



Fisheries and Oceans
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Fisheries Consultations with First Nations in British Columbia

Western Canada Aboriginal Law Forum

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Fisheries Consultations with First Nations in British Columbia

- DFO Responsibilities
- Why Consult
- Current Context – First Nations / Fisheries
- Challenges
- DFO Approach
- Best Practices



DFO Responsibilities

- Healthy and Productive Aquatic Ecosystems
- Safe and Accessible Waterways
- Sustainable Fisheries and Aquaculture
 - Objectives Regarding Aboriginal Fisheries
 - Maintain the Honour of the Crown
 - Provide access for Food Social and Ceremonial purposes
 - Provide commercial access for economic benefits
 - Provide role in fisheries management
 - Strengthen relationships with First Nations



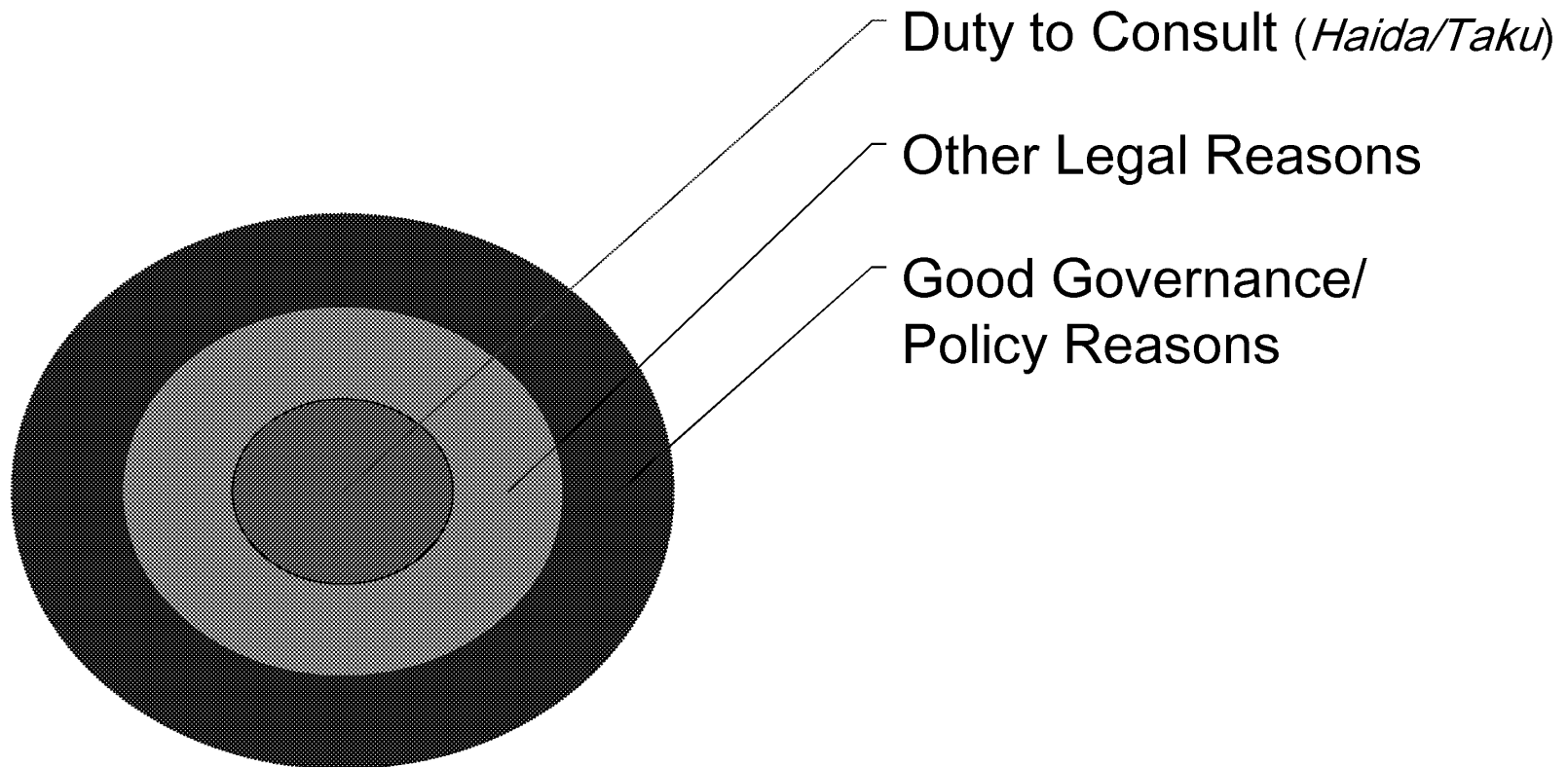


Aboriginal Fisheries Considerations

- Communal nature of an aboriginal right to fish for food, social and ceremonial (FSC) purposes
- Aboriginal fishing for FSC purposes has first priority in management decisions after conservation
- Allow flexibility within consistent approach to address differences among First Nations
- Aboriginal fishing for FSC purposes should occur in areas that were used historically by the First Nation
- Negotiate rather than litigate
- Consult



Why Consult?

