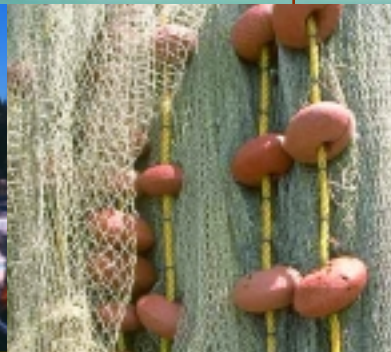


OUR FUTURE HARVEST

*A New Approach to
Coastal First Nations'
Commercial Fisheries*



TURNING POINT INITIATIVE

October 2004

This is a discussion document requiring further review by First Nation communities.

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Turning Point wishes to thank the Department of Indian and Northern Affairs, the Department of Fisheries and Oceans and the David Suzuki Foundation for financial assistance in the preparation of this report



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Turning Point would like to thank Otto E. Langer for the use of his photography in the publication of this report.



The Coastal First Nations of British Columbia suffer massive unemployment and economic hardship, yet the waters of their traditional homelands are rich with many species of marine life from which they derive limited benefit.

In this report the Coastal First Nations propose a solution to an historic wrong: the creation of institutional and administrative arrangements over the past century that, by excluding native fishermen and their communities from much of the ocean's wealth, have forced them into poverty and social dependency.

Coastal First Nations assert that fisheries resources are a part of our aboriginal heritage, never surrendered; the waters are ours by traditional right and usage. However, final determinations regarding the portion of the ocean's wealth to be enjoyed by Coastal First Nations await the outcome of treaty negotiations – which are slow and expensive.

This report outlines A New Approach to resource allocation that can be implemented by joint agreement between the federal and provincial governments and the Coastal First Nations in advance of full, definitive treaty settlements. Such an approach is preferable, in the view of Coastal First Nations, to continued and costly litigation or economic and socially disruptive direct action into which many aboriginal groups have felt themselves forced.

The New Approach, detailed in the following pages, is the progeny of a new cooperative endeavour, now four years old, called the Turning Point Initiative. Coastal First Nations from British Columbia's Central and

North Coast and Haida Gwaii joined together in 2000 to develop this process to protect traditional territories and to promote sustainable economic development in First Nation communities.

Land use policies of the Province of British Columbia and marine use policies of the Government of Canada have largely been developed as industrial strategies in co-operation with economic interests based outside the region. The focus was on maximizing revenues to companies and provincial and federal governments and, to a limited extent, enhancing the development of local economies. While there have been numerous government programs to assist with fisheries transition, little has been done to address long-term economic problems. Conservation measures were less of a priority, as evidenced by the practice of mixed-stock fisheries, where the weak stocks are caught along with the strong. There was little support for the development of a sustainable economy on the Coast.

This report tracks the evolution of government policy and describes administrative decisions that have promoted industrial fisheries at the expense (both economic and social) of the First Nations. It offers prescriptions for change.

The proposed approach would provide Coastal First Nations with a defined share of the commercial fisheries in their traditional territories, phased in over the next five years as an interim measure. These benefits would be a building block to support the negotiations of an interim or final treaty agreement.

Our objective is to see member First Nations communities become economically self sustaining, with a significant component of the local economy based on local fish resources. As an interim measure, we seek to reach agreement on a defined share of the benefits of commercial fisheries in each First Nation's local area, designated under communal commercial licences. We want to achieve increased fisheries-related employment for Band members and to maximize local processing or other employment, especially jobs for youth. To meet the urgent needs for jobs and income, we place a priority on obtaining a percentage of the total allowable catch as soon as possible.

Coastal First Nations experience high levels of unemployment because of limited job opportunities. Unemployment (seasonal and non-seasonal) reaches as high as 60% in three of the communities represented in this report.

In competitive fisheries, the industrial solution results in high grading the fleet and pits First Nations against the most aggressive and well-equipped part of the fleet. It also forces First Nations to compete over areas greater than their traditional fishing grounds. This approach denies First Nations separate fisheries, a fixed percentage of the Total Allowable Catch, and priority in local fisheries. DFO has resisted major changes that would make commercial fisheries more compatible with Coastal First Nations' goals for a viable local economy.

To obtain an ensured catch, Coastal First Nations prefer a share of total allowable catch or a quota, instead of competitive licences. For First Nations to succeed in competitive fisheries, they must fish all open areas. This requires investment in vessels that can travel the coast quickly, as well as different gear for the various areas and species fished. The costs are significantly higher than

fishing one area. Fishermen are away from home for much of the fishing season and are unable to deliver catch for value-added processing in our home communities.

Coastal First Nations want Band-owned licences, a defined share of total allowable catch, and fishing in traditional areas as a basis for rebuilding our sustainable local economies.

The desire to fish in the First Nation's historic territory involves more than simply wanting to maintain traditions. First Nations are uncomfortable fishing in another First Nation's territory. Fishing locally also involves important economic and employment issues. These include: lower capitalization and costs; potential value-added processing and related jobs; and economic contribution to First Nation communities. Local fishing employs more fishermen and requires less capital equipment. Local fisheries could also help to better meet emerging fish product quality requirements and to fish to the high-value live markets. Local fishing also reinforces the traditional First Nation obligations for local resource conservation, which in turn provides the benefits of a sustained and increased catch in local fisheries.

The New Approach is designed as an interim measure to help address community employment needs, serve as a sign of government intent and to help advance the treaty process.

Coastal First Nations propose to enter into an *Interim Measures Agreement* with Canada, whereby each First Nation would:

- Obtain a defined share of the total allowable catch from all of the fisheries in its traditional territory.
- Hold the licences communally on a continual basis.
- Fish these communal licences under the current licensing regime.

- Establish a Coastal First Nations Trust as the vehicle to purchase its share of the licences and provide support to participating First Nations.

We argue that for each licence (species) category there are realistic options for government to consider for acquiring licences and/or quota. These options include: volun-

tary and involuntary buybacks, tax incentives, continued access by First Nations to the Excess Salmon to Spawning Requirements (ESSR) program and, where possible, the issuing of new licences/quotas to First Nations. We discuss each option and present estimates of costs, which total approximately \$300 million over the next five years.





OUR FUTURE HARVEST

A New Approach to Coastal First Nations' Commercial Fisheries

1. Introduction

1.1 Turning Point Initiative Context

The goal of the Coastal First Nations, through the Turning Point Initiative, is to implement new ecologically and economically sustainable land, water and resource management approaches on British Columbia's Central and North Coast and Haida Gwaii. The Turning Point Initiative represents a cooperative approach to provide a collective voice and coordinated action for the common interest of Coastal First Nations¹ communities. An internal *Declaration of Intent* commits the signatories to work together to protect the well being of the lands, waters and people within our traditional territories. It is intended to provide benefits to First Nation communities and through them, to individuals within those communities. Turning Point Initiative authority is with the individual First Nation, but its power is from collective action. There is a Turning Point Initiative Protocol Agreement with the Province related to land use activities and a parallel protocol agreement with Canada on marine use activities.

The Turning Point Initiative is a legal entity, incorporated under the Province of British Columbia's Society Act. The Board of Directors of the society consists of one representative from each member community. The Turning Point Initiative serves as a clearinghouse for an array of development related issues, including multi-sectoral forest, land, marine, fisheries and other resources use planning. The focus of this proposal is to out-

line a strategy to provide a share of the commercial fisheries total allowable catch (TAC) to Coastal First Nations.

Importantly, this initiative brings the majority of First Nations in the North and Central Coast and Haida Gwaii areas together on a common position to access commercial fisheries in their traditional territories. This proposal outlines a new *Interim Measures Approach* that would help Coastal First Nations access economic and employment benefits and provide interested First Nations with a new approach for incremental treaty making.

We first examine the historical context of current policies and management practices and then suggest a new approach for interim measures that could ultimately lead to treaty settlements for interested First Nations.

1.2 General Context

In the northern coastal area of B.C., economic development opportunities are limited and generally relate to primary resource activities, including fisheries, forestry and tourism. In the outer coastal areas, fisheries offer the main economic development opportunity.

Coastal First Nations live in an area of extensive and valuable fisheries resources but, for a number of reasons, they have very limited commercial access to those resources. This is not because of low stocks – since a number of fish stocks are near their production and harvest capacity – but due to government policy and management practices.

¹ Council of the Haida Nation, Old Massett, Skidegate, Metlakatla, Haisla, Gitga'at, Kitasoo/Xaixais, Heiltsuk, Wuikinuxv

This proposal recommends a way to provide economic and employment benefits to First Nations through access to local fisheries resources. The proposed approach would provide Coastal First Nations with a defined share of the commercial fisheries in our traditional territories, phased in over the next five years as an interim measure. These benefits would be a building block to support the negotiations of an interim or final treaty agreement.

1.3 Aspired Direction

Program Vision

That Coastal First Nations will obtain, as an interim measure, a fair percentage of the total allowable catch (TAC) of the commercial fisheries to be held communally and fished in our traditional territories.

Program Goals And Objectives

Economic: Economically self-sustaining member First Nation communities, with a significant component of the local economy based on local fish resources.

The specific goals are:

- To realize economic viability.
- To negotiate an interim measure for a defined share of the benefits of commercial fisheries in each First Nation's local area.

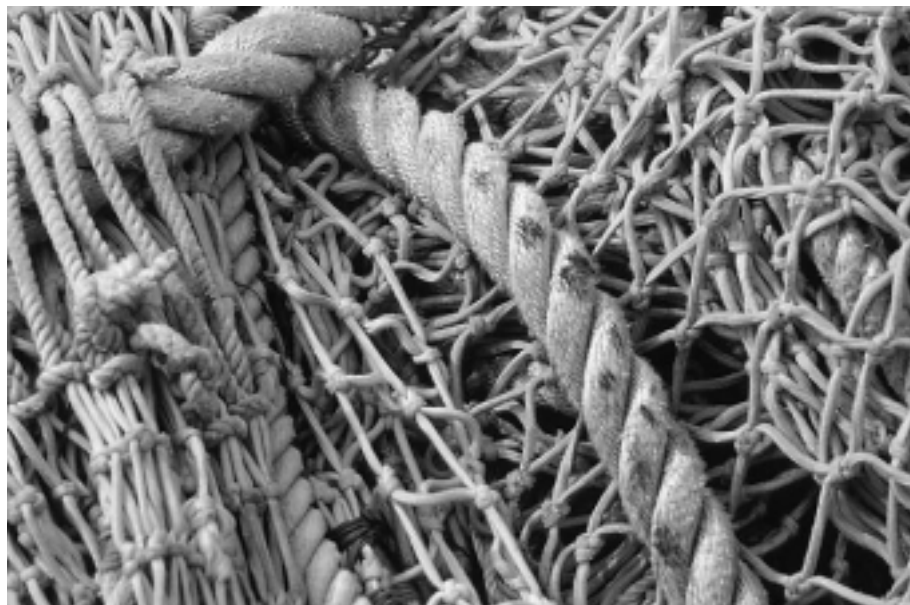
Employment: Increased employment for First Nation communities

The specific goals are:

- To realize increased fisheries related employment for Band members.
- To maximize local processing or other employment, especially jobs for youth.
- To provide skill development and job training.

Timing: Expeditious increase in economic benefits and employment.

- To meet the urgent needs for jobs and income, a priority has been placed on obtaining access to a percentage of the TAC as soon as possible.



2. Coastal First Nations

2.1 Traditional Area

Coastal First Nations occupy the Northern and Central coast and Haida Gwaii areas of B.C., from the Alaskan border to the north end of Vancouver Island. The Coastal First Nations area is shown between the bold lines in the adjacent map together with the location of each participating community.

Most of the area is remote and difficult to access. However, it is rich in fish. Almost half of the weight and more than half the B.C. coastwide value of commercial catch comes from this area.

2.2 Coastal First Nations Communities

Coastal First Nations experience high levels of unemployment because of limited job opportunities. Unemployment (seasonal and non-seasonal) reaches as high as 60% in three of the five northern communities represented in this report, with the average rate being 53.8%. A breakdown of unemployment statistics is detailed in Appendix 2.

Comparable information for First Nations from the Central Coast² is not available. However, labour market statistics in these communities are thought to be similar to those referred to above, except for Kitasoo/Xaixais, which has significant aquaculture employment.

