

# Fisheries

The Maa-nulth Final Agreement was negotiated by the Government of Canada, the Government of British Columbia and the Maa-nulth First Nations. The five Maa-nulth First Nations are Ucluelet First Nation, Huu-ay-aht First Nations, Toquaht Nation, Ka:yu:k't'h'/Che:k'tles7et'h' First Nations, and Uchucklesaht Tribe, all located on the west coast of Vancouver Island.

The Maa-nulth First Nations represent about 2,000 people. Maa-nulth means “villages along the coast” in the Nuu-chah-nulth language.

The Maa-nulth Final Agreement is among the first Final Agreements reached in the province under the British Columbia treaty process. The Final Agreement sets out each Maa-nulth First Nation’s rights and benefits respecting land and resources, and self-government over its lands and resources and its citizens. The Final Agreement provides certainty for all parties with respect to ownership and management of lands and resources and the exercise of federal, provincial and Maa-nulth First Nation governmental powers and authorities.

The negotiation of a Final Agreement marks Stage Five of the six-stage British Columbia treaty process, and is the conclusion of substantive treaty negotiations. Once ratified by all parties, the Final Agreement will become a treaty through legislation.

It will be a constitutionally-protected legal agreement which creates mutually binding obligations and commitments.

## FISH CAUGHT FOR FOOD, SOCIAL AND CEREMONIAL PURPOSES

Under the treaty, each Maa-nulth First Nation will have the right to harvest fish and aquatic plants for food, social and ceremonial purposes, limited by measures necessary for conservation, public health or public safety. This right will be exercised within a defined geographic area known as the Maa-nulth Domestic Fishing Area, as described in the Final Agreement.



*Fish caught for food, social and ceremonial purposes*

The Final Agreement provides the following harvesting allocations for the Maa-nulth First Nations:

- » Ocean Chinook Salmon: abundance-based formula of 1,875 pieces plus 1.78 per cent of the Ocean Chinook Canadian Total Allowable Catch
- » Ocean Coho Salmon: fixed number of 7,000 pieces
- » Pink Salmon: fixed number of 7,250 pieces, over a two-year period
- » Somass Sockeye Salmon: abundance-based formula based on a percentage of Somass Sockeye Canadian Total Allowable Catch, and capped at 22,886 pieces
- » Henderson Sockeye: abundance-based formula based on a percentage of Henderson Total Allowable Catch, and capped at 17,055 pieces
- » Fraser River Sockeye: abundance-based formula of 0.13366 per cent of the Fraser River Sockeye Salmon Canadian Total Allowable Catch

- » Herring: 90 short tons
- » Halibut: 26,000 pounds plus 0.39 per cent of the Halibut Canadian Total Allowable Catch
- » Rockfish: 11,250 pounds plus 2.46 per cent of the West Coast of Vancouver Island ZN Category Licence Rockfish Commercial Total Allowable Catch of yelloweye, quillback, copper, china and tiger rockfish
- » Groundfish: 13,000 pounds
- » Sablefish: abundance-based formula of 0.082 per cent of the Sablefish Canadian Total Allowable Catch
- » The allowable catch from specified inter-tidal bivalve beaches, subject to existing interests on those beaches

Allocations for the Maa-nulth First Nations to harvest terminal returns of chinook, chum, coho, Jensen Lake sockeye and Power Lake sockeye are also described in the Final Agreement.

The Final Agreement sets out a process to establish, at the request of Canada, British Columbia or the Maa-nulth

First Nations, allocations for food, social and ceremonial purposes for other fish species.

Each Maa-nulth First Nation will have the right to trade and barter fish caught for food, social and ceremonial purposes among themselves or with other Aboriginal people of Canada. Trade and barter does not include sale.

## **FISHERY MANAGEMENT AND CONSERVATION**

Canada and British Columbia retain authority to manage and conserve fish, aquatic plants and fish habitat, according to their respective jurisdictions. Each Maa-nulth First Nation government will have law-making authority with respect to the internal regulation of their fisheries, including who can participate in the harvest of fish and how the harvest will be distributed.

Canada and the Maa-nulth First Nations will establish a Joint Fisheries Committee (JFC) to undertake cooperative planning for Maa-nulth First Nation fishing, fisheries management activities and other fisheries-

related matters. The committee may make recommendations to the Minister of Fisheries and Oceans on these matters.

The Maa-nulth First Nations will prepare an annual fishing plan for the harvest of fish under their treaty fishing rights. The JFC will review the plan and forward any recommendations to the Ministers.

The Final Agreement also provides for the Maa-nulth First Nations' participation or representation in any multi-sectoral fisheries advisory process for the west coast of Vancouver Island, should one be established.

## **MAA-NULTH COMMERCIAL FISHING**

Maa-nulth commercial fishing will be fully integrated within the general commercial fishery on the west coast of Vancouver Island. Resources will be available for the Maa-nulth First Nations to obtain access to the commercial fishery. This access will be obtained from within the existing commercial fishery in the same manner as for all other fishers.<sup>1</sup>

<sup>1</sup> The process involves an existing licence holder willingly relinquishing a licence and nominating Maa-nulth to be issued an equivalent licence.

Licences issued to Maa-nulth will be fished according to comparable terms and conditions as those for other licences in the general commercial fishery. Maa-nulth commercial fishing will not take place unless a general commercial fishery is open for a given species. The same standards for catch monitoring and reporting will apply to Maa-nulth as to other commercial fishers.

The Maa-nulth First Nations' commercial fishing access for salmon, halibut, herring, rockfish, sablefish, crab and prawns may be included in the Maa-nulth Harvest Agreement, up to a maximum amount. The Harvest Agreement provides for Canada to issue commercial fishing licences to Maa-nulth and if this commitment is terminated, compensation may be payable to the Maa-nulth First Nations. The maximum number of licences that may be issued through the Harvest Agreement is:

- » Salmon: eight Salmon Area D Gillnet and Area G Troll licences
- » Terminal Salmon: one Area D Gillnet licence, comparable to 20 per cent of the Terminal Commercial Total Allowable Catch of Henderson Lake sockeye and 25 per cent of Terminal Commercial Total Allowable Catch of Jensen Lake sockeye
- » Halibut: Halibut licence(s) comparable to 2.00 per cent of the Halibut Canadian Commercial Total Allowable Catch
- » Rockfish: Rockfish licence(s) comparable to 2.6178 per cent of the Total Allowable Catch for Outside Area Commercial Rockfish Licences
- » Crab: one Area E crab licence
- » Roe Herring: four Roe Herring gillnet licences

- » Sablefish: 0.34 per cent of the Sablefish Commercial Total Allowable Catch
- » Prawn: one licence

The Maa-nulth Harvest Agreement is separate from the treaty and is not constitutionally protected. Commercial fishing licences issued to Maa-nulth through the Harvest Agreement will be fished according to comparable terms and conditions to those for licences held by other fishers in the general commercial fishery. Federal and provincial laws will continue to apply with respect to the sale of fish.

### **AHOUSAHT ET AL. LITIGATION**

If the highest court that considers the *Ahousaht et al.* litigation rules that the plaintiffs in that litigation have a right to fish commercially for a species described in the Maa-nulth Harvest Agreement, Canada and British Columbia agree to amend the Maa-nulth treaty

by moving Canada's obligation to issue commercial licences for those species from the Maa-nulth Harvest Agreement into the Maa-nulth treaty.





*If you would like more information about the Maa-nulth Final Agreement, contact:*

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