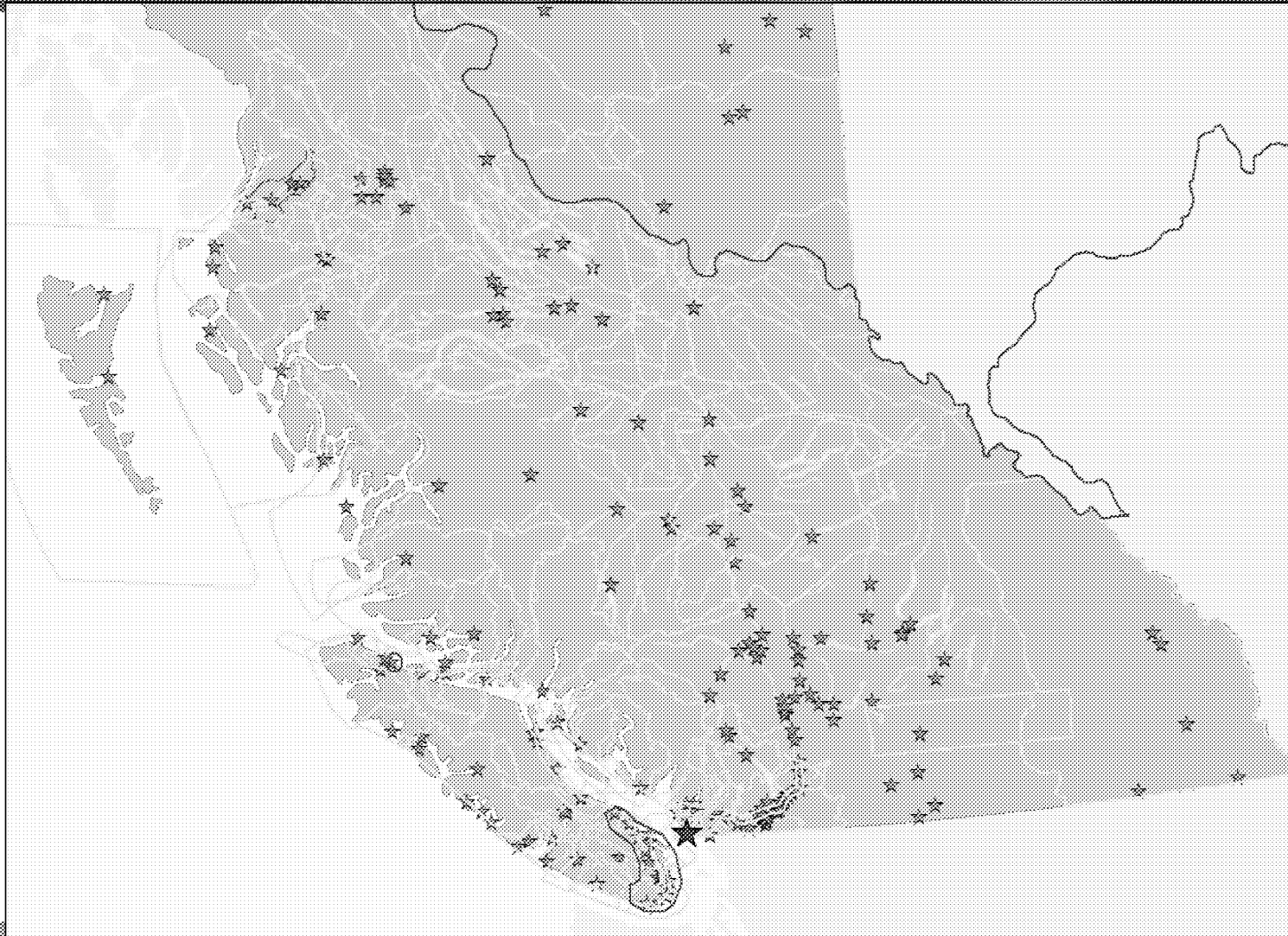




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First Nations Context



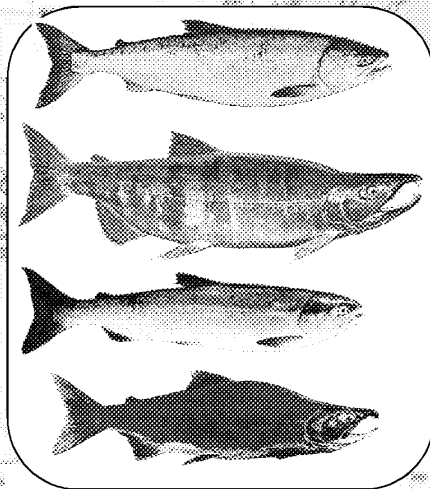
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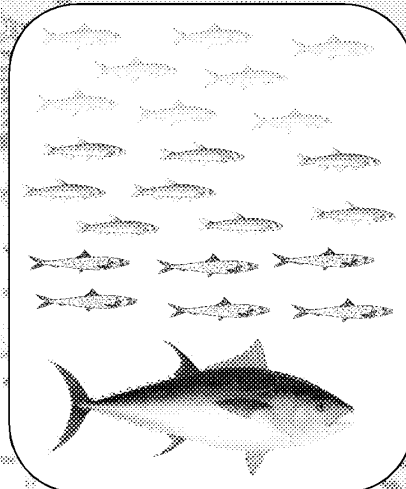


