

# Communique

To: Regional First Nations Fisheries Organizations

Date: December-2-2011

Re: Halibut Allocation Policy Review

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FIRST NATIONS  
FISHERIES COUNCIL

## **The Status of DFO's Review of Halibut Allocation Policy**

This briefing provides an update on the status of DFO's review of the halibut allocation policy, and suggests actions that First Nations can take to influence an imminent decision by the Minister of Fisheries and Oceans on changes to the policy.

### **Background / Context**

Following the federal election in May 2011 Fisheries Minister Ashfield assigned Parliamentary Secretary Randy Kamp to review the allocation of Pacific halibut, and provide recommendations on long term options for the 2012 season. Mr. Kamp was due to complete his review and provide these options to Minister Ashfield in mid-November. The current halibut allocation policy was put in place by Fisheries Minister Thibault in 2003 and set recreational shares at 12% and commercial shares at 88% (after DFO estimates of First Nation's food, social and ceremonial amounts are deducted).

- The policy was supposed to be temporary as both parties developed a mechanism for transfer of shares from the commercial to the recreational sector.
- The current process had allowed the recreational sector to sell shares to the commercial sector in some years and buy quota in other years.
- The policy also allowed for the recreational allocation to be adjusted if better information on catch during the baseline years indicated that recreational catch was higher.
- A mechanism for transfer of shares has not been developed. DFO has contracted two separate mediation processes to help the parties reach agreement, but neither process produced a solution that both the recreational and commercial sectors would agree to.
- The recreational portion of the halibut allocation has exceeded 12% in recent years, in part due to increasing recreational harvest and in part due to decreasing halibut TAC.
- Faced with fishing closures and other management measures to curtail the recreational fishery in 2010 and 2011, the recreational industry mounted a media and lobby campaign to permanently increase the recreational share of the halibut allocation. The vocal campaign led to the appointment of Mr. Kamp by then Minister Shea, since continued by Minister Ashfield.

### **Obligation to Consult**

Up until October 2011 Mr. Kamp had not met with First Nations to consult on any potential impacts or infringements. At the request of First Nations, the First Nations Fisheries Council (FNFC), in a letter in late September, highlighted the need for bilateral consultations with First Nations on halibut allocation and suggesting the need for a Tier 2 process. In late September the Council identified this as a priority

for further engagement and assigned the Economic Access Work Group (EAWG) to provide a further briefing.

This resulted in a teleconference and a meeting with Mr. Kamp on October 17<sup>th</sup> and November 6<sup>th</sup>, respectively. These were attended by **Cliff Atleo** and **Russ Jones** for the FNFC and **Chief Dan Smith** for the First Nation Summit. The Council further reviewed this issue at a meeting on November 29<sup>th</sup> and supports the following approach:

**Key aspects of a long term allocation policy:**

- Need for DFO to consult directly with First Nations (the rights holders) on a bilateral basis
- Lack of consideration to date of the potential impacts of policy changes on FSC access and future economic transfers to First Nations

***Objectives for a long term halibut allocation policy:***

- Continues to promote an abundance based approach.
- Requires all groups to stay within their allocations.
- Provides incentives for the recreational sector to stay within their allocation.
- Recognizes and accommodates increasing FSC requirements and assertions of the priority of First Nations rights to fish, and sell fish. This requires Tier 1 and 2 discussions with First Nations.

***Extended Review Period***

- Propose extending the review period and continuing with the current policy to the end of 2012. This will give one year to develop the long term allocation policy that will recognize and account for future and existing FSC needs of First Nations and expected increases in First Nations economic fisheries access over time.
- A Tier 1 process involving all First Nations and a Tier 2 process involving First Nations and DFO is recommended to start in January 2012. This would be followed by Tier 3 discussions involving the commercial and recreational sectors in late spring or early fall 2012.

***Outcomes proposed over the long term are:***

- 1) separate, capped allocations for lodge and charter operators from the regular recreational fishery;
- 2) mandatory catch reporting and monitoring of the commercial recreational sector;
- 3) management of the total recreational sector to a fixed allocation based on abundance;
- 4) no sale of quota between commercial and recreational sector; any underages by the recreational sector being made available to other sectors.

**First Nations that have issues or concerns with changes to the halibut allocation policy should write directly to Minister Ashfield as soon as possible. We recommend that you:**

- 1. Include some or all of the points that have been raised by FNFC, and**
- 2. Emphasize the need for DFO to engage bilaterally with First Nations both on an individual basis and jointly through a Tier 2 process beginning in January 2012.**