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FREQUENTLY ASKED QUESTIONS

Treaty Negotiations and Fisheries Harvest Agreements



Canada

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What is a harvest agreement?

A harvest agreement is a negotiated arrangement that would provide for a First Nation to fish commercially. While it would be negotiated at the same time as a treaty, it is a separate agreement that would not receive constitutional protection.

Why is Canada negotiating harvest agreements with First Nations?

Fish are an important natural resource in British Columbia and, therefore, are a subject of discussion at treaty talks. First Nations have historically played a role in the commercial fishing industry and are seeking a share of the commercial fishery through treaty negotiations.

The Government of Canada's aim in treaty negotiations is to establish certainty, create a positive climate for investment, and provide First Nations with tools to encourage self-reliance, economic development and improved quality of life in their communities.

Harvest agreements, while separate from a treaty, fit within these broader objectives. By clearly setting out allocations, responsibilities and obligations, we can achieve certainty in the fishery. In this way, harvest agreements would provide for fair and equitable access to commercial fishing opportunities for First Nations.

How would a harvest agreement work?

A harvest agreement would clearly set out a First Nation's share of the commercial harvest and provide for annual licences to be issued by the Minister of Fisheries and Oceans to harvest that share. This could be a share of the total allowable catch, a quota or a number of traps, depending on the species and how the fishery is managed. The harvest agreement and licence would be consistent with the Minister's management plan for the fishery and include measures similar to those applied in the regular commercial fishery, such as measures for monitoring and enforcement.

Harvest agreements would be co-ordinated with the regular commercial fishery through established advisory processes for fisheries management. The Government of Canada believes that a harvest agreement should contribute to the orderly management of fisheries and support the conservation of fish stocks. In addition, third party stakeholders would continue to be consulted during the development and negotiation of harvest agreements.

Harvest agreements are not intended to create competitive economic advantages. The First Nation's share of fish under a harvest agreement would have the same

status in management decision-making as any other commercial share. For example, if an allocation of fish under a harvest agreement was expressed as a share of the total allowable catch for commercial purposes, then when stocks were weak, everyone would fish less, and when stocks were strong, everyone would fish more.

Would harvest agreements affect the catch available for other commercial fishers?

No. Harvest agreements would not affect the annual catch of other commercial licence holders. An allocation of fish for a harvest agreement fishery would be obtained from existing licence capacity that is voluntarily retired from existing commercial licence holders. Commercial fishing licences already issued to the First Nation could also contribute to an allocation of fish.

Reduced fishing opportunities as a result of conservation closures would have the same impact on harvest agreement fisheries as they do on regular commercial fisheries.

Would a harvest agreement have priority over other commercial fisheries?

No. Harvest agreements would have the same priority as regular commercial fisheries in management decision-making. Canada's primary objective is the conservation of fish stocks. After conservation needs are met, Canada gives priority to Aboriginal fishing for domestic (food, social and ceremonial) purposes. In contrast, a harvest agreement would not be a treaty and would therefore not receive protection or priority under section 35 of the *Constitution Act, 1982*.

Will harvest agreements be different from pilot sales under the Aboriginal Fisheries Strategy?

Yes. In treaty and harvest agreement negotiations, the Government of Canada seeks to address issues that have arisen in the past concerning pilot sales, such as negotiating separate allocations for domestic and commercial (harvest agreement) purposes. Priority can be given to domestic allocations, while commercial allocations in a harvest agreement would have the same status in management decisions as other commercial fisheries.

The Government of Canada is also interested in negotiating arrangements that would integrate annual planning for harvest agreements into regular advisory processes. Pilot sales arrangements have not been part of these processes. In addition, we intend to continue consulting with third party stakeholders throughout the negotiation and development of harvest agreements.

Finally, allocations of fish in pilot sales arrangements were originally fixed; that is, they did not change according to the annual abundance or population levels of the fish that

were returning to spawn. In harvest agreements, the Government of Canada will generally be seeking to negotiate allocations based on abundance. This approach provides for greater management flexibility towards meeting our goals of conservation and fairness among user groups.

How does a harvest agreement differ from a regular commercial fishing licence?

A harvest agreement would be a long-term (up to 25 years), renewable arrangement that would provide for annual fishing licences to be issued to a First Nation. It is this long-term feature that meets First Nations' interests in providing greater assurance for their participation in commercial fisheries. While a harvest agreement could be terminated, it may also include terms for compensation to the First Nation in the event that it is terminated.

Provisions of a harvest agreement could also be negotiated to address the collective interests of a First Nation. For example, regular commercial halibut licences are issued to one vessel and that vessel must be used to fish the entire quota. A First Nation may be interested in subdividing that quota among several smaller vessels in order to meet their interests in creating employment. These variations would need to be affordable and meet principles for good fisheries management.

Harvest agreements could also include provisions for participation in fisheries management processes, and mechanisms to resolve certain disputes, neither of which is included in a regular commercial licence.

Before harvest agreements, how did Canada address commercial fishing in treaty negotiations?

Before harvest agreements, two approaches were raised at treaty tables for providing First Nations with access to commercial fishing opportunities. Many First Nations sought provisions for commercial fishing to be protected in a treaty. The Government of Canada's preferred approach was to retire existing commercial licences from willing licence holders and issue new licences to the First Nation. Neither approach was supported by both First Nations and commercial fishers. The concept of harvest agreements was developed as an alternative to address and balance the concerns of the various interests.

Were fisheries representatives consulted about harvest agreements?

Consultation with fisheries interests has been and will continue to be an important element in the development of harvest agreements. Commercial, recreational and Aboriginal fishing representatives have been consulted about harvest agreements. The Government of Canada is aware of their interests and concerns. Consultations will continue because it is important to receive everyone's input and advice on how the agreements are structured and how harvest agreement fisheries might operate as part

of the integrated commercial fisheries.

Why not make harvest agreements available to all commercial fishers?

Some fisheries representatives have suggested that harvest agreements should be made available to the entire commercial fishing sector. Canada is prepared to consider the possibility of converging harvest agreement fisheries and regular commercial fisheries as Pacific fisheries management evolves over time.