Fisheries Context

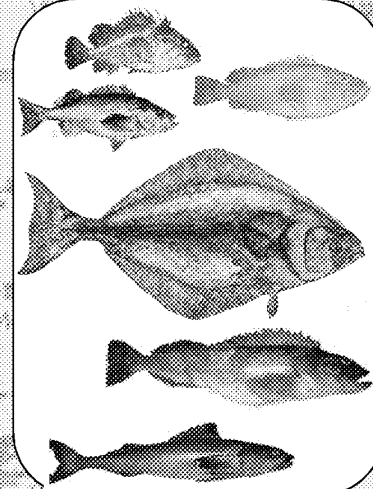
Salmon



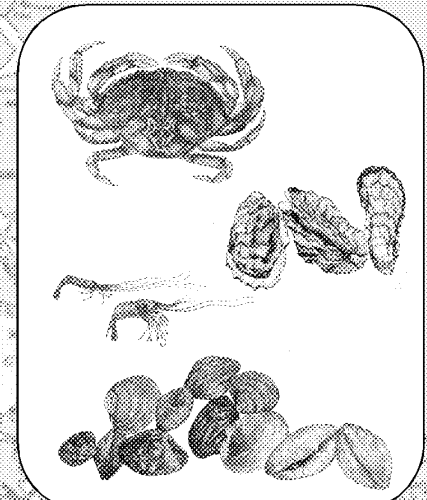
Pelagics



Groundfish