The relative number living off-reserve (for example, 59.5% for Wuikinuxv) provides a general indication of the local employment opportunities; a high percent off-reserve population indicates few local job opportunities.

Employment opportunities for Coastal First Nations youth is an especially pressing problem. The First Nations population has

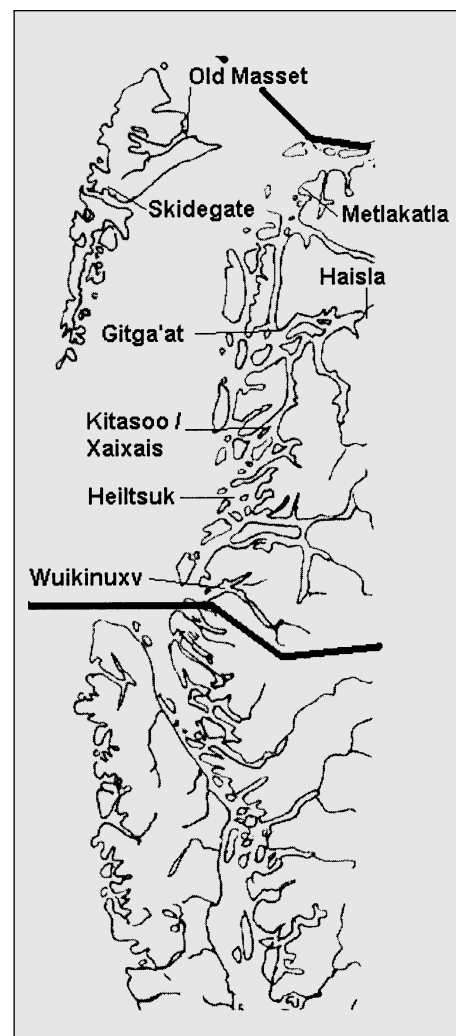
been increasing at more than three percent per year – 25% faster than the general population. In 1998, 28.6% of the Native population in the Coastal First Nations area was under age 15 and 36.8% were under age 20. This compares with an under-20 population of 25.1% for others in B.C.. Clearly, this poses a significant challenge for First Nations, as well as the British Columbia and federal governments. If the youth fail to find employment, many will be condemned to a life of poverty and reliance on long-term public assistance.

Most economic development in Coastal First Nations' areas is related to fish, forest or tourism resources. However, most current employment is related to First Nation government and community services. In Gitga'at, for example, 84.2% find work in the public sector while only 8.8% are employed fishing. Comparisons for other communities are: Old Massett (50.9% vs. 14%); Skidegate (44.2% vs. 8.4%); Metlakatla (73.2% vs. 17.1%); Haisla (47.8% vs. 8.8%). (See Table 3, Appendix II).

2.3 Fish, Fisheries and Industry in the Area

2.3.1 Fish Species

There are many fish species in the Coastal First Nations' traditional territories.



² Kitasoo/Xaixais, Heiltsuk, Wuikinuxv

The abundance and mix of species varies between areas, partly due to differences in local habitat. For example, on the outer coast there are many more species of marine plants and animals than on the inner coast because of the effect of freshwater runoff. Some species live mainly in shallow water, others in deep areas.

Many fish species produce millions of small planktonic eggs and larvae that are totally dependent on local currents, temperatures, salinity and food supply. Even small changes in ocean conditions can make a big difference in survival rates and production. Also, biological differences significantly affect the local abundance and mix of fish.

For purposes of this study, historic catch data are used as an indication of local harvestable abundance of each species. (See graph 1, Appendix II).

There are a number of conservation concerns for various species. Among these is where a number of genetically-distinct local stocks of a species are harvested as a single group. As an example, salmon from each stream may be genetically distinct. There are many different species of shrimp as well as genetically-distinct local populations. Often these are all fished as a single group. However, current management practices are appropriate for halibut which is managed across the whole region as a single genetic stock. Actions have been taken to move to more stock-specific harvesting in a number of fisheries.

Recent low ocean productivity has resulted in decreased survival and recruitment of a number of species. This necessitated management actions that reduced TACs to protect and rebuild populations, sablefish being an example. Salmon fisheries were also reduced and made more selective to protect and rebuild severely depressed coho and other stocks. Changes in ocean productivity and conditions affect survival of all species and

could result in variation in stock abundance, age composition, growth rates, and harvestable surplus.

2.3.2 Fisheries

Statistical data relating to the types and ownership of licences, landings by species and area, the percentage of licences held by Coastal Natives and First Nations, the total value of the combined Native catch as well as the fishing licences (and companies) First Nations own are shown in Appendix II.

The average 1999-2002 value of the Native commercial catch in B.C. was \$51.6 million; 75% from salmon, roe herring and spawn on kelp. Native fishermen own or fish about 32% of salmon licences but they own or fish very few licences for fisheries on species other than salmon and herring. As most commercial licences are tied to a vessel or an individual, they can be based from any community. For example, a number of fishermen from coastal communities have relocated to Prince Rupert, Port Hardy, Comox/Courtenay and Greater Vancouver areas taking their licences and related income and employment with them. As privately-held licences are not tied to communities, Coastal First Nations are specifically seeking community-based licences and quota in order to benefit communities.

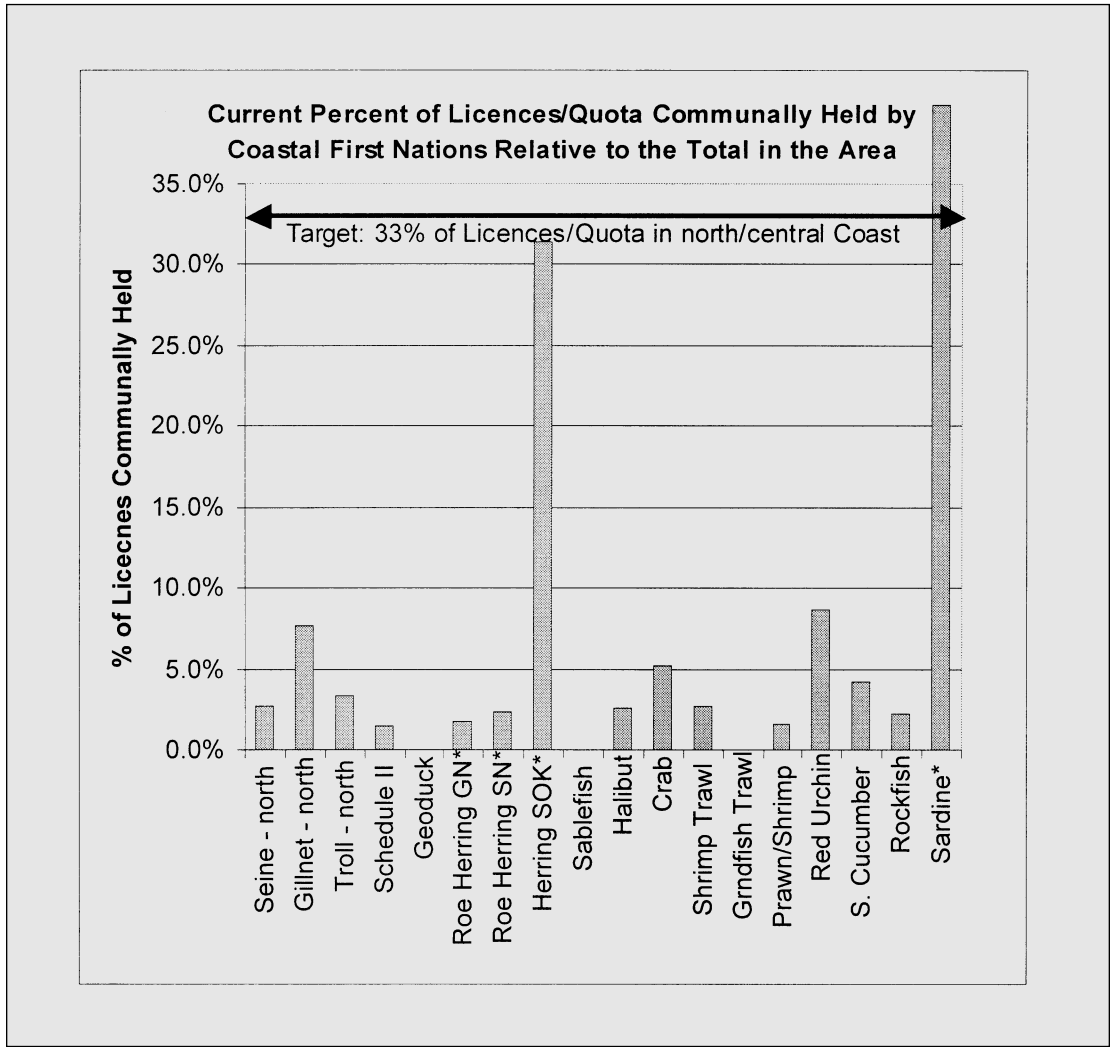
For illustrative purposes only, this report has set a target of one third of all licences to be held by First Nation communities. Significantly (as shown below), with the exception of herring spawn on kelp, First Nations and the companies they own do not yet come close to achieving this target.

Fishing Licences Owned By First Nations, And The Companies They Own

This graph shows the percent of the total licences of each licence type currently held by

communities, relative to the target of 33.3% of licences. For most of the fisheries, current licence holdings are less than 3%. Only her-

ring spawn on kelp, at 31.4% is anywhere near the target of 33.3%. (Source: Primarily DFO website.)



3. Federal Policy and Management

3.1 First Nations' Access to Commercial Fisheries

First Nations access to fisheries has been constrained for more than a century by numerous factors, including government policy and management, and industry changes.

3.1.1 Historic Development

When European-style commercial fisheries started in B.C., Native people were a ready source of labour, especially in the North and Central Coast areas. Initially, processing and transportation technology necessitated processing plants in every fish production area. First Nation communities provided the men to catch the fish and the women to process them. Having many small processing plants provided significant local employment. As the technology evolved, larger, centralized plants and fleets became the norm, leaving fewer jobs in this sector.

With the start of European commercial fisheries in B.C., the fisheries department limited Native people's opportunity to selling fish through commercial fisheries. In some areas this restriction was related to a valid conservation issue, more often it was related to a policy directive that gave control of the fishery to the canning industry.³

From the start of industrial fisheries, the government has essentially tried to force Native fishermen into a standard industrial mold and a 'single fishery' for all fishermen. In the B.C. North and Central Coast, by regulation all gillnet and seine fishing licences were owned by fish processing companies. This gave companies control over access to commercial fisheries as well as prices paid, and who fished. It wasn't until 1924 that this monopoly was broken and individuals could

own vessels. However, through the decades, native ownership of tenures and vessels was rare due to the high capital costs, thus the fishing companies continued to monopolize but utilized First Nations people as skippers on company vessels. The First Nations fishers knew where and how to catch fish but when local fish stocks began to disappear from some areas in the 1960s, the companies abandoned the fishers. This also contributed to the high levels of unemployment in many First Nations communities.

Since the 1960s government policies have further eroded First Nations involvement in the fishing industry. But, while DFO has generally managed fisheries for conservation and industrial interests, it has also made policy decisions to improve Native participation in the fisheries sector.

The following initiatives reflect the major policy direction of the Department:

1. The Davis Plan (1969-1973), which limited the number of licences and set in motion licence pyramiding that consolidated many small vessel licences into the large modern seine fleet.
2. The Pacific Fisheries Restructuring Program (1996-2000), which removed more than half the vessels from the salmon fisheries.
3. The continuing conversion of 'other species' (non-salmon) fisheries to limited entry and quota management.
4. Native policy initiatives – AFS, ESSR, Pilot sales

The Davis Plan

Before 1969, any citizen could obtain a licence to fish commercially. In 1969, the Davis Plan controlled entry to the fisheries by limiting the total number of salmon licences.

³ The government department responsible for fisheries had many names over the last century. Since 1985 it has been known as the Department of Fisheries and Oceans (DFO). For convenience, the title DFO will be used throughout this report.

In Phase 1, it introduced two limited entry licences and a third that was unlimited:

'A' licences were issued to vessels that caught over 10,000 pounds in 1967 and/or 1968. 'A' licences were eligible for buyback and replacement.

'B' licences were issued to vessels that caught less than 10,000 pounds. 'B' licences were for 10 years and were not eligible for buyback or replacement.

