



## The First Nations of Maa-nulth Treaty Society

Huu-ay-aht First Nations | Ka:'yu:'k't'h'/Che:k'tles7et'h' First Nations  
Toquaht Nation | Uchucklesaht Tribe | Ucluelet First Nation

*“A Foundation for Our Future Generations”*

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### FISHING UNDER THE MAA-NULTH TREATY: The Treaty must stand the test of time.

#### THIS BULLETIN DESCRIBES:

- The historical relationship of Maa-nulth to the fishery which was the starting point to negotiate all fishing rights under the Treaty
- Domestic purposes means fishing for food, social and ceremonial needs
- The Treaty will provide allocations (a defined share) of salmon on specific runs for Domestic purposes forever
- The Treaty will provide allocations (a defined share) of non-salmon fisheries on several species for Domestic purposes forever
- Many species will remain un-allocated (subject only to conservation)
- A separate Harvest Agreement (aside from the Treaty) provides for commercial fishing licenses (not constitutionally protected)
- There is a process to move licenses from the Harvest Agreement into the Treaty if the Nuu-chah-nulth Fisheries Litigation is successful in establishing an aboriginal right to commercial fish (would give them constitutional protection)
- The Treaty provides \$4.15 million specifically to invest in additional commercial licenses to expand Maa-nulth First Nations' role in the commercial fishery as well as various sources of additional unrestricted funds (\$62M+ in capital transfers, \$6M in resource economic development, \$30M in resource revenue sharing), any portion of which may be used by Maa-nulth for investment purposes, including commercial fishing licenses
- Maa-nulth will co-manage fisheries with Canada under a legal body called the Joint Fisheries Committee
- Maa-nulth will continue to have a role in restoring river systems in order to re-build fish stocks



## MAA-NULTH HISTORICAL RELATIONSHIP TO THE FISHERY



### Aboriginal Title to Traditional Fishing Territories

Before contact, Maa-nulth held aboriginal title to the land, fishing sites, rivers and streams. According to traditional laws, the Ha'wiih (Hereditary Chiefs) are responsible to descendants under their leadership to govern and care for the Ha-houlthee (traditional territories).

When Great Britain asserted sovereignty, Indian Reserves were established in locations that were based on traditional fishing sites of the First Nations. This was to ensure we could continue to rely on fisheries to sustain our people. Under the current system, Maa-nulth are entitled to the 'use and occupation' of small Reserves, while legal ownership and title of Reserves is held by the Government of Canada.

### Subsistence for Maa-nulth

Fisheries resources are a primary source of food for Maa-nulth. Rivers within the territories of Maa-nulth supply several species of salmon; while the ocean supplies salmon, halibut, cod, snapper, herring, rockfish, seals, sea lions, and whales. The beaches supply mussels, clams, chitons and urchins. The wealth of abundance of these resources has sustained Maa-nulth for countless generations.

Furthermore, a variety of traditional methods are utilized to smoke and dry these resources into fish products. The teaching of and traditional methods to harvest, and then prepare and process these resources carry important cultural significance and are another link between past and future generations of Maa-nulth.

### Traditional Conservation

Maa-nulth believe in the principle of Hishuk Tsawak ("all is one") which is the close relationship between the spiritual and natural worlds. This means there is an essential natural balance between the people, the earth that is inhabited by supernatural creatures, and spirits of the land. The Ha'wiih acted as caretakers based on this belief. They managed the fishery based on the abundance of stocks returning and ensured conservation was the priority.

### Traditional Economy based on the Fishery

Maa-nulth derived a traditional economy based on trade of fish and fish products which were used to acquire goods and accumulate wealth for the Nations. Commercial trade took place between Maa-nulth and with other First Nations.

### Traditional Laws

Traditional laws governed the harvest of sea resources in the traditional territories of the Ha'wiih and their descendants. Fisheries resources were managed in strict accordance with traditional laws and protocols. Conservation of the resource has always been the priority before harvesting rights.

## EVOLUTION OF THE HISTORICAL RELATIONSHIP ► FISHING RIGHTS UNDER THE TREATY

### Aboriginal Title to Land and Waters ► Treaty Lands & Domestic Fishing Area

Maa-nulth will hold legal title and ownership of existing Reserves plus additional Treaty Lands. Overall, Maa-nulth Treaty Lands are 12 times greater in size than existing Indian Reserves. Treaty Lands include foreshore rights and water rights for various purposes.

