present, membership in Fisheries Associations and payments for their activities are voluntary, and DFO has explicitly denied responsibility for ensuring the participation of all quota holders. This presents an obstacle to the organization of Fisheries Associations overcome only through contrivances to ensure voluntary compliance. In the halibut fishery, for example, DFO deducts 10 per cent of each licensee's quota and issues 10 per cent of the total allowable catch to the Pacific Halibut Management Association. The association transfers the deducted 10 per cent back to licensees when they pay the association's fees. This effectively ensures that all licensees share the cost of the association's co-management programs.

For Fisheries Associations wanting to engage in co-management the difficulty of levying fees on all participants is a major problem. Under present arrangements, the Minister cannot authorize (and thereby make compulsory) fees levied by a fisheries

…engaging those who hold the rights to harvest fish in the management of their fisheries is the most promising trend and should be developed further.

association on holders of fishing licences unless they are set out in regulations, and fees set out in regulations must normally be paid to the Receiver General. To allow fees to be levied and used for the management of the fishery, the Minister must receive explicit approval from Treasury Board for a "revenue offset" – a cumbersome and inflexible arrangement.

These arrangements should be simplified and streamlined. Specifically, we recommend:

1 The Minister should issue a policy statement declaring that the government supports co-management as a means of improving the management of fisheries.

2 DFO should issue clear instructions about procedures for establishing Fisheries Associations, minimal requirements for recognition including democratic representation of all holders of rights to fish in each fishery, and arrangements for entering into co-management agreements.

3 Fisheries Associations should be permitted to organize themselves within these minimal requirements as non-profit societies, co-operatives or corporations as they see fit, under laws governing these structures that ensure democratic procedures and accountability.

4 Membership in a fisheries association should be required of anyone participating in a particular commercial fishery.

5 Provisions should be made to enable Fisheries Associations to levy fees on their members to cover the cost of their work.

Stakeholders in all fisheries should be actively involved in co-management of their fisheries, and co-management arrangements should be firmly established in law.

CO-MANAGEMENT IN THE SALMON FISHERY

The multiple new demands on salmon stocks migrating through coastal waters and rivers will require careful planning and coordination.

Over recent months, salmon fishers have reorganized themselves, laying the foundation for coordinating fishing plans. In each of the eight commercial areas, the licensed salmon fishers have elected an Area Harvest Committee of 8 to 12 members to represent their interests in designing fishing plans and other salmon-related matters with DFO. An overall Commercial Salmon Advisory Board is composed of two nominees from each Area Harvest Committee and two from each of the Native Brotherhood of B.C., the United Fishermen and Allied Workers Union and the fish processing companies. Scheduled to hold its first formal meeting in April, this organization is already in place and recognized by DFO as the advisory organization for the commercial salmon fishery.

The Commercial Salmon Advisory Board and the Sport Fish Advisory Board, First Nations food fishers and the Marine Conservation Council are all represented on the Integrated Harvest Planning Committee (see *Figure 5*), which will be responsible for setting objectives and assessing performance of the three sectors.

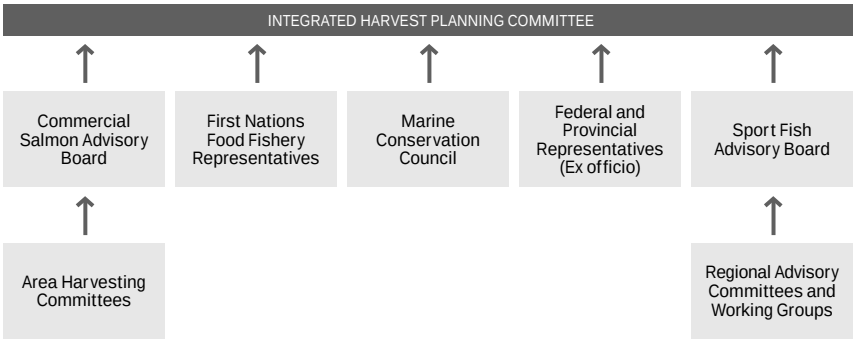
We recommend that DFO engage the Integrated Harvest Planning Committee without delay about how best to implement new fisheries coordination arrangements. An essential feature of that system is that commercial fishing should take place only according to fishing plans developed in consultation with the Commercial Salmon Advisory Board and approved by DFO as part of an integrated management plan.

Membership on the Commercial Salmon Advisory Board and Area Harvest Committees should be adjusted over time to include representation of new participants, such as the Nisga'a and other First Nations that engage in commercial fishing under interim arrangements and under treaties and Harvest Agreements with provisions for commercial fisheries. In that way First Nations fishing plans can be incorporated into comprehensive management plans.

DFO should assist the Commercial Salmon Advisory Board in establishing itself as a legally constituted, representative body that can raise funds from its members and enter into co-management arrangements as we have described above.

This new participatory management system for salmon will, in our view, provide a much more promising basis for managing the fishery. Linked with our recommended improvements in the rights under which fishers operate, set out in the next chapter, it will provide the foundation for a better-managed and economically viable salmon fishery.

figure 5
Consultative Structure for Salmon Management



Chapter 5 Securing Access to Resources

Previously, we dealt with some fundamental changes in the way the fisheries must be managed to meet new environmental demands and treaty settlements. In this chapter we consider ways to improve the economic performance of the fisheries, "including arrangements that provide secure long-term access to harvesters," as outlined in our terms of reference.

Policies governing the rights to resources are key instruments for fostering economic development. (For convenience in this report we use the term "rights" to refer to all forms of legal access to fish resources.) We argue in this chapter for greater certainty and security in rights so that fishers and companies can invest with confidence and gain maximum benefit from the fish harvested.

There is undoubtedly much scope for improving the economic performance of the commercial fishery by reducing capacity and costs, increasing the value of the fish products produced and eliminating regulatory arrangements that impede efficient operations. The sustainability of our fishing industry depends on these improvements as it competes in international markets with producers in other countries, whose efficiencies in the management and utilization of resources have made their industries not only more prosperous and robust than ours, but also more competitive.

FISHING RIGHTS AND THE DEVELOPMENT OF FISHERIES

Over past decades, fishing rights have gradually become more restricted and more clearly defined. Until the late 1960s, anyone could fish for commercial or recreational purposes; the rights of fishers were no different from the rights of anyone else. The result of this traditional "open-access" policy was that any profitable fishery would attract new entrants. Consequently, the fishing fleets expanded – even if there was already more than enough capacity to take the available catch – and profits were dissipated in rising costs.

To prevent further expansion in the salmon fishery, in the late 1960s Canada's Minister of Fisheries broke with the long history of open access and 'froze' the number of vessels licensed to fish for salmon. This "licence-limitation" policy was then extended to most other fisheries in Canada and adopted in other countries as well. In subsequent years, governments also bought licences from established vessel owners and retired them in an effort to reduce excess fleet capacity.

This effort failed to prevent redundant expansion of fishing capacity. The economic incentive for vessel owners to increase fishing power remained; they simply built bigger boats, with more sophisticated gear and capabilities for finding, catching, handling and transporting fish. The government response was to add more restrictions on length and tonnage of vessels, the amount of gear and so on. The cycle of expanding fishing power and increasing governmental regulation to control it, continued.

