



Fisheries and Oceans
Canada

Pêches et Océans
Canada

SHARED STEWARDSHIP

STABILITY, TRANSPARENCY AND PREDICTABILITY IN ALLOCATION

November 26, 2010
Vancouver



Purpose of Presentation

- Obtain feedback on DFO's ongoing approach of allocation stability to increase transparency and predictability in allocation decision making
 - Proposed approach to allocation decision making would apply nationally, to fisheries managed by DFO (e.g. the Atlantic, Pacific and, Central and Arctic fisheries)
 - Would only apply to sharing arrangements in commercial fisheries (including Aboriginal communal) and recreational fisheries, and
 - Would only apply after sharing arrangements have been stabilized
- Discuss approach of non-intervention
 - The proposed approach would encourage consensual adjustments between commercial fleets (including Aboriginal communal), the recreational sector, and other groups with a stake in the fishery



Context – Importance of Stability

- Fisheries are generally fully subscribed – adjustments affect participants
- Allocation stability supports viable fisheries
- Disputes over shares reduces focus on conservation and on economic prosperity



Context – Importance of Stability con't

- Current legislation contains **no specific framework** to guide Minister's decisions
 - Lack of framework leads to a sense of instability in allocations, and resource users often lobby the Department and the Minister
- Stability improves economic performance by supporting long-term business decisions
- Stability also improves conservation outcomes since those who have a share in a fishery will know that they have a stake in the future returns of the fishery



Context – Importance of Stability con't

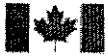
- Current sharing arrangements today are the result of years of work by stakeholders, Aboriginal groups, Provinces, and DFO
 - Discussions include complex issues ranging from conflicting data series, quantitative and qualitative evidence for historical dependence, adjacency, economic viability, past ministerial decisions, etc.
- It is time to move past this discussion



Aboriginal Groups

Allocations for Aboriginal Groups

- Allocations for Aboriginal groups fall into two categories:
 1. **Food, Social and Ceremonial (FSC)**
 - After conservation, FSC fisheries have priority over other uses of the fishery:
 - The approach to managing FSC fisheries have remained unchanged as a result of stabilizing allocations, and would remain unchanged with the proposed approach
 2. **Commercial Fisheries**
 - Aboriginal groups have expressed a desire to be more involved in decision-making about allocations
 - Aboriginal groups have expressed a need for greater access in order to improve economic prosperity or to accommodate rights
 - Commercial fisheries management takes into account existing or asserted Aboriginal and Treaty rights.



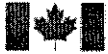
Proposed Approach

- The Proposed approach is based on a continuation of policy, and legislative efforts since 2004 (AFPR, Bill C-32)
- Based on the following principles:
 1. Allocation Stability
 2. Shared Stewardship
 3. Transparency



Allocation Stability

- Sharing arrangements are in place for most fisheries and in the Atlantic they are now on the web
- Pacific shares will also go on the web in the near future
- Future changes would only occur through a consensual shared stewardship approach, or in very rare circumstances, Ministerial intervention



Shared Stewardship

- From time to time commercial fleets (ex. commercial and Aboriginal communal commercial fisheries), recreational fisheries, or others with a stake in the fishery would determine that permanent adjustments to sharing arrangements are needed
- To promote shared stewardship, a consensual-adjustment approach would be promoted as the preferred means by which such adjustments are accomplished.
 - Consensual adjustment means that each eligible party to a transaction has come to a decision (**unanimously if a fleet**) to adjust sharing arrangements between themselves.
 - One party is willing to decrease their allocation, while another party is willing to increase their allocation
 - Consensual-adjustment would have to be consistent with DFO policies
- Consultations would occur where allocation decisions could affect existing or asserted Aboriginal and Treaty rights.



Allocation Adjustment

- Sometimes consensual adjustment would not be able to be achieved
- In these cases, a more predictable and transparent process is proposed to guide whether the Department would intervene, and how a decision would be reached should intervention be deemed necessary
- The proposed approach would outline the circumstances under which the Department would intervene
 - Applicant must demonstrate circumstance exists. Circumstances must be detailed, and defined objectively to avoid heavy administrative burden of reviewing applications.
- The proposed process would not supplement or interfere with allocation procedures that already exist in Treaties including Land Claim Agreements or other procedures that DFO is legally required to fulfill



Predictable and Transparent Process can't
Criteria for Allocation Adjustment

- **Conservation**
- **Intervention Legally Required** (e.g. treaty rights including land claims agreements, Aboriginal rights, responding to court rulings, etc.)



Predictable and Transparent Process con't

- All decisions would take into account a pre-defined set of 'criteria' consistent with recent bills aimed at modernizing the *Fisheries Act*
- Decision making would also take into account input from affected stakeholders and Aboriginal groups
- The Minister could choose to evaluate options and make a decision himself/herself, or establish and seek advice from an advisory board



Steps in Proposed Process

The process would involve four key steps:

1. Application for an Allocation Adjustment
 - Evaluate if appropriate circumstance to intervene; and
 - Decide if application has merit;
 - Publish intent to consider an allocation adjustment. Affected Aboriginal groups will be given notice and input will be sought.
2. Considerations for Allocation Adjustment
 - Any person or group with a stake in the fishery can raise issues to be considered by the Minister.
 - Seek input from affected Aboriginal groups as appropriate
3. Decision
 - In making decisions, the Minister would take into consideration pre-established criteria including the requirement to consult Aboriginal groups where they risk being affected;
 - Minister decision would be made public and would include a rationale for his/her decision.
 - Public rationale shall reflect confidentiality where legally required (e.g. Treaty)
4. Publication
 - Final decision would be published in the *Canada Gazette*, internet, and other relevant publications. Affected Aboriginal groups will be notified



Considerations

From Bill C-32:

25. (1) In exercising the powers under section 27 or 37 in relation to a fishery, the Minister must first take into account the need to conserve and protect fish and fish habitat.
Further considerations

- (2) The Minister must then also take into account
 - (a) the compliance of fishers in the fishery with this Act or the regulations;
 - (b) the importance to fishers of secure access to the fishery and of allocation stability;
 - (c) fairness to individuals, between communities and between regions;
 - (d) fishers' adjacency to the fishery;
 - (e) fishers' historical participation in the fishery;
 - (f) economic viability in the fishery;
 - (g) the best use of fish in order to fulfill the fishery's economic, social and cultural potential;
 - (h) the importance of maintaining public access to the fishery; and
 - (i) any other consideration that the Minister considers relevant.