All domestic fishing must take place within the Domestic Fishing Area. The Domestic Fishing Area is based on the traditional territory of Maa-nulth and includes beaches for exclusive harvesting of intertidal bi-valves. Maa-nulth may also enter into protocol arrangements with other First Nations for harvesting of fish.

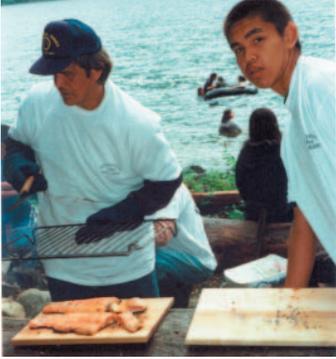


### Subsistence ► Domestic fishing rights

#### Domestic Fisheries:

The Treaty provides the right to harvest fish for domestic purposes (food, social and ceremonial needs). Various methods have been used to determine allocations (numbers or share of fish) for salmon and non-salmon species and to protect access to these resources for present and future generations of Maa-nulth. The methods include abundance-based formulas (for most salmon, halibut, rockfish, and sablefish); fixed numbers (for ocean coho; pinks, herring; groundfish); and exclusive beaches (for inter-tidal bi-valves). Maa-nulth has 100% of the harvest on select beaches for intertidal bi-valves (oysters and clams are considered intertidal bi-valves). All other shellfish remain un-allocated.





During treaty negotiations the best data was used to make certain allocations are met while at the same time ensuring the allocations are resilient to future fisheries policies. The wide range of fish species with allocations are listed on the chart on page 6. It is also important to note that there are some species that Maa-nulth can harvest that are unallocated (no fixed numbers); these include crab, prawn, urchins, mussels, chitons, barnacles, and seaweed. Maa-nulth domestic fisheries will have priority over other user groups (sports and commercial) and will only be limited for conservation, public health and public safety reasons.

### [Traditional Conservation](#) ► [Co- Management](#)

#### Stewardship & Enhancement

Fisheries resources are not limitless, a fact that has become clearer in recent decades. The Treaty provides that Maa-nulth may conduct enhancement initiatives and stewardship activities within the Domestic Fishing Area.

#### The Joint Fisheries Committee (JFC):

Maa-nulth and Canada will co-operatively implement the fisheries provisions of the Treaty through a legal body called the Joint Fisheries Committee (JFC). The JFC will be established as follows: one member must be appointed by each Maa-nulth First Nation; one member must be appointed by Canada; BC may appoint one member. The JFC will be a level playing field between Maa-nulth and Canada to share responsibility to implement the Treaty, manage the fisheries resources to protect Maa-nulth interests, and to guide stewardship, enhancement and environmental protection activities.

#### Fisheries Operational Guidelines (FOG):

The Fisheries Operational Guidelines (FOG) is a Treaty document that sets out operational principles, procedures and guidelines on how fishing rights and activities under the Treaty will be implemented (put into practice). In the FOG, the Parties have agreed that fisheries management goals should evolve over time to make sure the goals remain consistent with best fisheries management practices and stock assessment procedures. The FOG also describes when and how an adjustment is made if Maa-nulth catches too many or not enough fish of their allocation in any year (overage/underage provisions).

### [Traditional Economy](#) ► [Commercial Fisheries](#)

#### Commercial Fishing Licenses

Maa-nulth participation in the BC commercial fishery has fluctuated greatly during the past 100 years. Obstacles such as obtaining loans for vessels or restrictive DFO licensing programs often led to aboriginal fishermen being regulated out of the industry.

In 2004, as part of a Treaty Related Measure project, Maa-nulth consulted with the membership of all five Nations to determine what a modern, market-driven, diversified commercial fishing business would look like. Based on the results of those consultations, Maa-nulth successfully negotiated a portfolio of commercial licenses and quota to launch a strong Maa-nulth fisheries enterprise. We recognize that cooperation and pooling of resources is the best way to achieve the goal of re-establishing an economy based on the fishery for Maa-nulth. Maa-nulth can acquire additional licences as they wish.

### The Harvest Agreement

Under the Treaty, the Harvest Agreement is what 'houses' some or all of the commercial fishing licenses and quotas. Fish caught under the Harvest Agreement are for commercial use. The Harvest Agreement is what distinguishes Maa-nulth fishing licences from regular commercial fishing licences.

The Harvest Agreement provides for a guaranteed 25 year term, renewable on an evergreen basis (renewable every 15 years - at the option of Maa-nulth - forever). This is consistent with one of the fundamental negotiating principles; to ensure the ability for future generations of Maa-nulth to derive economic benefits from fisheries resources.