In the 1980s, a new approach began to attract interest. Instead of issuing all fishers licences to fish and compete for the catch, each fisher's right could specify a share of the total available harvest. This "individual-quota" management system has been adopted in many of Canada's commercial fisheries on the Pacific and Atlantic coasts, and in other leading fishing nations.

Today, all fishing in B.C. is authorized under some sort of fishing licence or authority from the Minister of Fisheries and Oceans (Minister) or, in the case of fresh-water recreational fishing, the provincial government. The variety of commercial fishing rights is wide and because they were introduced at different times to respond to differing circumstances and needs, they differ greatly in form and character. Other authorities include communal licences for First Nations food, social and ceremonial purposes (aboriginal food fishery), commercial fishing licences, recreational fishing licences, licences that authorize harvest of salmon in excess of spawning requirements, and scientific permit licences that allow for the taking of fish for research purposes or aquariums.

EXISTING FISHING RIGHTS AND THE LACK OF SECURITY

Several aspects of fishing rights affect the security they afford their holders, and they vary widely among the licences for commercial fishing. Their term or duration, for example, ranges from one year in the case of most licences to perpetuity in the case of treaties; some provide a right to a specific quantity of fish while others leave the quantity undefined; some are attached to vessels, others are issued to persons or corporations; some are transferable, others are not; and there are many other inconsistencies. The short terms and absence of rights of renewal of commercial licences afford little security to their holders.

Another important determinant of the security of a right is its scope, and its enforceability against encroachment by third parties. Aboriginal and treaty rights benefit from constitutional protection, but most other fishing rights offer no protection against third parties, and their vulnerability to the actions of other fishers or of governmental regulators, and unhappy experience of adverse effects of such intrusions, has contributed to the insecurity and anxiety among commercial and recreational fishers.

TOWARD A MODERN SYSTEM OF COMMERCIAL FISHING RIGHTS

In order to enhance the economic performance of the fishery, the licensing system must be reformed. Effective licensing arrangements must be clear, secure, renewable and transferable.

First, there is a need for a clear definition of the rights conveyed. Thus, a shellfish fisher who holds a lease over a defined intertidal area has a better defined right than one who has simply a right to an unspecified quantity of shellfish anywhere in competition with others. Similarly, a fisher who holds a right to a specified share of the total catch has a more clearly defined right than one who does not.

As demand for fish grows and competition for the catch increases, the clear definition of each fisher's entitlement becomes more important in terms of the security it provides.

The shift toward quantitatively defined rights has progressed substantially over the past 15 years, as individual quotas have been adopted in most commercial fisheries. In the aboriginal fishery the new rights under treaty settlements specify rights to fish in quantitative detail, replacing more subjectively defined aboriginal rights, and rights under Harvest Agreements are quantified much like individual quotas. Even recreational fishers' individual rights are defined by bag limits.

It is worth noting that the important salmon fishery is different. The quantity of fish that may be harvested under a licence remains undefined. This is also the case for the licences for crab, prawn, shrimp by trawl, groundfish by hook and line, intertidal clams, tuna and some minor species.

Second, security calls for rights that carry long terms and can be enhanced by provisions for their renewability. Fishers investing in costly vessels and gear need assurance that their access to resources will be secure for long enough to recoup their investments, which may take many years.

The provisions of most present commercial licences – terms of one year with renewal at the discretion of the Minister – are clearly inadequate. The Harvest Agreements model – issued with terms of 25 years and replaceable at the option of the holder after 15 years with a new 25-year agreement on an "evergreen" basis – is much more suitable for a modern business enterprise.

Next comes transferability. Rights that cannot be transferred have no market value and cannot be used as collateral. More importantly for long-term economic performance, transferability is essential to allow for reallocation of rights to those who can generate the most value from the resources, and to enable fishers to adjust their production capacities for maximum efficiency.

At present, transfers of commercial fishing licences are often restricted. For example, vessel licences, once "married" on the same vessel, cannot be transferred separately. Some licences, specifically spawn-on-kelp and intertidal clam licences, are not transferable at all. Individual quotas are also subject to restrictions on transferability. Some quotas are not divisible and some cannot be traded separately from the licence. Certain quota fisheries, such as halibut, have minimum and maximum quotas that are associated with a licence. All quota fisheries have limits on quota holdings associated with one licence.

Because individual quotas were added to already existing vessel licences, some quotas must be exercised on particular vessels, impeding transfers and rationalization of fishing operations for no good reason. To organize efficient fishing enterprises, fishers need the flexibility to combine rights to fish in two or more fisheries so as to use their vessels to best advantage, which is difficult under the present restrictions.

In addition, quota rights are encumbered by a variety of restrictions, without apparent logic, on their transferability, divisibility and the way they can be exercised, all of which diminish, to a greater or lesser extent, the efficiency with which they can be used.

Placed against the above criteria, the current system of licences and quotas for commercial fishing is a hodgepodge of rights. In terms of the essential elements of clarity, security, renewability and transferability, the system falls far short.

The existing licences and quota systems, with terms of only one year with no guarantee of renewal, are grossly inadequate, and there is much to be gained from improving the character of fishers' rights in other respects as well. Even more fundamental changes are required to put the salmon fishery on a more promising economic foundation. Reform is clearly needed. And it is urgent.

STREAMLINING THE LICENSING AND QUOTA SYSTEM

The individual quota system already adopted for many sectors of the commercial fishery was the first step in establishing a policy framework that will allow the fisheries to achieve their full economic potential. The second step is to give those who depend upon fish for their livelihood the certainty and security they need to improve economic performance. This means bringing order and consistency to the presently muddled licensing arrangements, and providing holders of fishing rights with more certainty and security of access to resources.

We recommend the following be adopted for all fisheries managed under individual quotas:

1 The separate provisions for licences and quotas should be merged into a single "quota licence": each licence authorizing its holder to take a specific percentage of the total allowable commercial catch for the relevant fishery for the duration of the licence;

2 Quota licences should be issued to persons, corporations or associations (not vessels);

3 The terms of fishing licences should be lengthened and consistent across all groups of commercial fishers. We recommend that quota licences be given terms that parallel those provided to First Nations under Harvest Agreements, that is, 25 years, replaceable after 15 years on an "evergreen" renewal basis. This recommendation calls for legislative change, which we recommend later in this report, but that will inevitably take more time than these reforms can wait.

In the interim, we recommend that the Minister grant quota licences for five years and announce his intention to seek legislative change to authorize him to issue 25-year evergreen licences. He should also announce that if this legislative change is not in place within five years, he will re-issue the licences for another five-year term;

4 Restrictions on the transferability and divisibility of licences and quotas, their attachment to vessels and other impediments to their flexibility should be eliminated;

5 Provisions for quota licences should be set out in the Regulations pursuant to the Fisheries Act, thus eliminating their discretionary elements. To further protect these rights from dilution, the regulations should provide that no additional quota licences will be issued without the consent of the established fishers in the relevant fishery; and,

6 Annual conditions of licences should be used to authorize and manage fishing activities consistent with integrated fishery management plans.