'A' and 'B' licences could fish all species

'C' licences were for fishing non-salmon species.

Phase 2 increased licence fees to fund a vessel buyback program to reduce the fleet.

In Phase 3, quality standards were applied to all fishing vessels. At least 25 Native vessels couldn't meet the new standards.

The Davis Plan also allowed licence pyramiding – through which a number of small vessel licences were combined to create a licence for a large seiner, gillnetter or troller. Many of the small vessels that were purchased for pyramiding had been fished by Natives.

A planned Phase 4, to introduce gear and area restrictions, was not implemented.

The Davis Plan markedly decreased the number of Native fishermen. To help Native fishermen remain in the commercial fisheries under the regime changes of the Davis Plan, government provided the Indian Fishermen's Assistance Program (IFAP) and the Indian Fishermen's Emergency Assistance Program (IFEAP) that provided loans and grants.

For the same purpose, DFO also introduced reduced fee licences for Native fishermen. In the 1980s, government funded the acquisition of 254 salmon gillnet licences (most with vessels) for the Northern Native Fishing Corporation (NNFC), owned by three northern tribal councils. The licences

were converted to special protected 'N' licences that can't be sold, only leased to Native fishermen. The Native Fishing Association (NFA) was given \$13 million to establish a revolving fund to provide loans to Native commercial fishermen. Both the NNFC and NFA still provide services to individual Native fishermen.

Pacific Fisheries Restructuring Program (Mifflin Plan)

This program introduced salmon area and gear licensing and licence stacking and included a licence buyback program that purchased about 50% of the salmon fleet. Licence stacking, where a vessel fishes in more than one area or uses more than one gear type, also resulted in further reduction of the active fishing fleet. Native 'F' and 'N' licences were excluded from the buyback but subject to stacking. Sale of Native owned 'A' and 'AI' licences and rental vessels used by Natives resulted in a large reduction in the number of Natives fishing. No special programs were introduced to ameliorate the impacts of the Pacific Fisheries Restructuring Program on Native fishermen.

Other Species Limited Entry

Since 1974, 'A' licence fishing privileges have eroded to just salmon and schedule II species. Almost all of the non-salmon species fishing privileges, including some of the most valuable west coast fisheries, now have separate limited entry licences. Limited entry required fishermen to have caught a specified amount of catch, usually in the preceding two years. This requirement eliminated fishermen who had fished to extend their fishing season and supplement their income and UI credits. For example, halibut limited entry eliminated licences for more than 1,000 fishermen, who had previously fished halibut. Many Native fishermen were impacted. The resulting

increase in value of licences and quotas, combined with the licence holdings of corporations, created significant barriers to First Nations entry. Some licences, e.g. geoduck, were designated limited entry based on participation in the south coast fishery – before a fishery even existed in the North or Central Coast. This excluded northern First Nations and individuals from participation in the local fishery.

Native Policy Initiatives

Where the department of fisheries has protected Native interests, Native involvement and/or licence ownership is strong, as for example, in the herring spawn on kelp, roe herring licences and clam fisheries and with the ‘N’ salmon licences.

In response to the Sparrow decision, in 1992, DFO introduced the Aboriginal Fisheries Strategy (AFS). The AFS included interim fisheries management agreements related to meeting aboriginal food, social and ceremonial needs, providing for a consultative process, funding aboriginal groups to support cooperative fisheries management, related training and economic development. As a part of this strategy, the department introduced the Allocation Transfer and Pilot Sales Programs.

DFO currently operates the Allocation Transfer Program (ATP) that has already contributed 293 ‘F’ communal licences (232 clam, 61 other licences) to Coastal First Nations (see Table 5 in Appendix II). The ATP program could become a more valuable asset. This would require significantly more funding; a licence purchase process outside of government for fuller price negotiations; and a consultative process with First Nations to define priority needs and aspirations; and for performance review.

DFO also has an Excess Salmon to

Spawning Requirements (ESSR) policy that gives first refusal to local First Nations to harvest and sell surplus enhanced salmon returns. It resulted in a 1999-2002 annual average of 686,201 salmon to First Nations – about 6.6% of the overall commercial catch. Very little of the ESSR catch was taken by the Coastal First Nations.

In 1992, DFO initiated a Pilot Sales Program for First Nations on the lower Fraser and Somass Rivers. This program was initiated as part of the Aboriginal Fisheries Strategy (AFS) – a response to the Supreme Court of Canada Sparrow decision in 1990. DFO purchased commercial licences and converted them to a catch quota that is issued to First Nations to licence and administer. Industry interests and non-Native commercial fishermen have resisted the pilot sales fisheries since their inception. They were ended following the 2003 B.C. Provincial Court ruling (R v. Kapp et al) that First Nation-only pilot sales fisheries were illegal. That ruling was recently overturned by the B.C. Supreme Court that said the pilot sales program was not discriminatory, but did not ease tensions between fishing interests. The pilot fisheries have been reinstated.

Although First Nations still have aboriginal rights to fish, they have been largely excluded from the management and harvesting of fisheries resources. Current advisory processes for fisheries management tend to be fisheries-association driven and for broad areas of B.C. This limits meaningful First Nation involvement, especially at local levels.

The result of these and other impacts is that Coastal First Nation communities are located amidst a wealth of fisheries resources, but are excluded from benefiting from them.

3.2 Fisheries Management

DFO has resisted changes in commercial

fisheries policy, particularly with regard to area licensing and implementation of local quotas for First Nations. Fisheries management is built on experience with how the fish and fisheries interact under different conditions. Any change that is outside of experience is risky and requires increased monitoring, and sometimes studies, to ensure that stocks are protected and fishery results are understood. Long-term cuts to DFO funding have blocked testing and assessing some of the proposed management changes. In that context, DFO is committed to 'single fisheries,' the 'industrial solution,' current licensing areas, and existing licence types and restrictions.

Recently, DFO and the B.C. government appointed Pearse and McRae to look at changes required for the transition to treaties and funded the First Nation Panel on Fisheries to provide views on that transition.⁴

3.2.1 Single Fisheries

The Department of Fisheries resisted creating separate First Nation commercial fisheries, opting instead for integrating Native fishermen into all-interest commercial fisheries. A single fishery is cheaper and has less risk for DFO to manage than separate Native and all-citizen fisheries as in Washington State.

3.2.2 Industrial Solution

The DFO approach to providing fisheries benefits to First Nations has been by the 'industrial solution' – that is, buying existing licences and/or quota and transferring them to First Nations or to Native fishermen. DFO is on record as committing to this approach for treaty settlements, arguing that it is fair and equitable because all licences transferred are from willing sellers. However, the commercial fishery remains unchanged in all

other aspects. The approach serves First Nations only as far as providing increased fishing opportunities. Under this approach, many Native-owned licences could be purchased for transfer to First Nations, which would not significantly increase overall Native employment or licence holdings.

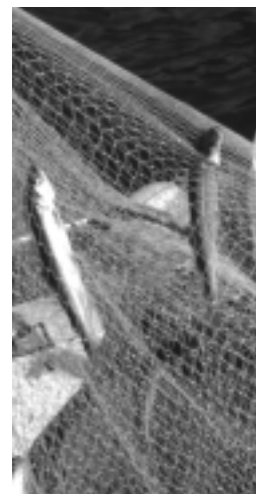
The existing structure doesn't serve First Nations well. Some fisheries still have competitive fishing, and management and licence areas are too broad.

In competitive fisheries, the industrial solution results in high grading the fleet and pits First Nations against the most aggressive and well-equipped part of the fleet. It also forces First Nations to compete over areas greater than their traditional fishing grounds. The industrial solution can create exorbitantly high prices for licences. DFO has made decisions to suit industry and individual fishermen trying to maximize profits and competitiveness. This approach denies First Nations separate fisheries, a percentage of the Total Allowable Catch in competitive fisheries, and priority in local fisheries. DFO has resisted major changes that would make commercial fisheries more compatible with coastal First Nations' goals for a viable local economy.

3.2.3 Quotas Versus Competitive Fishing

A number of large and important fisheries, including salmon, clams, crabs, shrimp and prawns, are still harvested competitively.⁵ In competitive fisheries, there is no certainty of catch share as a licence only provides an opportunity to compete against highly capitalized, experienced, aggressive fishermen that know their areas and maximize their catch.

In quota fisheries, the TAC is divided amongst fishermen on some formula, such as in equal shares or past catch shares, so that



⁴ Pearse, Peter H. and McRae, Donald M – "Treaties and Transition – Towards a Sustainable Fishery on Canada's Pacific Coast," April 2004

⁵ There is no basis for setting annual quotas for species that are only in the fishery one or two years. Instead, short-term, in-season quotas would be set based on actual observed returns

each fishermen is allowed to catch a prescribed volume of fish. There are penalties for catching more or less than quota.

3.2.4 Area Licensing

Quotas set the amount of catch per fisherman, while area licensing sets the area from which a quota can be taken. Large licence areas involve many competitors who can fish in any local areas within the licence area, in competition with the local First Nation. The smaller the area the more variability of catch because of reduced averaging of catch over areas. Most fisheries are licensed and managed by broad areas. For example, the halibut fishery is managed in a single B.C. coastwide area, open to all licensed fishermen. As halibut quotas are not area specific, First Nations have no certainty of being able to take their quota in their local area. Under current management, there is no certainty that a local First Nation would be able to take all of a quota allocated to it in its own area. Also, the geoduck fishery areas are rotated on a three-year cycle resulting in local areas being closed for at least two out of every three years.

Currently, most fishermen fish for one or more species and diversify their catch over as many areas of the coast as possible. First Nations, however, prefer to diversify across all species in their local area. Member First Nations recognize that the amount of catch and the markets and prices for that catch will change in both the short and long term.

3.2.5 Possible New Fisheries Policies

Pearse-McRae – ‘Treaties and Transition’

Peter Pearse and Donald McRae were appointed by the federal and provincial governments to define a vision of the fisheries in a post-treaty era. They were also asked to

make recommendations that would provide certainty for all participants in the fisheries, ensure conservation of the resource, provide equitable arrangements among fishers and fair treatment of those adversely affected by treaty settlements. A summary of their comments and recommendations follows.

Their report concluded that "Under the existing management regime salmon fisheries are not sustainable." Pearse-McRae focused on the economics of the fisheries, assuming that basic conservation of salmon stocks and their habitat would be taken care of by DFO and the B.C. government.

Pearse-McRae recommended changing salmon licensing and management from the current competitive fishery to personal quota licences. Quotas would be based on current salmon licence areas and sectors. Quotas would be fully transferable, without being tied to the current vessel size limits, marriage to other licences on a vessel, or any limits on pooling or dividing quota. Commercial sectoral groups would decide what quotas would be based on (e.g. equal, previous catch, etc.). They also recommended that other fisheries⁶ should be changed to quotas.

Pearse-McRae proposed a 25-year renewable quota licence like the Nisga'a's. This would provide greater security and could serve as collateral for financing.

DFO would set the number of vessels allowed to fish in any area/time period to match expected available catch. Quota licence holders would form fishing pools and collectively decide who would fish and how catch benefits would be shared. This would likely result in fewer jobs. Other impacts on First Nations are not clear.

"The same rules of fishing and the same standards for reporting catches should apply to all commercial fishers," their report stated.

⁶ prawn, crab, hook-and-line groundfish, minor species

Pearse-McRae see all fishermen more involved in various management functions, but didn't identify any role in management processes for First Nations, except with respect to Food, Social and Ceremonial fisheries. First Nations would be included in management processes as quota licence holders, not as First Nations.

The proposed consultation/management process for the commercial salmon fisheries would bring together First Nation, recreational and commercial fishing interests at the B.C. wide level.

Based on catch shares agreed to in the Nisga'a treaty and the five Agreements In Principle to date, Pearse-McRae projected that a third of the sockeye TAC would be used in treaty settlements. However, as only one of these six First Nation groups is highly-dependent on fisheries, [others mainly forestry, tourism and other industries] it is likely that total treaty quota could be significantly higher.

Proposed revisions of the Fisheries Act would change ministerial discretion to co-management; and criminal law enforcement to administrative sanctions.

Coastal First Nations are concerned that quotas can remove fisheries benefits from local communities, significantly weaken the regulatory authority of government, and result in high grading of catch.