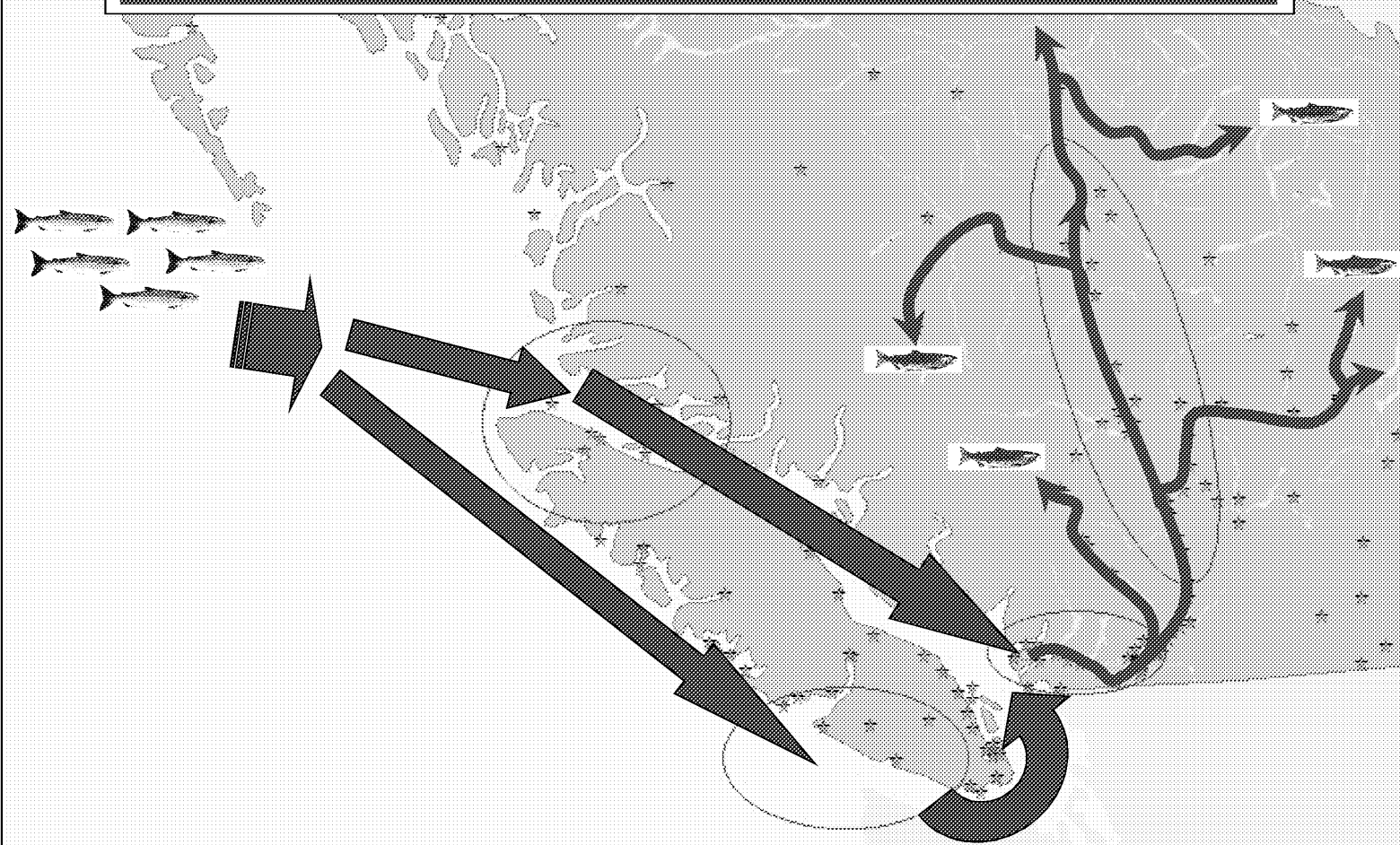


Shellfish





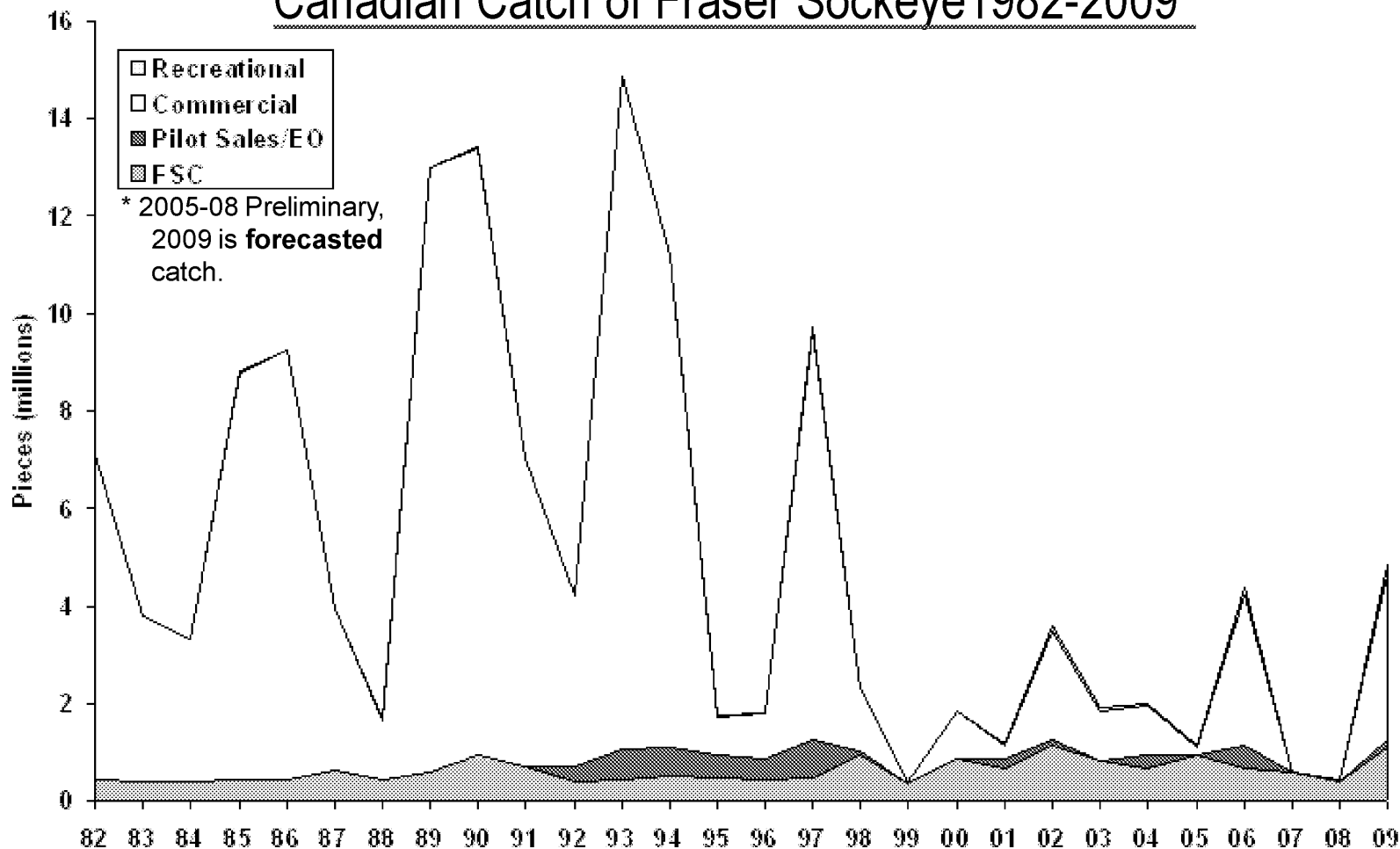
First Nations and Fisheries Context – Fraser Salmon