These reforms will give established commercial fishers considerably greater security than they now have and provide a foundation for integrating commercial fishing under Harvest Agreements and other arrangements. As well, these reforms will ensure a basic policy framework within which co-management arrangements can flourish.

BUILDING ON THE SUCCESS OF THE QUOTA SYSTEM

When individual fishing quotas are introduced, fishers and managers soon reap the benefits of improved resource management and enhanced economic performance.

By redirecting the efforts of fishers from catching as many fish as possible, to the most efficient ways to catch the fish allocated to them, individual quotas end the competitive race to fish and the incentives of vessel owners to over-expand fishing power and capacity. The subsequent elimination of excess capacity and increased efficiency leads to lower costs. Free of the pressure to compete for their catch, fishers find ways to increase the value of their production. These improvements are reflected in the increased returns in fisheries other than salmon, which we noted in Chapter 2, and in consequent increases in the value of quota rights.

These benefits were quickly realized in the halibut fishery, where individual quotas were first tried on a significant scale on this coast. Halibut has the potential to be harvested all year round. However, before quotas were introduced, halibut had attracted so much fishing capacity that to protect the stocks from overfishing, the fishing season had to be progressively reduced. By the 1990s, only six days of fishing per year could be allowed and most product ended up being frozen.

When individual quotas were introduced, benefits soon became apparent. Halibut fishers off Canada's West Coast started harvesting their catch when markets, weather and other conditions were most opportune. The fishers took the time and effort to clean and prepare their fish for maximum market prices in the fresh market, upping the value by more than 50 per cent. To increase net returns, fiscally and literally, they reduced costs by adjusting their vessels and gear to eliminate excess capacity and harvest their quota most efficiently.

Gains to the halibut fishery have been dramatic. In other fisheries where individual quotas were introduced, similar benefits were experienced.

The individual quota system has proven successful in advancing three of the policy objectives set out in our terms of reference: improved economic performance; increased sustainability; and constructive engagement of fishers themselves in fisheries management.

In contrast to other regulatory systems, quotas provide a means of directly controlling harvests within sustainable levels – a task which, as noted in the last chapter, is becoming increasingly demanding.

Recent experience in Canada and other countries shows that when quota holders in a fishery find themselves with defined shares of the catch, they seek ways to protect and improve their rights through better surveillance and monitoring of fishing, data collection, enforcement, stock management and enhancement. One result is a high degree of cooperation in the management of fisheries regulated under individual quotas, improved catch records and other management data, and self-financing of these management improvements.

In light of the way the individual quota system has worked in the fisheries in which it has been implemented, we consider that quota management should be extended to other Pacific coast fisheries.

When individual quotas were introduced, benefits soon became apparent.

We recognize, nevertheless, that there is opposition to quota systems in fisheries. The concerns include: the threat of "privatization" of a public resource; loss of jobs as fleets consolidate and rationalize operations; and monopolization of fishing rights by large fishing companies.

The individual quota system in the form adopted in Canada (and which we support in this report) does not change the ownership of fish or make a public resource private. Under the vessel licensing system and the individual quota system alike, access to the resource is restricted to those who hold licences or quotas. Individual quotas change harvesting rights only by quantifying them rather than leaving them open-ended. This makes fishing rights more consistent with the way we allocate rights to public forests, water and other renewable public resources.

Certainly, under a quota system the number of vessels and personnel employed can decline as the fishery sheds excess capacity. In the halibut, sablefish and groundfish fisheries the number of active vessels declined by roughly half, and in herring, urchin and sea cucumber fisheries, by more than half. However, these numbers do not reflect the positive impact on employment opportunities. Instead of a large workforce employed for a brief and irregular season, smaller numbers have access to steadier, longer-term and better-paid jobs. Where fishers have opportunities to increase the value of their catch by cleaning it and preparing it for sale, they provide more employment, and the workforce becomes more skilled and professional. The result is fewer, but better jobs.

Our findings lead us to conclude that fisheries managed under open-ended vessel licences – notably the salmon fishery – offer bleak prospects for employment. Many vessel owners have been reduced to a crew of family members who share meagre earnings. But with management reforms, even the salmon fishery has the potential of producing much more value and income per person employed.

Although concerns are sometimes expressed about concentration of ownership under quota systems, monopolies have yet to emerge in fisheries managed under individual quotas, nor is this likely to occur.

The salmon fishery, which is not managed under individual quotas, has traditionally been the focus of most concern with respect to corporate control of fishing rights. But even here, processing companies own approximately 20 per cent of the licences in the seine fleet,

and virtually none in the gillnet and troll sectors. A better indication of the limited corporate control of the fishery is the fact that processing company licences account for only 10 per cent of the total harvest of sockeye salmon. We see no reason to expect that the major companies would seek to expand their holdings of fishing rights under the arrangements we recommend below.

REORGANIZATION OF THE COMMERCIAL SALMON FISHERY

The salmon industry is depressed and declining. As it currently exists, the fishery is economically unsustainable; in fact, it is teetering on bankruptcy. Governments face the stark choice of presiding over its demise or making fundamental changes to restore its viability. The first step towards this, as noted in Chapter 4, is to provide for a management regime that will ensure that the harvestable surplus of stocks can be fully utilized without risk. The second step is to provide, as we have proposed more generally in the fishery, for certainty and security by the provision of long-term licences. The third step is to provide a more rational economic basis on which fishers can operate.

We have considered various ways that this might be done and ultimately have concluded that the most practicable and effective alternative is one based on defined shares of the catch. Our proposals build on the successful experience with the pool-sharing arrangements in the herring fishery and the individual quota systems in other fisheries. However, because of the complex structure of the salmon fishery we propose that more responsibility be assigned to the several gear and area-based organizations of fishers.

We recommend, first, that the Department of Fisheries and Oceans (DFO) reaffirm its coastwide allocation policy, including the allocation of salmon among the three commercial sectors, to ensure its consistency with the new management regime for salmon.

Next, the shares of individual salmon fishers that will form the basis of a catch-share system should be determined by the fishers themselves. We recommend that DFO invite each Area Harvest Committee to choose how it will divide its group's allocation of salmon among its members, and provide statistical and analytical support for this exercise. Area Harvest Committees should be free to decide on equal shares, shares based on catch histories or any other reasonable basis, providing they do so by the end of 2004. Thus, each fisher's share of the area allowable catch should be fixed once and for all and incorporated into new long-term quota licences, as proposed earlier in this chapter.

The individual fisher's shares in the catch should be transferable among areas as well as within them, so that shares that cannot be taken for one reason or another in the holder's normal area may be harvested in another (subject to approval of DFO to deal with any conservation concerns).

These provisions will permit necessary adjustments in fishing patterns noted in Chapter 4.

IMPLEMENTATION

We have considered the possibility that each sector of the salmon fleet, or the part of the fleet that fishes in each area, might choose to adopt the new arrangements at different times. But this presents a likelihood of the fleet operating, for a time at least, under two regimes, which in turn would create inequities. With one or more sectors of the fleet operating under limited-entry licences alongside others working under Harvest Agreements or licence shares, it would be difficult, for reasons noted above, to treat both groups equally in acquiring fishing rights for transfer to First Nations seeking rights to specific shares in the catch. Nor would it be possible to provide fishers operating under vessel licences the same access to resources as those working under catch shares, because the former would continue to pose risks to weak and uncertain stocks.