To address these concerns, Coastal First Nations seek an interim allocation at the first implementation of quotas. Also, First Nations must be involved in decision making on these changes to avoid adverse impacts.

First Nation Panel On Fisheries – 'Our Place At The Table'

The First Nation Panel on Fisheries was appointed by a steering committee comprising leaders of the First Nations Summit and

B.C. Aboriginal Fisheries Commission. Its mandate was to "articulate a vision for future fisheries management and allocation and to identify what principles would help to achieve that vision." It was also asked "to describe a workable framework for management that would provide some certainty to users in terms of access and use of fisheries resources." The Panel was funded by the federal government.

The First Nation Panel on Fisheries consulted with First Nations from around B.C. to present a collective opinion on fisheries issues – vision, principles, requirements and proposed processes. The Panel report is mainly about getting to post-treaty fisheries. Participants expressed major concerns with the treaty process that will set the context in which First Nations participate in fisheries. Specifically, they identified: slow progress; changing mandates; lack of political will; treaty funding caps; limits on food, social and ceremonial allocations; and reluctance to recognize in treaty the right of First Nations to earn a living from aquatic resources.

An important concern is that implementing further changes in commercial fisheries outside of, and not coordinated with, treaties will adversely impact First Nation involvement. Based on most previous fisheries changes, unless special measures are taken to protect First Nations' interests or increase Native involvement, such concerns may be well grounded.

The Panel identified the following outstanding issues that need addressing to fix the treaty process:

- Define the First Nations' role and input to local conservation and management
- Establish local area all-interest management processes
- Fund the proposed First Nation co-management and coordination process

- Make the treaty process more responsive and faster.

The First Nations' vision of B.C. fisheries is strongly based on maintaining healthy ecosystems and species. The fisheries should also be able to meet food, social and ceremonial (FSC) use; spiritual and educational needs; and generate economic wealth for healthy families and communities. The resources and wealth should be shared; aquatic species and ecosystems should be jointly managed; and managers should be held accountable.

The report includes recommendations to fix the treaty process, provide interim fisheries settlements, and implement local area quotas and an all-interest, local area co-management process. An interim settlement of 50% of post FSC total allowable catch is proposed as both a sign of good faith and a protection from adverse impacts of implementing salmon quotas.

Although both Pearse-McRae and the First Nation Panel deal with fisheries futures, they cover different issues, with limited overlap. Pearse-McRae is narrowly focused on improving fishery economics and assumes many issues will be taken care of. The First Nation Panel takes a broader perspective and addresses many issues that are important to First Nations – but apparently not to Pearse and McRae.

3.3 Treaty Related Processes

Coastal First Nations assert that they will continue to own the fish resources until treaty settlements are concluded. The treaty process was formed to reconcile Aboriginal rights and title. To date, the treaty process has moved lethargically and the federal negotiating mandates have been narrow and limiting. The Coastal First Nations collectively have spent an estimated \$20 million on the treaty process with little real progress on fisheries issues.

The current treaty process does not fully address fisheries issues important to Coastal First Nations – particularly implementation of arrangements to provide for local First Nation commercial fisheries. Specifically, as described above, DFO is resisting changing licensing and fishing areas that would make treaty settlements acceptable.

Although fisheries are the primary resource for some First Nations, the fisheries settlements being offered in the treaty process are not adequate to sustain the local First Nation economy. Additionally, instead of government providing catch shares, most treaty offers now are in dollars for First Nations to buy status quo licences. This means that First Nations must compete to buy licences and pay the asking prices or do without. First Nations believe that as the number of available licences is reduced, they will face much higher prices if they seek to buy licences in a few years. As a result they will likely obtain lower catches than if government provided catch shares.

As previously described, local economic sustainability is difficult to achieve because Treaty offers generally involve current commercial fisheries management. For example, when harvesting is on a three or four-year cycle rotating between broad areas, First Nations will only be able to harvest in their home territory every three to four years, along with all other licensed fishermen. Also, this will force First Nations to fish in each other's territories if they are to get an acceptable return. Fishing costs will increase and access to local processing will decline.

For competitive fisheries, government is offering a licence to compete against the highly capitalized, experienced, aggressive corporate fishermen. There is no certainty of catch, only of costs and risks.

Accessing licences for some quota fisheries may require government intervention.

Licences for fisheries such as geoduck, sea urchin, and sablefish are rarely offered for public sale. Instead, licences are sold or leased amongst existing fishermen.

Some licences offered for sale are from Native fishermen. If these are bought for, or

by, First Nations the effect will be money spent to move the licence from an individual to a community holding. In this case, there will be no gain in the number of licences fished by Natives.



4. Coastal First Nations Perspectives and Options

This section examines a number of strategic options open to First Nations.

4.1 Aboriginal Rights and Title

The courts have recognized Aboriginal rights and title. A number of these decisions recognize Aboriginal title and rights to fish. Most First Nations in B.C. have never signed treaties surrendering fish resources in their traditional area.

Three aspects of Aboriginal title are particularly relevant to First Nations fishery rights:

- The right to choose what uses land can be put to is a foundation for First Nations jurisdiction.
- The right to exclusive use and occupation – reflected in the principle of Aboriginal priority.
- The right to a share of the economic benefits.

Specific Aboriginal rights include:

- The right to fish for food, social and ceremonial purposes.
- The right to fish for economic purposes.
- The protection and management of fisheries and aboriginal priority.
- Site-specific rights.

4.2 Fine Tuning Fisheries Management

Coastal First Nations want Band-owned licences, a defined share of total allowable catch, and fishing in traditional areas as a basis for rebuilding their sustainable local economies, based on the following rationale:

Band-Owned Licences

Fisherman-owned licences could be lost

to a community if the owner moves to another area or sells his licence. Community licences are tied to the community and cannot be lost except by an explicit decision and action by the community. This ensures that the benefits from the licences come to the community. Community-owned licences also offer more potential for value-added processing of the catch in the community. Communal licences are closer to the commercial fishing rights asserted by the Coastal First Nations.

Defined Share Of Total Allowable Catch

Coastal First Nations prefer a share of TAC or a quota, instead of competitive licences, to obtain an ensured catch. For example, in the competitive salmon gillnet fisheries, the most competitive 30% of fishermen take 50% of catch. The mid 40% of fishermen take 38% of catch, leaving the bottom 30% of the fleet with about 12% of the catch. The top fishermen usually are highly capitalized, fish as many areas as possible, and have access to highly qualified legal, financial and business advice. The other 70% of fishermen each get less than the average catch. For First Nations to be economic in competitive fisheries, they must fish all areas open for fishing. This requires investment in a vessel that can travel the coast quickly, as well as different gear for the various areas and species fished. The costs are significantly higher than fishing one area. Fishermen are away from home for much of the fishing season and are unable to deliver catch for value-added processing in their home community.

Fishing In First Nation's Traditional Territory

This desire involves more than just wanting to continue their traditions. First Nations are uncomfortable fishing in another First Nation's territory. Fishing locally also involves important economic and employment issues. These include: lower capitaliza-

tion and costs; potential value-added processing and related jobs; and economic contribution to First Nation communities. Local fishing employs more fishermen and requires less capital equipment. Local fisheries could also help to better meet emerging fish product quality requirements and to fish to the high-value live markets. Local fishing also reinforces the traditional First Nation obligations for local resource conservation, which in turn provides the benefits of a sustained and increased catch in local fisheries.

4.3 First Nations Litigation

A number of First Nations have turned to litigation to achieve court agreements on their fisheries rights. To date, litigation has been the approach by which First Nations have achieved the most changes to government policy, practice and programs with respect to definition and recognition of rights. A number of important legal decisions have changed Canadian law to be more favorable on aboriginal rights.

Legal Precedents

Calder (1973) SCC: Aboriginal title is part of the common law of Canada and its existence does not depend on treaty, executive order or legislative enactment. The issue is whether Aboriginal title has been extinguished.

Baker Lake (1980) FCC: Aboriginal title was upheld but claims of equivalency to ownership dismissed; requirements of proof of Aboriginal title were set out.

Guerin (1984) SCC: Crown's fiduciary obligations to its Aboriginal subjects are legal, not merely political.

Sparrow (1990) SCC: Aboriginal rights to fish for food, social and ceremonial purposes must be met before other allocations. Conservation takes precedence over all. Laws

that interfere with the exercise of aboriginal rights are subject to judicial review.

Delgamuukw (1993) SCC: Aboriginal title arises from the prior occupation of Canada by aboriginal peoples. Aboriginal title is held communally, is a collective right of an aboriginal nation, and decisions respecting the land must be made by the community.

Gladstone (1996) SCC: Aboriginal rights to sell catch under certain conditions

Beyond the continuing definition of aboriginal rights in Canada, a number fisheries treaty cases provide an indication of the fisheries access and rights that B.C. First Nations might ultimately realize.

Aboriginal Fisheries Treaties

Boldt (1974) Washington State: treaties provide 50% interest in fisheries resources to tribal fishing authorities [created dualistic management processes]

Marshall (1999): to accommodate the right for Aboriginal beneficiaries of the Treaty to engage in commercial fishing.

4.4 First Nations Direct Action

The frustration with the treaty process and the time and cost of litigation to define Aboriginal rights and title has led some First Nations into direct action.

Coastal First Nations prefer an approach in which they can work with governments to meet current community needs while treaty negotiations are underway. They hold litigation and direct action as fallback strategies if the new approach doesn't make progress.

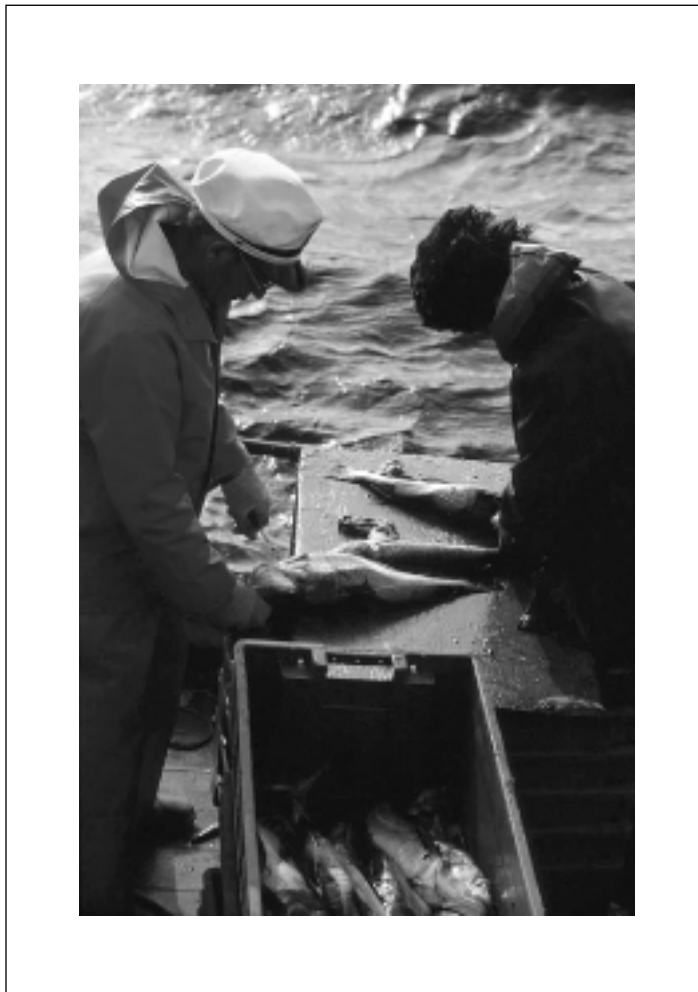
4.5 Coastal First Nations – A Negotiated Approach

Coastal First Nations have joined together to propose A New Approach in lieu of litigation or direct action.

The New Approach provides for interim measures to contribute to stability that may invigorate the coastal treaty-making process. Without the proposed changes, fisheries treaties will remain stalled. The program would help to address the major impediments regarding provision of a share of TAC and local fisheries. It would also start rebuilding local stocks and collect management information. It would signal government's seriousness about treaties and recognize that First Nations have as yet undefined aboriginal rights for commercial use of fish resources. It would

allow Coastal First Nations to rebuild a sustainable economy within their territories based on their traditional use of local natural resources.

