

Management Principles for FSC Fisheries

1. Processes and decisions regarding FSC access (amount and fishing area) should honour Canada's obligations to First Nations.
2. Conservation is paramount (confirmed in Supreme Court rulings and endorsed by First Nations). Management decisions will be guided by Wild Salmon Policy, Species at Risk Act considerations and a long term view for resource sustainability. FSC fisheries would be bound by conservation restrictions in each area and harvests constrained by such conservation requirements.
3. Aboriginal fishing for FSC purposes has first priority in management decisions, after conservation, over other user groups (reflects the SCC Sparrow Decision)
4. Aboriginal fishing should occur within areas that were traditionally fished by the First Nation.
5. Decisions regarding FSC should take into account the diversity and abundance of fisheries resources in the First Nations' fishing areas.
6. Decisions regarding FSC access should take into account differences among First Nations (eg community use, preferences, social and cultural differences, operational factors, etc).
7. Decisions regarding FSC fishing should take into account the FSC access of other Aboriginal groups. For example, when sharing of common stocks between First Nations is required, those stocks will be managed to give the priority to those groups who have access to fewer stocks and/or species.
8. Access for FSC is an opportunity to harvest, not a guarantee of a specific allocation.
 - Opportunity may be affected by natural fluctuations in abundance or migratory patterns
 - Conservation restrictions on migrating stocks
9. First Nations should apply a reasonable effort for the opportunity they are provided and towards the management and reporting of their FSC fishery.

Policy

- DFO's Policy with respect to the 1990 Supreme Court of Canada decision in *Sparrow*, is that fishing for FSC occurs in the areas that were used historically by the Aboriginal group or First Nation in waters which are near or adjacent to the Aboriginal communities or reserves and considered 'local areas'. DFO does not view

these rights as being transferable to another area. The First Nations should be able to demonstrate the historical use.

- The Policy also states that Aboriginal *individuals* who wish to fish outside their historical area must be designated by an Aboriginal Fishing Authority having a communal FSC licence to fish in the area in question.

NTC Fishing Area Considerations

- Aboriginal fishing should occur within areas that were traditionally used by the First Nation. (Principle 4)
 - Consistent with *Sparrow* and subsequent court cases, First Nations should seek to carry out FSC fisheries in their Fishing Area.
 - Based on this guideline, the NTC Nations would not be eligible to access Fraser Sockeye for FSC through the FNMS fishery under ordinary circumstances.
- Exceptions to fishing in areas traditionally used by First Nations may be considered in rare cases where there are compelling management reasons to relocate harvesting activities such as:
 - Improved fisheries management, enforcement or monitoring
 - Reduced impact on species or stocks of concern
 - Reduced impacts on the ecosystem or environment
- Natural fluctuations in abundance or migratory patterns of target species or stock will not normally be considered rationale for NTC harvesting opportunities outside their Fishing Area. (Principle 6).
 - For example, the NTC Nations will not be eligible to access fish outside their area because there is a large northern diversion of targeted stocks through Johnstone Strait.
- In responding to requests to fish outside the NTC Fishing Area, the Parties will consider providing NTC communities access to fish outside their area if:
 - The species or stock to be targeted in the new area is the same species or stock for which the NTC community has a defined allocation in their Harvest Document or they have an allocation for this species or stock in their AFS Agreement.
 - The conservation objectives for the target species or stock and for any other species or stock that might be incidentally affected by the relocated fishery will not be compromised.
 - There is an acceptable level of support for the new fishing area by other First Nations that rely on the stocks to be targeted by the NTC Nations for FSC.
 - There is an acceptable level of support by First Nations who have credible claims to territories in the new fishing area.
 - There will not be undue impacts on other harvesters and their fisheries.
 - Measure are in place for:
 - reliable monitoring and reporting of harvests, and
 - compliance with provisions of communal licences

- NTC has provided DFO with the proposal for fishing by NTC communities outside their Fishing Area with adequate time prior to the commencement of harvest to carry out technical discussions and analysis of any proposal.
 - The First Nation/s has clearly defined their historic fishing area
- In rare cases where the First Nation is provided access to FSC outside of traditional fishing areas, the Parties will:
 - Attempt, to the extent possible, to select an area where the NTC Nations can target fish or stocks that are on the same migratory route as those that passing through their historic fishing area.
 - Select the area that is closest to the historic NTC fishing area while addressing the management rationale outlined above and allowing for adherence to the FSC management principles.
- Any provisions to provide NTC communities access to fish outside their Fishing Area (will be considered temporary in nature, and will be without prejudice to future negotiations of fishing arrangements.