Fisheries / First Nations Context

Canadian Catch of Fraser Sockeye 1982-2009*



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Consultation Challenges

- Undefined Aboriginal Rights
- Overlapping First Nations interests
- Competing interests for limited resource
- Capacity
- Evolving case law
- Representation
- Governance structures





Governance Structures

Geographic Scale

Strength of Influence

Unit of FN Organization

Unit of DFO Organization

Strength of Influence

Local

high

Band

Field officers

low

Watersheds

Large Tribal Council /
linguistic group

Field officers /
managers

Area

Ecosystem umbrella group
(e.g. Fraser Watershed
Secretariat)

Area chief / Area
director

Region

Regional umbrella group
(e.g. FNFC)

RDG / Regional
Directors

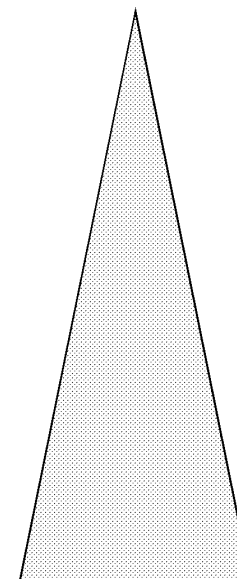
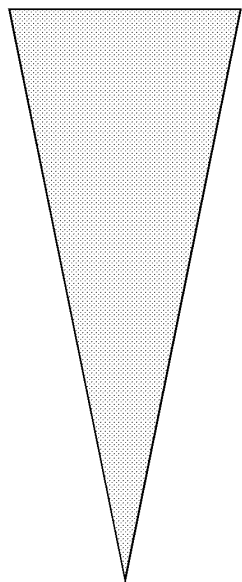
National

National Organizations (e.g.
AFN)

ADM / DM / Minister

low

high



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DFO Approach

Guiding Principles for Consultation

Legal Principles

- Honour of the Crown
- Reconciliation
- Reasonableness
- Meaningful Consultation
- Good Faith
- Responsiveness

Principles from Practice

- Mutual Respect
- Accessibility and Inclusiveness
- Efficiency
- Timeliness
- Transparency



DFO Approach Programs and Negotiations

- Aboriginal Fisheries Strategy
- Aboriginal Aquatic Resource and Oceans Management Program
- Pacific Integrated Commercial Fisheries Initiative
- Treaty Negotiations





DFO Approach Consultation Processes

Formal

- Address statutory requirements (CEAA, SARA)
- Coordinate targeted regional consultation forums for DFO policies
- Address specific issues - six step process

Planning Processes

- Include variety of levels (community, watershed, and provincial levels)
- Include as part of operational decision making and planning
- Encourage collaboration of First Nations (First Nation organizations)
- Encourage participation in collaborative integrated processes





Best Practices

- Build in time for consultation: go early & often
- Develop joint consultation approach, where feasible
- Anticipate capacity limitations
- Be prepared to alter your approach and be flexible on outcomes
- Understanding of history and culture is key
- Develop ongoing relationships and work collaboratively
- Make it a part of daily business