This proposed New Approach is seen as an interim measure. It would provide economic and employment benefits and stability for Coastal First Nations, pilot test treaty arrangements, where applicable, and examine new fisheries policies consistent with the recommendations of the Pearse-McRae and First Nations Panel reports.



5. A NEW APPROACH

This section outlines the main aspects of the proposed New Approach. It is designed as an interim measure to help to address community employment needs, serve as a sign of government intent and to help advance the treaty process.

5.1 Major Features of the New Approach

Coastal First Nations propose to enter into an *Interim Measures Agreement* with Canada, whereby the First Nations would:

- Obtain a defined share of the total allowable catch from all of the fisheries in their traditional territories.
- Hold the licences communally on a continual basis.
- Establish a **Coastal First Nations Trust** as the vehicle to purchase its share of the licenses and provide support to participating First Nations.

The Interim Measures Agreement could provide a bridge for interested First Nations to negotiate an incremental or final treaty agreement.

5.2 Guiding Principles

The following guiding principles inform the New Approach:

- Acknowledgment of Aboriginal Rights and Title.
- Build on mutual respect by Coastal First Nations and Canada of each other's needs and interests.
- Provide for equity and fairness amongst all Coastal First Nations.
- Be flexible and adaptive to meet changing circumstances.
- Respect an ecosystem-based approach to management.

- Recognize the diverse benefits and approaches that would accommodate the varied needs of First Nations communities and other shareholders.

5.3 Making It Work

In making the New Approach work the following issues will be examined:

- How can the licenses and quota be acquired?
- How do we determine a First Nation's share and the estimated costs to obtain its share?
- What are the major considerations to be examined in a fair and equitable allocation formula?
- How do we implement the New Approach?

5.3.1 Acquiring Licences and Quota

For each licence (species) category there are realistic options for government to consider for acquiring licences and/or quota. These options include:

- **Voluntary buyback:** An Allocation Transfer Program model may work for some species such as salmon, herring spawn on kelp (SOK), halibut etc., given sufficient funding. There are two problems related to a voluntary buyback, especially if it is large scale. Firstly, increased demand for licences and quota fuels speculation, which increases pricing well beyond true market value. Secondly, there may be few or no licences offered for buyback in some categories. This is especially true for limited entry fisheries where there are only a few licences eg. sea cucumber (85 licences), geoduck (55 licences) and sablefish (48 licences) These are held by a handful of people who effectively con-

trol the market. Licences are rarely if ever offered for sale, except for transfers between existing licence holders. Under the 'willing-seller' requirement, First Nations and/or government could face no licences offered or a few offered at excessive prices. Without some government intervention, First Nations would not be able to access such fisheries. Under any voluntary buyback program considered within this New Approach, special provisions must be provided in the event the quotas cannot be purchased over a reasonable time period. In these cases, involuntary buybacks will likely be required in the fourth or fifth year of this program.

- **Tax Incentives:** Tax incentives could make buybacks more attractive. Reducing capital gains taxes in some manner (e.g. time limited special capital gains category for fishers who volunteer licences for buyback) would provide a sales incentive.
- **ESSR:** Continued access to ESSRs could be important for some First Nations as it provides a way to generate revenue for fishermen and can help pay for the operation of community salmon enhancements and other fisheries projects.
- **Involuntary Buyback:** DFO would take a prescribed portion of the quota from each licence holder and compensate them, using some market valuation. This would remove the unsupportable speculative values that licenses would reach with voluntary sales. This will likely be necessary for the quota fisheries with few licences, especially where the quota is fully subscribed and few licences are available (e.g. geoduck, cucumber, urchin etc.).
- **New licences/quotas:** In some fisheries, such as sea cucumber, and geo-

duck, only a part of the potential TAC is currently allocated. The assumption is that the unallocated inventory would eventually go to quota holders when it can be safely harvested. This is definitely the case for sea cucumber for which the individual quota has doubled in the last three years and is expected to continue to increase. Some indications in the North and Central coast suggest geoducks are significantly under fished in some areas and quotas could increase. Lacking willing sellers, government could put the unused TAC aside until there are willing sellers or allocate it to First Nations. At the same time as such adjustments are made, changes to the area base of quotas could be made in order to provide Coastal First Nations quota in their local area.

- **Under-utilized/experimental species:** Several new fisheries (sardines, tanner crab, south coast inter-tidal bivalves, flying squid etc.) have come under licensing and fisheries management over the past several years. Recently with sardines and south coast inter-tidal clams, DFO has adopted a policy of allocating 50% of these licences for First Nations. Other species such as horse clams have market value but are married to the geoduck quotas. Even though some large horse clam beds exist they are not fished because of their lower value relative to geoduck. Geoduck harvesters are currently aggressively lobbying government for a separate horse clam quota since it is now considered profitable. For existing fisheries with unallocated TAC, it is proposed that 100 percent of the unallocated TAC be allocated to First Nations treaties. This is in the best interest of both governments and First Nations and at no cost to others.

The inter-tidal bivalve (clam) fishery is proposed for major development in the central /north coast in the next several years. At the present time only the Heiltsuk and the Haida have DFO sanctioned commercial inter-tidal bi-valve fisheries in their territories and hold 100% of the available licenses. It is strongly recommended that any new or expanded inter-tidal bivalve fisheries in this area continue to target local First Nations with 100% of the available licenses.

In summary, voluntary buyback would cost the most money but would cost the least politically for government. Involuntary buyback or expropriation would cost less money but would cost more politically. Issuing new licences and moving into underutilized fisheries would be no monetary cost to govern-

ment but could be politically expensive. As government is on record as committing not to confiscate licences, it would have to present its case for confiscation carefully. Tax incentives could be effective, but are highly unlikely because of implications in other sectors.

5.3.2 Obtaining A Fair Share

Coastal First Nations licence holdings are summarized in the table below. Communal holdings of northern salmon gillnet licences include the estimated share of 'N' licences fished by Coastal First Nations. The table also shows how many more licences would be required to meet a target example of one third, and how much it would cost to buy those licences, based on recent average market values (\$311.6 million).

Licences required to meet the Coastal First Nations allocation target example

Licence		Licences									
		Total			Coastal First Nations'				Need re target	Average cost per ³	T. cost to meet target
Type	Species	All Lic.	CFN Area ¹	F' Lic.	'F' Lic.	Other ²	% Lic.	1/3 target			
A - A	Seine - north	109	109	8	2	1	2.8%	36	33	\$361,880	\$11,942,040
A - C	Gillnet - north	714	714	31	13	42	7.7%	238	183	\$82,767	\$15,146,361
A - F	Troll - north	152	152	6	5	0	3.3%	51	46	\$99,115	\$4,559,290
CO/A	Schedule II	533	262	8	4	0	1.5%	87	83	\$20,000	\$1,660,000
G	Geoduck	55	36	0	0	0	0.0%	12	12	\$3,000,000	\$36,000,000
HG	Roe Herring GN*	1,267	418	24	7	0	1.7%	139	132	\$140,564	\$18,601,303
HS	Roe Herring SN*	252	83	2	1	1	2.4%	28	26	\$709,462	\$18,209,525
J	Herring SOK*	39	35	2	2	9	31.4%	12	2	\$925,000	\$1,850,000
K	Sablefish	48	38	1	0	0	0.0%	13	13	\$3,159,574	\$41,074,462
L	Halibut	436	349	26	9	0	2.6%	116	107	\$808,486	\$86,508,002
R	Crab	222	58	9	3	0	5.2%	19	16	\$490,000	\$7,840,000
S	Shrimp Trawl	245	74	11	2	0	2.7%	25	23	\$49,000	\$1,127,000
T	Grndfish Trawl	142	71	0	0	0	0.0%	24	24	\$1,966,565	\$47,197,560
W	Prawn/Shrimp	252	63	5	1	0	1.6%	21	20	\$438,000	\$8,760,000
ZC	Red Urchin	110	93	6	5	3	8.6%	31	23	\$235,000	\$5,405,000
ZD	S. Cucumber	85	47	0	0	2	4.3%	16	14	\$130,000	\$1,820,000
ZN	Rockfish	262	132	14	3	0	2.3%	44	41	\$95,000	\$3,895,000
ZS	Sardine*	24	5	0	0	2	40.0%	2	0	\$5,000	\$0
Total		4,947	2,739	153	57	60	4.3%	913	796		\$311,595,542

*Special Native licensing **South Coast only 1. numbers approximate; 2. Estimate 1/6 share of 'N' licences
3. Approx. average licence & quota cost (Nelson, 2003) this does not include speculative premium anticipated in a buyback environment which could increase license costs by 0 - 40% depending on the category and other economic/policy forces.
Total: All Lic. = all licences; **CFN Area** = licences in Coast First Nations area; **F' Lic.** = total 'F' licences
Coastal First Nations: 'F' Lic. = 'F' licences held by Coastal First Nations; **Other** = other communally held licences;
% Lic. = percent of total licences; **1/3 target** = number of licences to meet 1/3 target
Need re Target = licences needed to meet 1/3 target; **Average cost per** = average cost per licence
T. cost to meet target = total cost to buy licences to meet 1/3 target

5.3.3 Allocation Between First Nations

Coastal First Nations will have to develop an allocation formula after discussions have been finalized with Canada and baseline data is brought up-to-date. The formula would consider a number of factors in determining a "fair and equitable distribution" amongst the First Nations. These may include:

- Baseline – Each First Nation obtains a basic number of licences regardless of population.
- Proximity to fish stocks – First Nations receive a proportional share of its licences/quotas based on the quantum of fish available in their traditional territory or other defined area.
- Population – A portion of a First Nation's share distributed based on its population.

5.3.4 Implementation of the New Approach – Coastal First Nations Fisheries Trust (CFNFT)

The Coastal First Nations propose to establish a Coastal First Nations Fisheries Trust as the vehicle to implement the New Approach. They are committed to working together to address current issues such as sharing catch, managing fisheries and cooperative working arrangements. The Trust would have the following major features:

i. Legal Structure

The Trust will be a legal entity created for the purpose of receiving and administering the resources required to carry out its mandate.

ii. Purpose

The goal of the Trust is to support Coastal First Nations in acquiring the licences to obtain a defined share of the total allowable catch.

The specific purpose of the Trust shall

include the following:

- a) Receiving from Canada the negotiated share of the funds to implement the Interim Measures Agreement.
- b) Investing the fund in the manner described in the Agreement.
- c) Where required, enforcing the commitments under the Agreement.
- d) Establishing and overseeing the administrative procedures required to ensure that all expenditures are consistent with the mandated purpose of the funds.
- e) Undertaking appropriate remedial action if a First Nation does not comply with the conditions of the Agreement or handle disbursements of funds from the Trust appropriately.

iii. Use of the Funds

The Trust funds will be utilized as follows:

- a) To acquire licences as defined in the Agreement.
- b) To distribute those licences to First Nations based on the allocation formula agreed to by the Parties.
- c) To support individual First Nations to develop necessary capacity to manage its licences.
- d) To ensure accountability agreements are in place for the appropriate use of the fund.

iv. Expenditure of the Funds

The Trust Fund shall establish two separate accounts:

- a) A capital fund and
- b) Earned income on capital.

The capital fund will be utilized to pur-

chase licences as defined in the Agreement, and a small portion of these funds will pay for the operations of the Trust.

The earned income will be utilized to support capacity building initiatives undertaken by the Trust.

v. Coastal First Nations Allocation

The Trust shall be used to purchase licences for all Coastal First Nations in an efficient and effective manner but will be distributed in accordance with the Allocation Formula.

The Trust will enter into Allocation Agreements with each First Nation on the terms and conditions for the funds.

If the terms and conditions are not being followed by a First Nation, the Board must take remedial action with that First Nation.

vi. Governance

The Trust will be governed by a Board of Directors (five members).

The Board of Directors will be jointly appointed by Canada and the Coastal First Nations.

The Board will have the ability to elect an ex-officio member to enhance expertise.

A Board rotation schedule with (e.g. three years) terms will be used to ensure fresh ideas and independence.

The Board may establish such committees as required to keep decision-making focused.

vii. Administration

Costs of administration associated with operations of the Trust shall be minimized. The administrative infrastructure will have the following attributes:

- Highly professional.

- Transparent and accountable.
- Efficient operations.
- Rigorous and transparent financial management.
- Monitor and evaluate the program's successes and failures.

viii. Investments

The Board of Directors shall retain a private investment firm or bank to manage all capital assets according to the investment strategy developed by the Board.