In addition, the new system applied to the salmon fishery, as in other fisheries, will include more rigorous monitoring than the present regime to ensure compliance and accountability. Both systems operating at the same time would mean that some fishers would be subject to much less stringent reporting requirements than others, including those under Harvest Agreements. Moreover, the presence of some fishers with unlimited harvest rights would invite abuse of the licence-share system by offering a channel for marketing fish in excess of share allocations.

For all these reasons, we recommend adoption of the new arrangements for all sectors of the salmon fleet at the same time, and as soon as practicable, which we believe can be in time for the 2005 fishing season.

DFO should begin immediately to engage the newly formed Commercial Salmon Advisory Board in consultations about how licence shares can be introduced most effectively, equitably and quickly. The Minister should announce a date by which the new regime is to be in place.

Following these initial steps, the eight Salmon Area Harvest Committees should be given some months to provide advice on the implementation of the new system. The new implementation system must include some method of distributing benefits or catch when effort is restricted for conservation reasons, as explained in the preceding chapter. In the event a Committee cannot agree on a method, the Minister should allocate shares among the area licensees.

The Species at Risk Act or other requirements might result in more surplus salmon having to be allowed to pass upriver in the future. Under the catch-share arrangements proposed here, surplus spawners not allocated to First Nations under Harvest Agreements must be included as part of the commercial catch available to holders of quota licences.

OTHER SPECIES

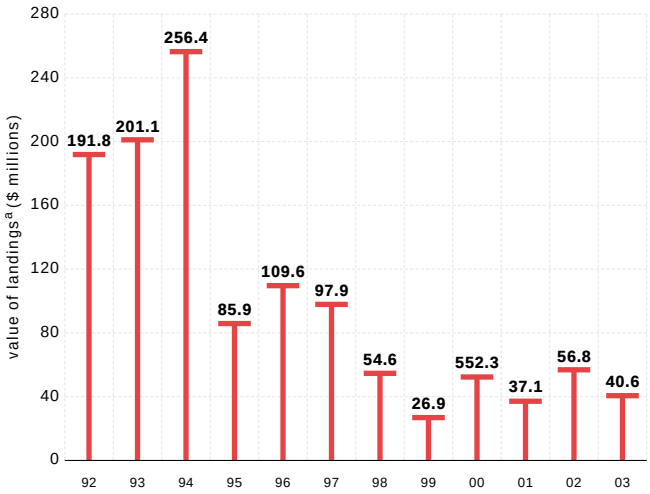
The other fisheries still managed under unquantified vessel licences – the prawn, crab, hook-and-line groundfish and minor species – should also make the conversion to quota licences as soon as practicable. Some of these have recently been investigating their opportunities under individual quotas and the possibilities of extending their fishing season, reducing capacity, controlling poaching and increasing earnings. While the implications for each fishery differ, all can be expected to benefit from the improved security and opportunities for co-management of their fisheries.

A LICENCE REGISTRY

An important adjunct to the new licensing system will be a formal licence registry, capable of keeping track of licences, quota entitlements and transfers. A registry will support the new licensing and management arrangements by maintaining up-to-date records of all fishers' entitlements against which their catches can be recorded, and by enabling flexible reallocation of rights among licensees. It will also facilitate financing for fishing enterprises.

figure 6

Value of Salmon Landed Over the Past Decade



Source: 1992 to 1995 from *Fisheries Production Statistics of British Columbia*, Ministry of Agriculture Fisheries and Food, Victoria, 1996; 1996 to 2003 from *Commercial Summaries as of February 16, 2004*, Fisheries and Oceans Canada, Ottawa 2004.

[a] Includes bonus and direct delivery payments except for 2003.

Historically, the fishing industry has suffered from poor access to financial resources and services. Banks and other institutional lenders have been wary of the fisheries because of their high risk, instability and heavy overhead costs. Another major deterrent has been the lack of security of fishing rights; because commercial licences carry only one-year terms and may be terminated at the discretion of the Minister, with no provisions for compensation, lenders are generally unwilling to ascribe any value to them as collateral. This difficulty will be alleviated by the strengthening of fishing rights proposed above. A formal registry will further facilitate access to capital by providing a mechanism for establishing claims against borrowers' assets.

DFO maintains licence records, but it has been unwilling to establish a central registry, citing cost and liabilities. In other countries, the industry itself designed and paid for such a registry: New Zealand provides a good example. Here, the government of B.C. might be able to play a useful role in view of its responsibilities for fish buyers licensing and experience with registries for land, agricultural quotas and other forms of rights. Regardless, it would be appropriate for the cost to be recoverable from the fishing industry. To this end, we recommend that DFO initiate consultations with the fishing industry and the B.C. government about the structure and establishment of a suitable licence registry.

RECREATIONAL FISHING RIGHTS

Our consultations revealed concerns among recreational fishers, as in the commercial sector, about security of access to resources. However, the recreational concerns are different: the anxieties arise from the prospect of fixed catch shares for the aboriginal and commercial sectors, which may prohibit the recreational sector from expanding.

The recreational sector's catch is controlled by daily bag limits, possession limits and, in some cases, annual limits applied to individual fishers. There are also restrictions on fishing time, locations and gear. However, there is no limit on the number of sport-fishing licences issued.

In 1999, following a lengthy review of salmon allocation policy, the Minister assigned the recreational sector priority of access to chinook and coho salmon. He also allocated a recreational share of up to five per cent of sockeye, pink and chum salmon and recently made up to 12 per cent of the allowable commercial and recreational catch of halibut available to sportfishers. (All these provisions are subject to the priority of aboriginal and treaty rights.) So far, no new restrictions have been applied to contain catches within the recreational allocations because the allocations have exceeded the demands of recreational fishers.

Sportfishing licences provide revenues of $6 to $7 million annually to the federal government. This revenue is not related to expenditures on recreational fisheries management, and significantly exceeds current expenditures.

THE RECREATIONAL SHARE OF THE CATCH

Representatives of recreational fishing organizations with whom we consulted expressed opposition to the allocation of a fixed share of the catch for the recreational sector. Apart from their view that fixed shares in the fishery are inconsistent with a public right to fish, they had two substantive reasons. One is that although the recreational catch has declined in recent years, it is expected to grow over time, and they object to the prospect of having to purchase additional quota from the commercial sector. The other is that the recreational sector is particularly vulnerable to fluctuations in the available catch, especially fishing lodges and guiding enterprises, which suffer lasting impact from a year of poor fishing opportunities. Recreational interests favour access to a relatively constant supply of fish, increasing their share of the harvest during periods of low abundance and vice versa. Thus, they argue for a recreational allocation determined each year with priority over the commercial fishery and based simply on the recreational sector's expected catch.

In our opinion, equity demands that the recreational sector be allocated a fair share of the stocks on which it depends, that its share be as secure as those of the commercial sectors, and that there be opportunities to make adjustments in its share. This presents two questions: How is the initial share to be decided? How can subsequent adjustments be made?

