

TNAC – FISHERIES COMMITTEE DISCUSSION PAPER PRAWN HARVEST AGREEMENTS

As part of the fisheries component of treaty negotiations, First Nations are seeking access to commercial harvesting opportunities. However, many First Nations are not interested in access to regular commercial fisheries. Canada has developed the option of entering into Harvest Agreements (HAs), which will provide harvesting opportunities similar, but not identical, to the regular commercial fishery. One species that is under consideration for possible use in a Harvest Agreement is prawns. Canada is seeking advice on the issues involved in negotiating such a Harvest Agreement. Canada will also seek advice from industry representatives in the appropriate sectors.

Fishery Background

Prawn (*Pandalus platyceros*) are the largest of the seven commercially harvested shrimp species (*Pandalus spp.*) on Canada's Pacific coast. The commercial fishery is limited entry with each of the 253 licences allowing for the use of 300 traps per vessel. Currently, a second licence may be stacked on a vessel, in which case a limit of 500 traps is imposed. In special management areas the number of traps is reduced to 50 % of the above figures. All licenses are allowed to fish coastwide in areas open to prawn harvesting.

The commercial fishery is actively managed by "spawner index", which is a measure of the average number of females per standard trap caught in 24 hours. When the spawner index reaches a set level, the fishery is closed. In-season closures may occur in local areas and sub-areas for conservation or manageability. The coastwide fishery is typically open for 70-90 days in May to July.

A minimum size limit ensures non-retention of juveniles, which is mainly accomplished with trap mesh size limits. As well, fishers are permitted to haul traps only once per day (single haul) in order to reduce handling and release mortality of undersized prawns, by providing time for undersized prawns to leave the traps.

Information on the prawn fishery and biology is available, including the Prawn and Shrimp by Trap Integrated Fishery Management Plan and other documents, at www.pac.dfo-mpo.gc.ca/ops/fm/shellfish/prawn/default.htm.

Harvest Agreements – General

Harvest Agreements are a tool available to negotiators to provide a First Nation with access to commercial fishery opportunities. It is expected that these agreements will:

- Operate under a common regulatory framework which will lead towards convergence with the future commercial fishery;
- Operate under a licence issued by the Minister
- Be negotiated concurrently with, but not protected as part of, a treaty with a First Nation;
- Establish a fishery separate from the treaty protected domestic harvest;
- Establish commercial fishing opportunities comparable to the commercial fishing capacity already acquired or to be acquired;
- Be evergreen (e.g. term of 25 years, renewable on the same terms at the discretion of the First Nation every 15 years for a further 25 years);
- Include provisions for the harvest and disposition of fish, harvest monitoring, and fisheries management;
- Ensure that First Nations pay any management costs associated with the fishery at rates equivalent to commercial harvesters; and
- Include a dispute resolution process and a process for termination of the Harvest Agreement including a requirement for fair compensation.

First Nations will have certain interests they wish to see reflected in a HA. These may include economic development, capacity building, sharing of treaty benefits within their community, and reentering commercial fisheries in which they previously participated. One desire expressed by many First Nations is to provide opportunities for more community members by splitting the benefits among several smaller vessels. Another interest is to diversify their fishery by acquiring capacity in different fisheries to provide fishing opportunities throughout the year.

In order for HAs to be a successful tool in treaty negotiations, negotiators will need to take into account third party concerns, including advice received from industry, as well as the interests of First Nations.

For further information, refer to the paper “Harvest Agreements – Where to From Here?” distributed to TNAC earlier this year.

Prawn Harvest Agreements – Options for Defining Shares

A number of options may be considered to define the opportunity or share of the prawn fishery that a First Nation might access through a HA. Some options are:

1. Licence Equivalents - Provide the First Nation with opportunity to acquire fishing capacity equivalent to ‘x’ licences. If the number of traps per licence changes in the regular fishery, then the HA would change accordingly. If “splitting” of licences is permitted, then vessel/trap limit options could be tested and explored over time. Licence splitting issues could be dealt with in licence conditions. *Licence equivalents may provide flexibility for adjustments as the fishery evolves.*

2. Trap Allocation – Provide the First Nation with a fixed number of traps. Minimum/maximum traps per vessel could be specified in the HA as in option 1. *This option is less flexible as the number of traps is fixed, regardless of changes in the regular commercial fishery.*
3. Share of Total Allowable Catch – Provide the First Nation with a share of the TAC in a given area. *This option may be difficult to implement as the fishery is not managed to a TAC and catch data is not generally available until well after the fishery has closed.*
4. Special Area – Provide the First Nation with an area in which they would have priority or exclusivity over the regular commercial fleet, either for the entire season or part of it. Recreational harvesters would have to be taken into account. *Production in local areas can be subject to high annual variability.*
5. Other Options?

Management Considerations

Relationship to the Regular Commercial Fishery

- a. Flexibility regarding splitting of traps/vessel – Rules to limit stacking were implemented to reduce concentration of ownership, increase employment and provide for the participation of a small boat fleet. Trap splitting provisions of a HA are directed at similar objectives.

Question: What limitations should be considered if trap splitting is to be included in a prawn HA?

- b. Area – First Nations are most likely to want to harvest prawns in their local area, especially if trap splitting is permitted, allowing for the use of smaller vessels.

Question: Should prawn HAs include area limitations? What happens if the limited area is closed?

c. Other Licence Conditions

Question: Where could there be flexibility in other licence conditions governing conduct of HA prawn fisheries (e.g. times, methods, gear, identification)?

Monitoring, Enforcement and Catch Reporting

Trap splitting may raise enforcement concerns. Smaller vessels may be more difficult to identify, more vessels must be inspected, smaller trap limits may allow more opportunity for multiple hauls, etc. Commercial harvesters are required to report all catches on fish slips and in harvest logs.

Question: What should be the monitoring, enforcement and catch reporting requirements for a HA prawn fishery?

Acquisition of Harvest Capacity

Licences will be retired on a voluntary basis from the commercial fleet and will be directed as much as possible at vessels that have fished in the area local to the First Nation in recent years.

Question: Should governments or a First Nation retire prawn harvest capacity?

Question: Should a prawn HA specify a maximum capacity that may be acquired and fished under the HA?

Licence Transferability

In the regular commercial prawn fishery, harvest capacity may be leased or transferred. The harvest capacity in prawn HAs could theoretically be transferred back into the regular commercial fleet. The HA and any associated licence conditions would not be transferable.

Question: Should harvest capacity from a prawn HA be able to be leased or sold? What limitations should be placed on the lease or sale of the capacity? If sold, can it be replaced at a later date?

Other

Question: What other issues should be considered?