5.4 Economic and Employment Impacts and Benefits

5.4.1 Economic and Employment Impacts

The economic and employment impacts resulting from this New Approach will be significant and far reaching for the Coastal First Nations communities. It is estimated this program, once implemented and if all of the processing and fishing opportunities are utilized, will create up to 580 annual, full time employment positions. Of these positions approximately 50% are in the fishing sector and 50% in the processing sector. Total annual wages are estimated at \$30 million per year with \$22 million in the fishing sector and \$8 million in the processing sector. Annual profits to the communities will exceed \$38 million on an annual basis (see Table below for a breakdown by species).

If the quota was split evenly amongst the 11 North/Central Coast First Nations, each community would potentially access up to 53 full time jobs and \$3.4 million each year. Within five years, the fishing sector would once again be the largest employer in these coastal communities.

Economic And Employment Impacts Resulting From The New Approach

SPECIES	1/3 TAC Harvest kg/yr	Estimated Value \$/yr	Average Price \$/kg	Harvest Employ. P.day/yr	Vessel Days V.day/yr	Cost of Fishing \$	PROFIT (net earnings) \$
Ground Fish	20,207,000	\$16,165,600	\$0.80	10,104	2,021	\$10,608,675	\$5,556,925
Blackcod	439,723	\$5,804,344	\$13.20	2,638	440	\$2,022,726	\$3,781,618
Halibut	1,410,000	\$12,690,000	\$9.00	8,460	1,410	\$2,963,820	\$9,726,180
Crab *	1,260,000	\$8,215,200	\$6.52	9,450	3,150	\$5,040,000	\$3,175,200
R Urchin	1,360,800	\$2,095,632	\$1.54	2,041	680	\$1,156,680	\$938,952
Geoduck	381,024	\$8,451,112	\$22.18	1,270	423	\$1,270,080	\$7,181,032
Cucumber	98,000	\$475,300	\$4.85	368	123	\$245,000	\$230,300
Prawn/shrimp	120,000	\$1,522,800	\$12.69	1,600	533	\$800,000	\$722,800
Shrimp trawl	40,000	\$160,000	\$4.00	356	178	\$151,111	\$8,889
SOK	87,091	\$1,916,002	\$22.00	3,048	435	\$1,132,183	\$783,819
Roe Herring	5,560,000	\$8,284,400	\$1.49	6,178	1,236	\$3,397,778	\$4,886,622
Salmon	8,250,000	\$9,240,000	\$1.12	11,786	18,333	\$7,529,762	\$1,710,238
Total	39,213,638	\$75,020,390		57,298	28,962	\$36,317,815	\$38,702,575
Employment (person years)							
fishing				286			
fish processing				293			
Total (pys)				580			
Vessels required					181		
Net Profit							\$38,702,575

ASSUMPTIONS

1 person year is 200 person days work

1 vessel year is 160 boat days work

Data based on DFO stats, (Nelson, 2003) and discussions with various fishers, wholesalers and processors.

5.4.2 Benefits of the New Approach

Beyond income and job creation, there are benefits that complement both the goals of the communities and that of various government departments. These are as follows:

- **Guaranteed Success** – Unlike other forms of economic development, the commercial fishing industry is very close to First Nations’ traditional customs, practices and skills that have developed over centuries. Commercial fishing jobs, above any other, are cherished in coastal communities and a high level of success is assured from the new opportunities.
- **Maintaining Traditions** – All of the coastal communities have a tradition in the commercial fishery. These traditions have been broken with reduced opportunities in the past two decades. A renewal of opportunities will revive these traditions and help build strong family and community ties which were once built around the industry.
- **Job Creation for Women and Youth** – The processing sector will provide job opportunities for women and youth that are often scarce in Coastal First Nations’ communities.
- **Community Health** – New and meaningful job opportunities will increase the general health and welfare of people within the coastal communities.
- **Self-financing of Economic Development** – Profits from the fishing operations will be used to purchase and

upgrade vessels and gear and to self-finance economic development in the communities. For the first time, this will provide communities with much needed equity and cash flow to generate new business opportunities, partnerships and infrastructure.

- **Community Involvement in Fisheries Management** – First Nations will become engaged in the myriad of sector-based commercial fishing advisory processes that have been developed by government for each fishery. Up to this point these processes have been shunned and boycotted by First Nations since they have little to no access to these licences and quotas and their involvement has not been taken seriously due to their non-financial status in the fisheries.
- **Supplement AFS Programs** – Some revenues from the fishery will likely be used to increase the role of First Nations in management, enforcement and enhancement activities and supplement and expand the current AFS program.
- **Invigorate Treaty Talks** – The limited mandate and options provided by the government to date in the treaty discussions has retarded the entire treaty process on the coast. This New Approach will bring First Nations back to the table and will show the commitment to treaty making that Coastal First Nations require.
- **Support Increased involvement in Multi-sectoral Planning Processes** – Coastal First Nations have developed an aversion to any multi-sectoral fish-

eries management and advisory processes over the years due to the lack of interest in, and implementation of, their concerns. As economic stakeholders, the interests of First Nations relative to other stakeholders will be elevated to a level playing field. First Nations will be more likely to engage meaningfully in multi-party planning processes.

- **Reduce Litigation** – Litigation is currently seen by most Coastal First Nations as the only means by which to increase their stake in the commercial fishery in a meaningful way. Current litigation by some of the communities will be followed by litigation in other communities in the absence of such an initiative and cost tens to hundreds of millions of dollars to governments and First Nations over time.
- **Reduce threat of Direct Action** – First Nations with limited resources and ability to pursue injustices through the courts, will resort to direct action often with destructive outcomes. This initiative would alleviate these tensions.
- **Reduce Social Assistance** – Social assistance is rampant in First Nations communities and in many communities the cycle of dependence spans generations of families. The jobs provided by this initiative will significantly reduce social assistance paid out by government. Over time, it is expected that the initial cost of this New Approach will be recovered through reduced social assistance and income tax paid by working communities.



APPENDIX I

Licence/Quota Transfer Considerations

(NOTE: The information in this Appendix has been obtained from numerous sources, including: market prices for licences and quota, published licence and quota values, the DFO website, experience of various member Coastal First Nations, and various media sources.)

The following is a species-by-species guide of the most viable option to access quota. All values are based on current market values and totals are not including any increase in values that may be possible through speculation in a buyback environment.

Salmon – A tab: Due to the large inventory of salmon licences still remaining, the target of 320 licences could theoretically be recovered through a voluntary buyback. However, a premium of 25 – 50% would likely be paid over existing market prices due to speculation fueled by both a buyback and the potential for individual quotas. Based on the previous buyback creating a 50% fleet reduction, four years were required to complete this task. The estimated cost of this initiative for salmon only is \$31.6 million and it is anticipated to take five years.

Schedule II – CO/A tab: The schedule II licence has varied in popularity because many of the target species have been removed to limited entry over time. The licences have become popular with quota fisheries such as halibut and hook and line rockfish that generate bycatch of ling cod etc. Consequently, prices have been maintained over time with larger licences attracting a higher per foot value, since they can be stacked on the larger vessels that have large quotas of other species.

There are typically several of these licences in inventory at any given time therefore the target of 83 licences could likely be recovered in a voluntary buyback over five years with a 10 – 30% speculation premium expected. The total estimated cost for schedule II licences is \$1.7 million.

Geoduck – G tab: The value of the geoduck licence has risen sharply since the mid 1980's. A strong Hong Kong market, stable quotas and competitor volumes has kept product and licence values high. It is estimated that fewer than 30 licence holders, who are well organized through the Underwater Harvesters Association, control the total 55 licences. The licences rarely come up for sale publicly and it is speculated that most available quotas are kept within the Association. The current value of a licence is approximately \$2.5 – \$3.0 million, based on the known product value, cost of fishing and standard industry multipliers. None of the licences are owned by First Nations and none of the licences were originally qualified for limited entry fishing in the north/central coast. By the time the fishery came to the north, it was already limited entry.

There are likely only two viable options to access quota for this special program. The first option would involve an involuntary buyback where DFO would be required to reduce the available quota from the existing licence holders by 20% or approximately 15,000 lbs each, based on current quota. In return, government would compensate the licence holders up to a total of \$30 million to reach the target. This would minimize disruption.

tion to the industry as the total quota would remain the same and the remaining individual quotas would be large enough to ensure a very profitable business.

The second option would be an increase in quota to the central/north coast area based on defensible biomass surveys conducted by an agreed-upon unbiased survey team. It is speculated that the inventory of geoduck is much larger than is currently managed for due to undiscovered beds and very conservative values placed on currently managed beds. Surveys in 1993 and 1994 of 11 significant geoduck beds in the KITASOO territory found 30% more stock than DFO quota calculations identified as available. In addition, it is known by experienced KITASOO divers that several geoduck beds exist in areas that are not currently being harvested or calculated into DFO management plans. While significant survey costs would be required over two to three years to uncover the extent of the additional quota available, it would likely identify additional quota which could be used to expand the number of licences. It is unknown to what degree the addition of up to 30% more quota would soften existing markets.

A voluntary buyback based on a tax incentive program might also work in this fishery and with the small number of well organized licence holders it would likely be workable to negotiate terms.

Horseclam: The horse clam quota is currently married to the geoduck G tab and any horseclams harvested must go against the overall quota for geoduck. Due to the lower value of horse clams the harvesting has been limited to accidental by-catch or market samples. The Underwater Harvesters Association has been lobbying to allow for a dedicated horse clam quota over and above the geoduck quota for the last several years. The two species are married as they inhabit similar habitat and often overlap. However many

exclusive and rich beds of horse clams have been found in the central and north coast.

The most viable option for the horseclam is to detach it from the geoduck tab and treat it like a new and experimental fishery for which DFO has set policies for development. This would include a set aside of 50% of these licences for First Nations. The detachment of the horseclam quota should not require any compensation to the G tab holders, as they have not derived any significant income from this fishery in the past.

Roe Herring HG and HS tab – Gillnet and Seine: The roe herring fishery has operated since the early 1970's. It is one of the few commercial fisheries where coastal First Nations have had a significant stake albeit primarily as individual licence holders. Due to the large inventory of licences currently available and some instability in the market, the target of 21 seine and 69 gillnet licences could theoretically be recovered through a voluntary buyback; however a premium of 10 – 30% would likely be paid over existing market prices. It is estimated that three years will be required to complete this task. The estimated cost for roe herring is \$36.8 million.

Herring SOK – J tab: The herring SOK fishery has operated since the early 1970's. It is one of the few commercial fisheries where coastal First Nations have had a significant stake. Due to instability in the market the target of two licences could theoretically be recovered through a voluntary buyback with no premium anticipated. It is estimated that two years will be required to complete this task. The estimated cost for SOK herring is \$1.9 million.

SOK licenses in the Central/North coast are predominantly held by aboriginal people, however, only 30% are held communally by First Nation communities. The Gladstone court decision for the Heiltsuk Nation highlights and demonstrates the historical com-

munal nature of this fishery. As such, the Coastal First Nations strongly recommend and agree that this fishery should move in a timely and orderly fashion toward 100% communally held licences.

Sablefish – K tab: With the uncertainty of the existing management systems and stock status and the eve of aquaculture supply, the future of the fishery is not solid. High product values continue to keep licence values relatively high. However, with so few available quotas coupled with current limited number held by First Nations, it is likely that a voluntary buyback may have limited success. It is likely that government will have to involuntarily buyback quota from fishermen or develop a voluntary buyback driven by tax incentives. Therefore in order to accumulate 995,000 thousand lbs of quota at an expected cost of \$41/lb. the estimated cost for sablefish is \$41.1 million.

Halibut – L tab: The halibut fishery has been stable for several years with stable quotas, markets, price and management. With a large number of individual licence holders it is expected that a voluntary buyback would attract sufficient quota over approximately three to four years. However a premium of 10%–30% will likely need to be paid over true market rates. Therefore in order to accumulate 3.1 million lbs of quota at an expected cost of \$28/lb. the estimated cost for halibut is \$87 million.