Determining the recreational share every year would be too disruptive, and would conflict with the objective of providing increased certainty and security for the commercial fishery. Moreover, we see no reason to change, at present, the recreational fisher's existing priority for chinook and coho salmon, or their allocations of halibut and other salmon species. However, we believe that these shares should be set for the recreational sector for a longer term, and explicit provision made for future adjustments.

With respect to subsequent adjustments in the recreational shares, two approaches present themselves. The first is to treat the recreational share in the same way as commercial shares. Once initial allocations are established, recreational fishers could have access to regulatory and financial arrangements to co-manage their fishery and adjust their catch shares by purchasing additional shares from the commercial sector. This calls for an organization to represent recreational fishers in these functions. The existing Sports Fishing Advisory Board could be formalized into a registered, non-profit organization with authority to enter into a co-management agreement with the Minister. Funding for the agreement should come from a specified portion of the recreational licence fees or a "stamp" (similar to the current "salmon stamp") on recreational licences. This would provide a structure and resources to enable recreational fishers to participate in the management of their fishery, which should be encouraged in any event.

The second approach is for the Minister to undertake a review of the recreational sector's priorities and allocations after a reasonable period. In view of the state of flux of the commercial fishery and the changes in policy we have proposed, we recommend this course.

Specifically, we recommend that the Minister confirm the recreational fishers' priority for chinook and coho salmon and allocations of halibut and other salmon species, and undertake to review these provisions at the end of five years in light of experience with quota management and the catch-share system in the commercial fishery.

RELIABLE CATCH DATA: AN ESSENTIAL REQUIREMENT

As fishing rights and allocation of the harvest become more specific in quantitative terms, the onus on catch data increases. Experience with individual quotas and other forms of catch sharing, here and in other countries, shows that reliable information on each fisher's harvest is critical. Independent third-party monitoring and auditing of all fish landed is already well developed in the fisheries under individual quotas, but these arrangements must be extended to salmon and other fisheries, so that all fish landed under commercial licences are counted and recorded against fishers' authorizations. Moreover, similar standards are required of other sectors. Data on the landings of recreational fishers (which can be satisfactorily measured by sampling surveys) are not now fully comprehensive, and information on catches in the aboriginal food fishery is very weak.

The shortcomings in the recreational catch data should be rectified within the five years referred to above.

This need for accurate catch data converges with the growing pressure on producers of meat, fish and other foods to be able to trace production back to the producer.

Chapter 6 The Transition

Our terms of reference emphasize the need for a vision of the fisheries after treaties with First Nations are settled, to reduce the uncertainty about where present negotiations are leading, and to ensure that the broad policy objectives shared by the federal and provincial governments will be advanced. However, settlement of treaties is likely to take many years, perhaps decades. In the interim the task will be to manage the transition and ensure that the process promotes achievement of the vision and objectives for post-treaty fisheries.

In general, the policy should be to promote treaty settlements by eliminating obstacles, particularly the uncertainties and anxieties of various fishing groups about their future, discussed in earlier chapters. And it should ensure that interim fishing arrangements, as well as agreements under treaties, will help to integrate the fisheries, develop co-management and improve economic performance.

In this chapter, we discuss a variety of issues that must be addressed to achieve these objectives. We deal first with measures that must be taken immediately to initiate the transition, then turn to longer-term needs.

REFORM OF LICENSING AND CO-MANAGEMENT ARRANGEMENTS

The government should initiate without delay the revision of the commercial licensing system – introducing quota licences, providing licences with longer terms and other improvements in their security – and provisions for co-management, described in Chapters 4 and 5. Responsibility for initiating and carrying out much of this work will fall to government, but it should be conducted in consultation with representative industry and co-management associations. This work should be completed before the 2005 fishing season. The reorganization of the salmon fishery is most urgent.

In previous chapters we have explained the reasons for immediate attention – the need to adjust to new environmental controls, among them the recently enacted Species at Risk Act; the progress of treaty negotiations and the new commitments of fish to First Nations; the necessity of organizing transfers of fishing rights to First Nations and offsetting withdrawals from the commercial sector; and, most compelling for those engaged in salmon fishing, the industry's economic crisis. The initiatives outlined in Chapters 4 and 5 to set the salmon fishery on a course of economic improvement should be undertaken immediately.

At the same time, the federal government should initiate discussions with the fishing industry and the government of B.C. concerning a suitable structure for a licence registry.

COMPENSATION

The transfer of fish and other resources expected to occur as treaties are settled will inevitably produce benefits for some and costs for others. Our terms of reference call on us to recommend ways to offset adverse impacts that fall on established fishers as a result of reallocating rights to fish through treaty settlements.

COMMITMENT TO COMPENSATION

We begin with the widely supported proposition that the costs of treaty settlements – both for increased food, social and ceremonial fish use (aboriginal food fishery) as well as fish for commercial sale – are intended to be borne equitably by all Canadians. This means that costs should not fall disproportionately on established fishers, and so, to the extent that their allocations of fish are reduced to meet treaty obligations, fishers should be compensated.

On more than one occasion in the past, the Minister of Fisheries and Oceans (Minister) has indicated that such impacts would be compensated and some mitigation was provided to offset reallocations under the Nisga'a treaty, but there has never been a formal declaration to this effect. Moreover, recent commitments to First Nations of new roe-on-kelp licences have had adverse effects on other fishers who have not been compensated. As a result, we encountered in our consultations a deep and widespread anxiety among commercial and recreational fishers that the burden of increased allocations to First Nations would be borne by them, without compensation. These apprehensions about the government's intentions, and the absence of any formal assurance to the contrary, have contributed to opposition to treaty settlements.

This appears to us to be another example of an obstacle to treaty settlements arising from lack of clarity in governmental policy, rather than disagreement with the policy itself. It is our impression that the federal government does indeed intend to compensate fishers whose existing rights are diminished to meet treaty obligations, but this is not enough; it must make this intention clear in a reliable commitment. We therefore recommend that the Government of Canada issue a formal statement to the effect that it will offset adverse impacts on established fishers arising from reallocation of rights to fish under treaty settlements.

METHODS OF COMPENSATION

With respect to the methods of compensation, there are two general cases to consider. When rights to fish in the fisheries regulated by individual quotas are transferred to First Nations, rights of equal amount should be purchased from the lowest offers among quota holders in the relevant fishery. In this way the compensation issue is resolved equitably through market transactions involving purchases from willing sellers.

Until licence shares or individual quotas are adopted in the salmon fishery and other competitive fisheries, the solution is more complicated because specific allocations of fish to First Nations must be offset by withdrawing licences from the commercial sector that provide only an opportunity to fish for an unspecified quantity. In these circumstances, the government's policy should be to buy licences from among those licensed to fish in the relevant area. Sufficient licences should be purchased and retired to remove a portion of the total fishing capacity equal to the proportion of the total harvest reallocated to the First Nation.

Until commercial salmon licences are converted to the new quota licences, specific allocations of sockeye provided for in treaty settlements must be offset by purchases of vessel licences, under which all species of salmon are normally caught. To determine how many of these licences are sufficient to offset a sockeye allocation, the mixed catch is converted to "sockeye equivalents." However, the withdrawal of fishing pressure on (sockeye equivalents of) pink and chum salmon will not offset sockeye allocations. In short, the formula for calculating these equivalencies is a source of concern and should be reviewed.