The Harvest Agreement also provides that if any action is taken by DFO to terminate or reduce any or all fishing licenses housed in the Harvest Agreement, Maa-nulth is entitled to be paid fair compensation (fair market value). Compensation may consist of in whole or in part: money; access to other species; issuance of licenses for the General Commercial Fishery; other compensation as agreed. The number of commercial licenses that may be compensated for are listed in a chart on page 7 and must be placed in the Harvest Agreement within 15 years of the Effective Date.

The same rules and regulations for the General Commercial Fishery will apply to Maa-nulth. The Harvest Agreement does not provide a constitutionally protected right to commercial fish; an aboriginal right to fish on a commercial basis must first be achieved in the fisheries court case (described below).

### Fisheries Court Case Seeking an Aboriginal Right to Commercial Fish

Some of the Maa-nulth Nations are part of a court action currently being argued seeking to establish an aboriginal right to commercial fish. Since the issue is still before the courts, a clause in the Treaty ensures Maa-nulth will benefit from the ruling if the Supreme Court of Canada rules in their favour.

This means that if the court case is successful, then the commercial fishing licenses may be moved from the Harvest Agreement into the Treaty at the request of Maa-nulth. The result of moving them into the Treaty is that the commercial fishing licenses would then have constitutional protection forever.

## Economic Development Fund to Purchase More Licenses

Under the Harvest Agreement there is \$4.15 million available to Maa-nulth specifically for the purpose of purchasing additional commercial fishing licenses. The Treaty also provides unrestricted funds (in the form of Capital Transfers, Resource Economic Development and Resource Revenue Sharing funds) that can be used by Maa-nulth for any economic development opportunity each Nation chooses, such as buying additional commercial fishing licenses.



## Traditional Laws ► Law-making

Under the Treaty, Maa-nulth may make laws for distribution of fish and aquatic plants, designation of individuals or vessels, documentation of individuals and vessels designated and trade and barter of fish and aquatic plants. Maa-nulth may also enter into protocols with other First Nations respecting harvesting of fish for domestic purposes.

## Salmon Allocations (for domestic purposes)

Species	Number OR Formula For Allocations
Ocean Chinook	Abundance based formula of 1,875 pieces plus 1.78 of the Canadian Total Allowable Catch
Ocean Coho	7,000 pieces
Pink	7,250 pieces (every 2 years)
Somass Sockeye	Abundance based formula of up to 22,886 pieces based on % of Somass Canadian Total Allowable Catch
Henderson Sockeye	Abundance based formula capped at 17,055 pieces based on % of Henderson Total Allowable Catch
Fraser River Sockeye	Abundance based formula of 0.13366 % of Fraser River Sockeye Canadian Total Allowable Catch
Terminal Chinook, Chum & Coho	Abundance based on annual assessments of run strength
Jensen Lake & Power Lake Sockeye	50% Available terminal harvest

Non-Salmon Allocations (for domestic purposes)

Species	Number OR Formula For Allocations
Herring	90 short tons each year
Halibut	26,000 pounds plus 0.39% of the Canadian Total Allowable Catch
Rockfish	11,250 pounds, plus 2.46% of the West Coast Vancouver Island ZN Commercial Total Allowable Catch of yelloweye, quillback, copper, china and tiger rockfish (roughly 22,700 pounds per year combined)
Groundfish	13,000 pounds
Sablefish	Abundance based formula of 0.82% of the Sablefish Canadian Total Allowable Catch (roughly 7,000 pounds per year)
Inter-tidal Bi-valves	Allowable catch of clams and oysters from specific beaches

Commercial fishing licenses that may be held in the Harvest Agreement and for which Maa-nulth is compensable if license is terminated:

Number of Licenses	Species	Area	Quota
8	Salmon	Area D Gillnet Area G Troll	N/A
1	Henderson Lake sockeye And Jensen Lake sockeye	Area D Gillnet	Comparable to 20% of Terminal Commercial Total Allowable Catch of Henderson Lake Sockeye AND 25% of Terminal Commercial Total Allowable Catch of Jensen Lake Sockeye
N/A	Halibut	Coast-wide	Up to 2% of the Canadian Total Allowable Catch
N/A	Rockfish	Outside	Up to 2.6178% of the outside Rockfish Commercial Total Allowable Catch
1	Crab	Area E	N/A
1	Prawn	N/A	N/A
4	Roe-herring gillnet	Area selection by Maa-nulth	N/A
N/A	Sablefish	N/A	Up to 0.34% of Canadian Total Allowable Catch