Crab – R tab: The Dungeness crab fishery is located primarily in a few key areas. This is one of the few remaining competitive fisheries on the coast. With a relatively large number of licence holders it is expected that a voluntary buyback would attract sufficient licences over approximately three to four years. However a premium of 10%–30% will likely need to be paid over true market rates. Therefore, to buy 16 licences at an expected cost of \$490,000, the estimated total cost for

crab is \$8 million.

Shrimp trawl – S tab: Shrimp trawling is a competitive fishery that takes place in a number of areas on the coast. High world supply of shrimp has resulted in depressed prices for both shrimp and shrimp licences. With a relatively large number of licence holders it is expected that a voluntary buyback would attract sufficient quota over approximately two to three years. The target is a total of 23 licences with an estimated total cost of \$1.1 million.

Groundfish trawl – T tab: The groundfish trawl fishery is managed to quotas that are not equal – there is a significant range in size. Additional research is required to peg the exact amount of quota and cost to purchase as the fishery is very complex with mixed quotas, varying vessel sizes including value added at sea processors. A rough estimate is that 50% of the catch comes from Cpasta; First Nations' waters. The estimated cost to purchase 1/6th of the coast wide TAC or 24 licences and quota is \$47.2 million. Groundfish trawl quotas rarely come available, and when they do they are purchased quickly by larger companies who are consolidating their industry position and share. An open buyback may be challenging in this fishery and it is likely that either a direct negotiation with one of the larger companies will be required or an involuntary buyback. Recovery of the groundfish quota would likely require three to five years.

Prawn/shrimp - W tab: The prawn fishery by trap is located primarily in a few key areas. This is one of the few remaining competitive fisheries on the coast. With a relatively large number of licence holders it is expected that a voluntary buyback would attract sufficient quota over approximately three to four years. However a premium of 10%–30% will likely need to be paid over true market rates. Therefore, in order to accumulate 20 prawn

licences at an expected cost of \$438,000, the total estimated cost is \$8.8 million.

Green Urchin – ZA tab: The Green Urchin fishery is located in a few key areas in the south coast with a few areas fished in the north coast. This is due to stock abundance, individual size and the live market preference for this limited fishery. No green urchin quota is being sought.

Red Urchin – ZC tab: The red urchin fishery has been operating primarily since the 1980's. This is a high volume dive fishery with very high landings in the central and north coast. Most of the product is trucked from landing ports in Port Hardy and Prince Rupert to Vancouver where it is processed and shipped fresh to Japan. Competition from Chile and Russia has pushed prices downward in recent years and prices/licence values are beginning to follow. Concerns over the expansion of sea otters are also creating concerns over the future volumes in the fishery. Since a small number of processors control this fishery it is expected that a voluntary buyback may not be successful unless an arrangement is made with one of the existing processors or larger holders. Initially a voluntary buyback could be attempted but should quickly move to an involuntary buyback if few licences become available. Due to a number of corporate holdings special tax incentives would potentially support a voluntary buyback or direct negotiation with a few major licence holders. Therefore, in order to accumulate 23 licences at an expected cost of \$235,000, the estimated cost for red urchin is \$5.4 million.

Sea cucumber – ZD tab: The sea cucumber fishery is one of the few profitable fisheries that has not been fully subscribed. The fishery began in the 1980's and was one of the few dive fisheries to be placed under the constraints of an adaptive management approach in the early 1990's. As a result the current

quota is fished from approximately 30% of the coast with 50% of the coast closed permanently and 20% remaining available based on scientific biomass studies sponsored by the fishermen. The quotas have more than doubled in the past three years and are continuing to grow. Markets have been good but with increased poundage the price has softened in the past two years. This is primarily a north and central coast fishery. While there are relatively few licences (85) available very few come available for sale due to speculation over the upside potential in quotas. In addition a small number of processors have been acquiring quotas direct from fishermen, so very few come on the market. Due to the tightly held nature of these licences a voluntary buyback program will not be successful. The most appropriate means to provide quota is to create additional licences based on biomass surveys in the closed areas and the use of conservative harvest rates. It is anticipated that the equivalent of 14 new licences would require 12% of the remaining coast to be opened. This would still allow 58% of the coast to be closed under a conservative management scheme. Compensation to existing fishers would not be required therefore there would be no cost to provide these licence other than the cost borne by the communities to find the quota in their territories. In the event of a buyback from existing license holders 14 licenses would cost approximately \$130,000 each for a total of \$1.8 million.

Euphausiid – ZF tab: Historically this fishery has only occurred in the south coast therefore if accessed it would be treated as a new fishery with licences granted to First Nations communities.

Rockfish - ZN tab: About 50% of the rockfish hook and line fishery takes place in the Coastal First Nations' area. With 262 licences, it is expected that there will be little difficulty buying the targeted 41 licences. The

expected cost of \$3.9 million would likely be spent over three to five years.

Sardine – ZS tab: This fishery already has a 50% First Nation component coastwide and the majority of the fishing opportunities occur in the south coast so is not considered for acquisition in this initiative.

Eulachon – ZU tab: This fishery doesn't take place in the Coastal First Nations' area.

Herring food/bait – ZM, X, Y tab: Licences for this fishery are allocated by lottery. It is not clear whether DFO would have to purchase the three target licences, or if they could be allocated directly.

Intertidal clam – Z2 tab: This fishery is currently being developed by the Coastal First Nations communities under a new and developing fishery and is therefore not considered for acquisition under this initiative.





APPENDIX II
Additional Statistics Tables

Table 1: Coastal First Nations 1999 Unemployment Statistics

First Nation	Population				Percent Unemployment					
	On-Res.	Off-Res.	Labour Force	Ave. Un-employ	Seasonal	Seeking	Not Seeking	Not Employ	Unknown	Total
Old Massett	739	1674	449	271	9.8%	40.5%	9.1%	0.9%	0.0%	60.3%
Skidegate	814	441	395	157	4.1%	29.6%	4.0%	2.0%	0.0%	39.7%
Metlakatla	112	562	65	39	23.1%	18.5%	13.8%	3.1%	1.5%	60.0%
Haisla	672	769	326	195	9.8%	27.6%	21.5%	0.3%	0.9%	60.1%
Gitga'at	186	433	94	46	9.6%	38.3%	0.0%	1.1%	0.0%	49.0%
Average %		60.6%	52.7%		11.3%	30.9%	9.7%	1.5%	0.5%	53.8%

Comparable labour market information for Coastal First Nations from the Central Coast⁷ is not available, but population information is included in Table 2. It is expected that labour market statistics in these communities are similar to those in Table 1 except for Kitasoo/Xaixais, which has significant aquaculture employment.

Table 2: Central Coast First Nation Population in 1999

The relative number of people living off reserve provides a general indication of the local employment opportunities – a high percent off reserve population indicates few local job opportunities.

The projected on-reserve labour force of Coastal First Nations was about 2,000 in 1999. At a 57.9% unemployment rate, more than a thousand new or extended jobs were needed to meet employment needs for on-reserve populations in

1999. More jobs are required to provide for the high youth component in the populations.

The First Nations population has been increasing at more than 3% percent per year – 25% faster than the rest of the population. In 1998, 28.6% of the Native population in the Coastal First Nations area was under age 15 and 36.8% under age 20. This compares with 25.1% under age 20 for other people in B.C.. This poses a real challenge for First Nations, as well as the B.C. and federal governments.

Most economic development in Coastal First Nations' areas is related to fish, forest or

Area	First Nation	On-Reserve		Off Reserve	Total	% Off Res.
		Own Band	Other Band			
7	Kitasoo / Xiixais	320	8	135	463	29.2%
7	Heiltsuk	1,200	38	810	2,048	39.6%
9	Wuikinuxv	78	12	132	222	59.5%
	TP Total	1,598	58	1,077	2,733	39.4%

tourism resources. However, most current employment is related to First Nation government and community services.

⁷ Kitasoo/Xaixais, Heiltsuk, Wuikinuxv

Table 3: Percent of Coastal First Nation Population Employed by Sector and Industry in 2000

Band	Private Sector						Public Sector
	Fisheries	Forestry	Mining	Tourism	Other	Unknown	
Old Massett	14.0%	13.5%	0.0%	0.5%	20.7%	0.4%	50.9%
Skidegate	8.4%	15.9%	0.0%	8.0%	21.2%	2.2%	44.2%
Metlakatla	17.1%	4.9%	0.0%	0.0%	4.9%	0.0%	73.2%
Haisla	5.6%	6.2%	0.0%	0.6%	39.1%	1.2%	47.8%
Gitga'at	8.8%	1.8%	0.0%	0.0%	5.3%	0.0%	84.2%
Kitasoo/Xaixais	UNK	UNK	UNK	UNK	UNK	UNK	UNK
Heiltsuk	UNK	UNK	UNK	UNK	UNK	UNK	UNK
Wuikinuxv	UNK	UNK	UNK	UNK	UNK	UNK	UNK

In Table 3: **Private Sector** is employment that is paid from activity profits. **Fisheries** is employment in catching or processing

marine life; **Forestry** is growing, caring for and harvesting forests or processing forest products; **Mining** is excavating minerals; **Tourism** is related to recreation and sport; **Other** is employment in other than the named sectors; **Public Sector** is employment paid for in part or whole by public money; **UNK** is information not available.

Table 4: Communally Held and Total Commercial Fishing Licences

Licence	Species	Limited Entry Yr.	Number of Licences	F'&'N' Licences	T. Native Licences	Percent Native
A	Salmon	1969	2221	361	666	30%
AS - A	Seine - north	1996	109	5	31	28%
AS - B	Seine - south	1996	167	7	49	29%
AG - C	Gillnet - north	1996	716	231**	360	50%
AG - D	Gillnet - south	1996	285	72**	108	38%
AG - E	Gillnet - Fraser	1996	405	27**	68	17%
AT - F	Troll - north	1996	152	6	8	5%
AT - G	Troll-WCVI/QC	1996	234	10	31	13%
AT - H	Troll - JS/GS	1996	153	3	11	7%
CO, CA	Schedule II**	1977	541	8	20	4%
E	Abalone	1977	26	0	0	0%
G	Geoduck	1981	55	0	1	2%
HG	Roe Herring* GN	1974	1263	27	345	27%
HS	Roe Herring* SN	1974	252	1	63	25%
J	Herring SOK*	1975	46	2	36	78%
K	Sablefish	1981	48	1	2	4%
L	Halibut	1979	435	26	53	12%
R	Crab	1991	222	9	11	5%
S	Shrimp Trawl	1977	246	11	15	6%
T	Grndfish Trawl	1976	142	0	5	4%
W	Prawn/Shrimp	1990	252	5	9	4%
ZA	Green Urchin	1991	49	0	0	0%
ZC	Red Urchin	1991	110	6	14	13%
ZD	S. Cucumber	1991	85	0	10	12%
ZF	Euphausiid	1993	19	1	2	11%
ZN	Rockfish	1992	262	14	19	7%
ZS	Sardine*	2002	50	25	29	58%
ZU	Eulachon	1998	16	0	2	13%
ZM,X,Y	Herr.Food/Bait	1988	18	0		0%
Z2	Clam*	1998	1465	796	967	66%

Table 4 summarizes the types of commercial fishing licences, when they went to limited entry, the total number of licences, the number of communally held 'F' and 'N' licences, the total number of Native held licences and percent of licences that are Native held.

The various commercial fisheries in B.C. range in amount and value of catch and number of participants. Some fisheries, such as for sardine, euphausiid and eulachon, occur mainly in the South Coast area.