WHEN TO COMPENSATE

In general, whenever new commercial fishing rights that will adversely impact established fishers are created, or allocations of fish for the aboriginal food fishery are significantly increased, equivalent rights should be purchased from the established commercial sector, as described above.

One caveat must be added. Earlier in this report we noted that commitments to provide specific quantities of fish to locations upstream in rivers might well cost downstream fisheries a bigger loss in fish than the quantity gained upstream. This is because other stocks mingled with the committed fish downstream must also be allowed to escape up the river and in most cases cannot be harvested. If this results in additional losses to commercial fisheries, they should be compensated for this as well.

INTERIM ARRANGEMENTS FOR FIRST NATIONS

As treaties are settled, the legal basis for aboriginal fishing will gradually shift from the present variety of rights and agreements to treaties and Harvest Agreements. The orderly transition to these new arrangements calls for the transfer of fishing rights from existing fishers to First Nations with the least possible disruption. Fishing for the aboriginal food fishery is already well established, and the increases under treaties are not likely to present major transitional difficulties. The primary method of providing commercial fishing opportunities for First Nations before treaties are settled has been to purchase licences from commercial fishers through the government's Allocation Transfer Program (ATP) and re-issue them to First Nations as communally held commercial licences.

This program has been ongoing since 1993, and to the end of March 2003 some $54 million has been spent on 314 licences of various types and 14 vessels for transfer to First Nations. These interim arrangements help to pace the reallocation of resources with treaty settlements, which would otherwise be abrupt and disruptive for both the First Nations and established fishers. Without these interim arrangements some First Nations may attempt to harvest and sell fish anyway, creating enforcement and friction.

The Pilot Sales program also provided access to salmon for the commercial fishery in advance of treaties. In 1993, 49 of the salmon vessel licences purchased under the ATP were retired to offset the reduction in catches available to the commercial fleet resulting from the Pilot Sales agreements on the lower Fraser and Somas rivers. With the termination of Pilot Sales last year those allocations will probably revert to the commercial fishery, creating the prospect of further dislocation (and probably pressure for a second compensating purchase of licences) when treaties are finally settled.

Once the salmon fishery has adopted the proposed catch-share system, the transfer of rights to salmon will be simplified. In the meantime, and pending the appeal of the Kapp decision, we recommend that the Department of Fisheries and Oceans (DFO) consult with representatives of First Nations to identify possible interim arrangements for First Nations fishing, possibly taking advantage of the licences already retired to offset Pilot Sales, in order to facilitate an orderly transition both to treaties and to an integrated commercial fishery.

Furthermore, we recommend an expanded effort to purchase commercial salmon licences and licences for other species in anticipation of Harvest Agreements in future settlements. Licences acquired in this way would, of course, be eligible for catch shares when they are introduced and for conversion into quota licences. Until ultimately being transferred to First Nations as part of treaty settlements, they might be leased or assigned to fishing communities or individual fishers.

We see several advantages in purchasing licences now. One is that the value of salmon licences is likely to rise when they are converted to quota licences and made more secure, so that First Nations will obtain more for treaty settlement funds used for this purpose now than they will be able to obtain in the future. Second, it provides a means of smoothing the transition to treaties. And third, it offers an opportunity for established fishers who object to the reorganization of the salmon industry to exit the fishery.

EMPLOYMENT AND ECONOMIC DEVELOPMENT IN ABORIGINAL COMMUNITIES

In the course of this inquiry we have become concerned about the outlook for employment and economic stability of aboriginal communities, the opportunities and expectations for development of fisheries, and the role of DFO.

Over past decades, DFO has directed a good deal of effort to facilitating First Nations' participation in fisheries. This has included special commercial fishing licences with reduced fees for status Indians and assistance programs to lower the financial barriers to entering the industry. As well, licences held by First Nations communally and restrictions on the transfer of licences from aboriginal to non-aboriginal people were meant to maintain First Nations' participation in the fishery. The Aboriginal Fisheries Strategy provided orderly access to fish for the aboriginal food fishery and commercial fishing opportunities, and a variety of other programs. These initiatives have been welcomed, although whether they have been successful in expanding or even stabilizing aboriginal employment in the fisheries, or in stabilizing aboriginal communities, is debatable.

Aboriginal fishers operating in the regular commercial fishery express deep concern about their future opportunities. Previous licence-retirement programs depleted their numbers because many were so indebted that they had no alternative to selling out. Inflation of licence values has presented a formidable barrier to entering the industry, and low earnings in the salmon fishery in recent years, coupled with the special difficulties aboriginal people face in securing access to financial resources, have resulted in many leaving.

Moreover, restrictions and special provisions on commercial licences held by aboriginal fishers make those licences less valuable than licences held by non-aboriginals. Accordingly, we urge close consultation between the government and First Nations licence holders about the nature of the restrictions to be included in the new quota licences for First Nations commercial fishers. We also suggest that treaty negotiators on both sides reflect on the long-term economic implications of restrictions attached to communal licences.

Many aboriginal fishers we have consulted fear that reforms of the kind we urge in this report will further reduce aboriginal participation in the fishery. Their concern is understandable insofar as rationalizing the salmon fishery will probably reduce employment in fishing (though perhaps by less than often feared). However, we see no alternative. Either there is an industry with no future or there can be a prosperous fishery offering good jobs and a return on investment. Fundamental reform is essential.

Nevertheless, we believe that governments have a responsibility to mitigate or offset losses in employment resulting from such a change in policy. In this regard, we do not believe that responsibility for employment and economic development of aboriginal communities should be left to DFO, which understandably limits its scope to fisheries. In considering economic opportunities for First Nations in the fisheries of the future, less conventional opportunities – in new fisheries, shellfish

culture, aquaculture of marine plants, aboriginal products and other industries ranging from tourism to other resource industries – might offer more promise than some of the traditional fisheries.

We raise these issues in order to encourage a thorough review and assessment of policies for developing economic opportunities in rural and aboriginal communities in which fisheries have traditionally played an important role.

REVISION OF THE FISHERIES ACT

Many difficulties in managing our fisheries and realizing their economic potential arise from an antiquated legislative framework. The 1867 Fisheries Act is now 137 years old, and it shows its age. We have noted several of its shortcomings in this report – the lack of a legal basis for co-management, the discretionary nature of fishing licences – but there are many more. It is a statute designed for the fisheries of the 19th century and today, patched with amendments, it is a thoroughly inadequate framework for managing modern fisheries and it needs a thorough overhaul.

Two fundamental weaknesses of the act relevant to this report deserve mention. One is that it makes all fisheries management rest on Ministerial discretion. This has resulted in a highly centralized management system, which is inimical to the meaningful involvement of fishers and others, as we have recommended here. The other is its heavy reliance on criminal law for enforcement of its provisions. This means that even minor breaches must be capable of being proved in court. The result is that many offences are not worth prosecuting. A modern system for managing and regulating a complex structure such as the fisheries calls for administrative sanctions for enforcing many regulations, which enables much greater flexibility and efficiency.

We are aware of the frustrations of past attempts to revise the Fisheries Act and the reluctance to tackle it again. We understand that in the past, revisions have had to cover the needs of all regions of Canada and that this has contributed to the difficulty in amending the Act. In our view, a practical solution would be to enact legislation specific to the Pacific coast to deal with the recommendations in this report. Many issues are potentially contentious and will require wide consultation. But the Fisheries Act is long overdue for revision, and the task should be initiated without further delay.

The Fisheries Act is now 137 years old… and it needs a thorough overhaul.

Chapter 7 Conclusion

As we began our investigation, we noted an atmosphere of uncertainty and apprehension among commercial, aboriginal and recreational fishers – a result of changes now affecting the Pacific salmon fishery. We note three changes in particular: new conservation issues; the poor economic performance of the commercial salmon fishery; and treaty negotiations with aboriginal people. Anxiety about these developments, about the government's response to them and about their impact on established fishers is an obstacle to necessary reforms.

In this report, we have attempted to clarify these new developments and propose policy changes to make the fisheries – including the beleaguered salmon fishery – sustainable and prosperous.

We are convinced this is possible. As we noted in Chapter 2, we have a remarkably rich fisheries resource, a highly skilled and technologically advanced industry and great potential in world markets. We also have a recreational fishery that few in the world can match. The world outlook for seafood products is bright. Moreover, our fish resources contribute to the social and economic quality of life in this region.

The problem is that the fisheries are not now well organized to take advantage of their potential and making changes in fisheries policy has always been difficult because of the competing interests involved. Nevertheless, we recognize that major steps have been taken in the past, including the reduction of the salmon fleet and the introduction of individual quotas in a number of fisheries. But this is not enough. The task now is to build on this progress through reforms that will not only address the new pressures converging on the fisheries, but will also put them on a fundamentally new path, generating the full economic and social potential from the resources.

As contemplated in our terms of reference, our proposals will facilitate treaty settlements; ensure sustainable management and use of resources; provide fishers with greater certainty and security of access; and improve economic performance. They will also promote integration of commercial fisheries, cooperative management arrangements and equitable treatment of those affected by treaty settlements.

PROMOTING TREATY SETTLEMENTS

With respect to the first objective – to promote treaty settlements – we address a number of obstacles to the treaty-making process. One source of opposition is the uncertainty about where treaty settlements are leading, and whether – if negotiations continue on their present course – there will remain a place for non-aboriginal commercial and recreational fishers. Our analysis of agreements so far suggests that there will continue to be substantial opportunities for all groups.

We also believe that the proposals we have made for improving the management of the commercial fishery and the nature of the rights granted to fishers, including the provision of longer-term licences, and for a fully integrated commercial fishery, will alleviate the apprehension surrounding the conclusion of treaties and Harvest Agreements and thus facilitate the treaty-making process.

To further facilitate treaty settlements, we propose explicit provisions for compensation for established fishers who would otherwise be adversely affected by transfers of fishing rights resulting from the settlement of treaties.

RESPONDING TO NEW CONSERVATION CHALLENGES

Our recommendations involve improvement in the management of fish resources to ensure their sustainability and biodiversity. The immediate challenge is to adapt to the new demands of precautionary management and the requirements of the new Species at Risk Act. These new environmental strictures may substantially reduce access to fish – especially salmon – unless ways can be found to harvest fish cautiously and without risk to the resource when stocks are weak or their abundance is uncertain.

These challenges – particularly in managing salmon with the additional complications of multiple commitments under treaties, the already daunting task of allocating catches among various sectors of the fishery and ensuring adequate escapements to maintain the stocks – call for fundamental changes in the organization of the fishery. We recommend that each of the salmon fishery's eight Area Harvesting Committees be invited to decide among themselves how they will regulate the number of vessels that fish when fishing effort must be controlled and how to allocate the group's allowable catch among their members. Building on the new organizational structure of the salmon fishery, we recommend that the Department of Fisheries and Oceans (DFO) engage these Area Harvesting Committees in the management of their fishing.

These arrangements will resolve once and for all the vexing problem of allocation of the catch, permit the management of fishing effort so that resources can be fully utilized without risk to the stocks and promote participation in the management of fisheries on the part of those who hold rights to the harvest.

IMPROVING ECONOMIC PERFORMANCE

To overcome the historically poor economic performance of the commercial fishery, there must be incentives for maximizing the value of harvests, rather than for catching as many fish as possible. This has been achieved in most of the commercial fishery sectors by changing the form of fishing right – from licences to catch an unlimited quantity of fish to individual quotas that provide each fisher with a defined share. The benefits of this reform are clearly reflected in the economic improvement of these sectors. However, the salmon fishery and some smaller fisheries are still managed under the old system and salmon fishers, in particular, have been suffering an economic decline, now to the point of crisis.

To reverse this trend, we recommend that salmon fishers be assigned secure shares in the catch allocated to their fishing areas and be free to transfer and combine their shares to reduce costs and improve the efficiency of fishing operations. Decisions about how the shares are to be allocated and related matters, including how to manage fishing effort when the abundance of stocks is weak or uncertain, should be determined by the fishers themselves. They should also be encouraged to enter into co-management agreements to engage them in fishing management, data collection and monitoring of catches and in recovering the cost of these activities, much like fisheries managed under individual quotas.

Finally, fishers in all sectors need more secure access to the resources upon which they depend. We recommend that all commercial fishing licences be converted to new quota licences, giving each licensee a specific share of the allowable catch under secure, long-term licences. We also recommend that the recreational sector's priority for chinook and coho salmon – and allocations of other species of special value for sportfishers – be confirmed for five years, after which they should be reviewed.

EFFECTING CHANGE: THE NEED AND THE WILL

The fisheries of the Pacific coast are at an historic turning point. Beyond dealing with new circumstances and new problems, there is an opportunity to change direction for the better.

We believe that the reforms we have recommended will redirect the fisheries toward prosperity and sustainability. The changes will not be easy, however. We know from our consultations with stakeholders over recent months that while our recommendations enjoy substantial support, there will be opposition as well. Divided, fractious interests within the fishing community have always made any real policy reform difficult, if not impossible.

In such circumstances, there may be a temptation to take the line of least resistance, to implement some reforms and leave the more difficult and the more contentious aside. In our view, this would be wrong. The time for tinkering is past. Action must be taken across the range of recommendations we have made. Reform has to be complete, not partial.

In this regard, we are encouraged by the convergence of interest of the governments of B.C. and Canada both in treaty settlements and in the rejuvenation of the fisheries. Moreover, we have found a widespread willingness to consider fundamental reforms on the part of those in the fisheries. With continuing cooperation, leadership and resolve we foresee a promising, prosperous and sustainable future for the fisheries.

Appendix 1 Summary of Recommendations

FISHERIES MANAGEMENT

1 The same rules of fishing and the same standards for reporting catches should apply to all commercial fishers. (p. 19)

2 The Department of Fisheries and Oceans (DFO) should have authority to specify the maximum number of vessels that may participate in any opening of the salmon fishery. (p. 27)

3 Area Harvest Committees should have authority to determine how the number of vessels in any fishery opening is to be selected. (p. 27, 54)

4 Failure to comply with DFO's limit on the number of vessels should result in closure of the fishery. (p. 27, 28)

COORDINATION OF FISHING

1 DFO should engage the Integrated Harvest Planning Committee without delay about how best to implement new fisheries coordination arrangements. (p. 32)

2 Commercial fishing should take place only according to fishing plans developed in consultation with the Commercial Salmon Advisory Board and approved by DFO as part of an integrated management plan. (p. 32)

3 Membership on the Commercial Salmon Advisory Board and Area Harvest Committees should be adjusted over time to include representation of new participants, such as the Nisga'a and other First Nations that engage in commercial fishing. (p. 32)

CO-MANAGEMENT

1 The Minister of Fisheries and Oceans (Minister) should issue a policy statement declaring that the government supports co-management as a means of improving the management of fisheries. (p. 31)

2 DFO should issue clear instructions about procedures for establishing Fisheries Associations, minimal requirements for recognition, and arrangements for entering into co-management agreements. (p. 31)

3 Fisheries Associations should be permitted to organize themselves within these minimal requirements as non-profit societies, co-operatives or corporations as they see fit, under laws governing these structures that ensure democratic procedures and accountability. (p. 31)

4 Membership in a Fisheries Association should be required for anyone participating in a particular commercial fishery. (p. 31)

5 Fisheries Associations should be able to levy fees on their members to cover the cost of their work. (p. 31)

6 DFO should assist the Commercial Salmon Advisory Board in establishing itself as a legally constituted, representative body that can raise funds from its members and enter into co-management arrangements. (p. 32)

LICENSING AND QUOTA SYSTEMS

1 Licences and quotas should be merged into a single "quota licence": each licence authorizing its holder to take a specific percentage of the total allowable commercial catch for the relevant fishery for the duration of the licence. (p. 37, 55)

2 Quota licences should be issued to persons, companies or associations – not vessels. (p. 37)

3 The Minister should seek the legislative change necessary to give quota licences terms of 25 years, replaceable after 15 years on an "evergreen" renewal basis. (p. 37, 55)

4 In the interim, the Minister should grant quota licences for five years and announce his intention to seek legislative change. (p. 38)

5 The Minister should announce that if legislative change is not in place within five years, he will reissue licences for another five-year term. (p. 38)

6 Restrictions on the transferability and divisibility of licences and quotas, their attachment to vessels and other impediments to their flexibility should be eliminated. (p. 38)

7 The provisions for quota licences should be set out in the Regulations pursuant to the Fisheries Act, thus eliminating their discretionary elements. (p. 38)

8 Additional quota licences should not be issued without the consent of the holders of fishing rights in the relevant fishery. (p. 38)

9 Annual conditions of licences should be used to authorize and manage fishing activities consistent with integrated fishery management plans. (p. 38)

LICENCE REGISTRY

DFO should initiate consultations with the fishing industry and the B.C. government about the structure and establishment of a suitable licence registry. (p. 44)

REFORM OF THE SALMON FISHERY

1 DFO should reaffirm its coast-wide allocation policy, including the allocation of salmon among the three commercial sectors, to ensure its consistency with the new management regime for salmon. (p. 44)

2 Each salmon fisher's share of the area allowable catch should be fixed once and for all by a method chosen by each Area Harvest Committee and incorporated into new long-term quota licences. (p. 41)

3 Commercial fishing licences should be converted to new quota licences, giving each licensee a specific share of the allowable catch under secure, long-term licences. (p. 55)

4 Salmon fishers should be free to transfer and combine their shares to reduce costs and improve the efficiency of fishing operations. (p. 42, 55)

5 The new arrangements for the salmon fleet should be adopted for all sectors at the same time, and in time for the 2005 fishing season. (p. 42)

6 DFO should begin immediately to engage the Commercial Salmon Advisory Board in consultations about how catch shares can be introduced most effectively, equitably and quickly. (p. 42)

7 The Minister should announce a date by which the new regime is to be in place. p. 42

8 DFO should engage the salmon fishery's new Area Harvesting Committees in the management of their fishing. p. 54

9 The recreational sector's priority for chinook and coho and allocations of other species of special value for sportfishers should be confirmed for five years and then reviewed by the Minister. (p. 46, 55)

10 Surplus spawners not allocated to First Nations under Harvest Agreements should be included as part of the commercial catch available to holders of quota licences. (p. 43)

11 Other fisheries still managed under unquantified vessel licences should also convert to quota licences as soon as practicable. (p. 43)

TRANSITION

1 DFO should announce formally that it will offset adverse impacts on established fishers arising from reallocation of rights to fish under treaty settlements. (p. 48)

2 Whenever new commercial fishing rights that will adversely impact established fishers are created, or allocations of fish for the aboriginal food fishery (for food, social and ceremonial purposes) are significantly increased, equivalent rights should be purchased from the established commercial sector. (p. 49)

3 Pending the appeal of the Kapp decision, DFO should consult with First Nations representatives to identify possible interim arrangements for First Nations fishing, in order to facilitate an orderly transition both to treaties and to an integrated commercial fishery. (p. 50)

4 There should be an expanded effort to purchase commercial salmon licences and licences for other species in anticipation of Harvest Agreements in the future. (p. 50)

5 There should be close consultation between DFO and First Nations licence holders about the nature of the restrictions to be included in the new quota licences for First Nations commercial fishers. (p. 51)

6 The Fisheries Act should be amended where necessary to implement the recommendations of this report and thoroughly revised to meet the needs of modern fisheries management. (p. 52)

7 Action should be taken across the range of recommendations. Reform should be complete, not partial. (p. 56)

Appendix 2 Excerpt from the Terms of Reference, July 2003

The Parties will establish a two-member team comprised of one person appointed by the Minister of Fisheries and Oceans, and one person appointed by the Government of British Columbia; hereafter referred to as the Joint Task Group.

Areas of focus of the Joint Task Group will include:

1 Defining a broad vision of the post-treaty fishery, including identifying how fish will be shared among treaty and non-treaty participants and associated management challenges.

2 Examining management challenges associated with post-treaty fisheries and identifying equitable arrangements that will provide for sustainable, integrated fisheries management for treaty and non-treaty fisheries.

3 Identifying approaches to offset impacts on existing fish harvesters who are affected by the reallocation of fish to meet treaty obligations.

4 Proposing means to enhance the economic performance of the fishery including the design of fishing arrangements that provide secure long-term access to harvesters, and cooperative initiatives to support a sustainable fishery.

5 Undertaking other work as the Parties deem necessary.

Copies of this report are available from Fisheries and Oceans Canada in Vancouver and the Ministry of Agriculture, Food and Fisheries or the Treaty Negotiations Office of the Ministry of Attorney-General in Victoria.

PROJECT DIRECTOR: DAVE BARRETT
EDITORIAL: ALEX ROSE AND HELENA BRYAN
DESIGN: SAMATAMASON
COVER PHOTO: GARY FIEGEHEN
PRINTING: HEMLOCK PRINTERS

CONTAINS 30% POST-CONSUMER FIBRE

FEDERAL-PROVINCIAL / POST-TREATY FISHERIES
JOINT TASK GROUP