Table 5: Coastal First Nation Held Licences

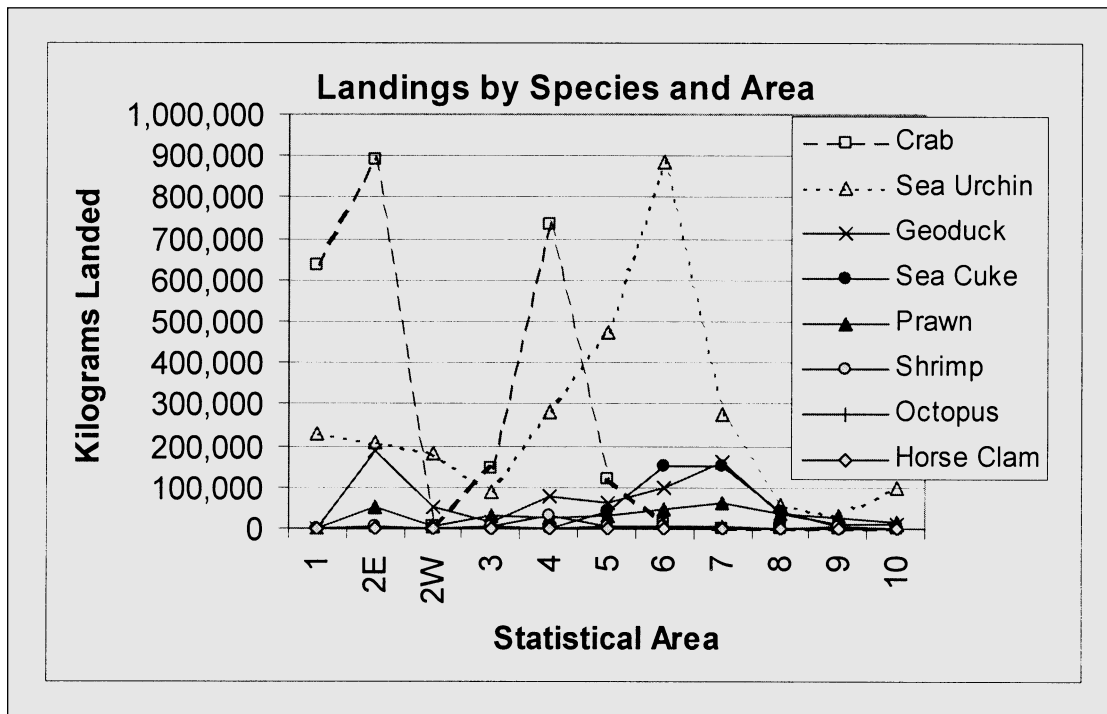
Table 5 summarizes the number of fishing licences communally owned by the Coastal First Nations by main types of commercial licences and fisheries in B.C.. **Total – All Lic.** is the total number of licences of each licence type. **Total - CFN Area** is the number of licences of each licence type in the Coastal First Nations area. **Total – ‘F’ Lic.** is the total number of ‘F’ (communal) licences. **Coastal First Nations** relate to licences held by the Coastal First Nations or their community corporations. **‘F’ Lic.** is ‘F’ (communal) licences. **Other** refers to licences other than ‘F’. The Coastal First Nations have 37.3% of total ‘F’ licences (other than for clams). Coastal First Nations also have 60 non-‘F’ communally held licences. The 254 salmon gillnet licences held by the Northern Native Fishing Corporation (NNFC) [owned by the Nisga’a, Gitksan Wet’suwet’en, and

Licence		Licences					
Type	Species	Total		Coastal First Nations'			
		All Lic.	CFN Area¹	F' Lic.	'F' Lic.	Other	% Lic.
A - A	Seine - north	109	109	8	2	1	2.8%
A - C	Gillnet - north	714	714	31	13	42	7.7%
A - F	Troll - north	152	152	6	5	0	3.3%
CO/A	Schedule II	533	262	8	4	0	1.5%
G	Geoduck	55	36	0	0	0	0.0%
HG	Roe Herring GN*	1,267	418	24	7	0	1.7%
HS	Roe Herring SN*	252	83	2	1	1	2.4%
J	Herring SOK*	39	35	2	2	9	31.4%
K	Sablefish	48	38	1	0	0	0.0%
L	Halibut	436	349	26	9	0	2.6%
R	Crab	222	58	9	3	0	5.2%
S	Shrimp Trawl	245	74	11	2	0	2.7%
T	Grndfish Trawl	142	71	0	0	0	0.0%
W	Prawn/Shrimp	252	63	5	1	0	1.6%
ZC	Red Urchin	110	93	6	5	3	8.6%
ZD	S. Cucumber	85	47	0	0	2	4.3%
ZN	Rockfish	262	132	14	3	0	2.3%
ZS	Sardine*	24	5	0	0	2	40.0%
Total		4,947	2,739	153	57	60	4.3%

*Special Native licensing; 1. Numbers approximate;

North Coast Tribal Councils] are included under ‘All Lic.’. Under Coastal First Nations - ‘Other’ only the number of licences Coastal First Nations get is included. It varies between years and is less than 1/6 (about 42) of the licences.

Graph 1: Shellfish Landings by Species and Area

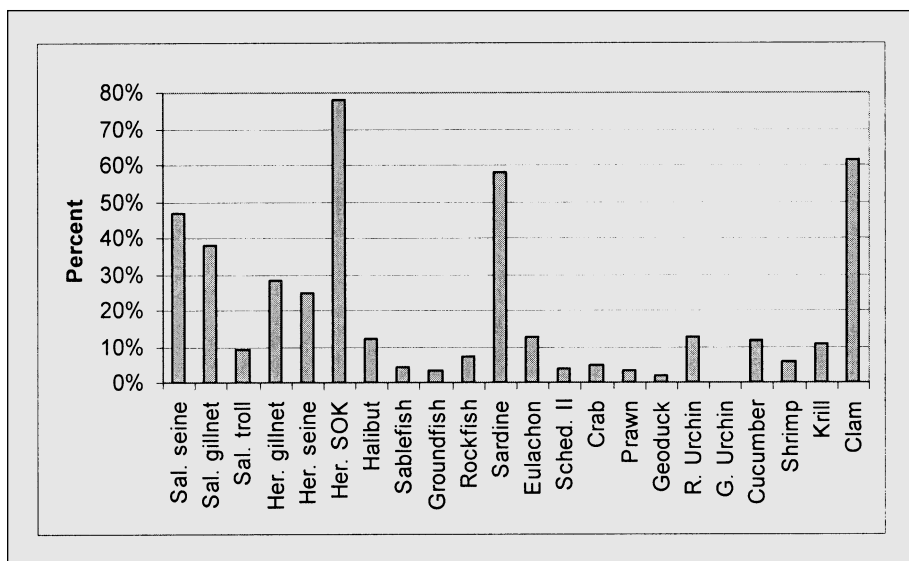


Graph 1 shows the 2000-3 average landings in kilograms of shellfish by fishery and statistical area. The Statistical Areas are DFO geographic fisheries management and statistical areas.

Fishing Licences Owned By B.C. Native Fishermen And First Nations

The estimated percent of licences held or fished by Bands, individual Natives and Band and Native owned corporations in B.C. are summarized in Graph 2 by licence type. For salmon (Sal.) seine, 21 of 52 licences are Native operated, not owned. Native and First Nations involvement in herring spawn on

help (SOK), clams and sardines is high because DFO planned for and protected it. The herring (Her.) licences are the total Native owned, many of which are leased to non-Natives. The clam licences include a number of variable communal arrangements so the percent can change. As DFO treats home community of each licence holder as confidential, it is difficult to identify the geographic distribution of licence owners.



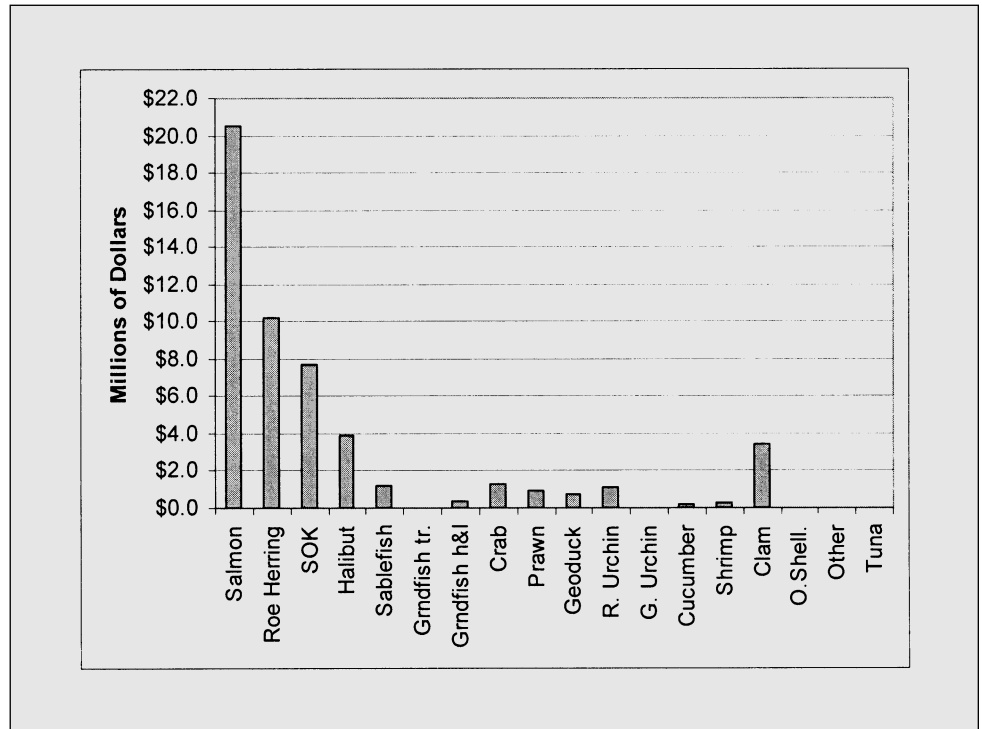
Graph2: Coastwide total percent of licences held by Natives and First Nations

Graph 3: Value of Combined Native and First Nations Commercial Catch

Value of Native commercial catch by licence type

Graph 3 shows the average 1999-2002 value of Native commercial catch in B.C. by licence type. The estimated average total value of Native commercial catch was \$51.6 million; 75% from salmon, roe herring and spawn on kelp.

Although Native fishermen own or fish about 32%⁸ of salmon licences, they own or fish very few licences for fisheries on species other than salmon and herring. Also, as most commercial licences are tied to a vessel or an individual, they can be based from any community. For example, a number of fishermen from coastal communities have relocated to Prince Rupert, Port Hardy, Comox/Courtenay and Greater Vancouver areas taking their licences and related income and employment with them. As privately held



licences are not tied to communities Coastal First Nations are specifically seeking community-based licences and quota so that they continue to benefit communities. (Source: Various published and web-based sources, primarily DFO.)



APPENDIX III

Turning Point Initiative

Coastal First Nations from British Columbia's (B.C.) Central and North Coast and Haida Gwaii came together in 2000 to develop a process known as Turning Point, to protect their traditional territories and to promote sustainable economic development in First Nation communities. Chief Councilors, Hereditary Chiefs and Elders expressed common concerns about how their communities had been severely impacted culturally, socially and economically over the past fifty years by unsustainable fishing policies and practices, industrial clear-cut logging and barriers to local resource management.

Whereas for several millennia First Nations lived off the bountiful resources of the Coast, they now faced massively depleted fish stocks, the adverse impacts of clear-cut logging on salmon spawning streams and other forest and marine species and an average of 80% unemployment in their communities.

At a meeting of Coastal First Nations in February 2001, Richard Russ, Skidegate Band Councillor, expressed the feelings of many of those present. "We watch barge after barge heaped with logs float out of our territories daily; our fisherman have had to sell their licences; our people face crippling unemployment, and our young people face despair. Our sockeye and our oolichans are gone. Millions of dollars flow out of this rich coast while poverty flows in: resources that have sustained our cultures for millennia are being stripped from our territories with little control or benefit to us. Those of us in treaty negotiations are building huge debts to move at a snail's pace, and we worry that only those debts, silent streams and half-empty seas may

be left by the time we settle. Managed with respect, these territories would sustain and enrich us all forever."

By working together through the Turning Point Initiative, Coastal First Nations have been empowered, sharing financial resources for strategic planning and combining the knowledge and leadership of nine First Nations and Councils. Their mission is to conserve the culture and the ecology of the Central and North Coast of British Columbia, and Haida Gwaii by restoring responsible resource management approaches that are ecologically and economically sustainable, and by developing local conservation-based economic opportunities.

The Turning Point Initiative has made considerable progress since its inception four years ago. Coastal First Nations have played, and continue to play, an unprecedented leadership role, bringing together a range of interests on the coast. Several key agreements have been signed, outlined below, which begin addressing the unsustainable policies and practices that are damaging the environment and local economies. Over the last two years, the Turning Point Initiative has demonstrated that empowered communities can develop win-win partnerships and build strong networks for First Nation development.

Major accomplishments so far include *The General Protocol Agreement on Interim Measures and Land Use Planning*, signed on April 4, 2001 by the Coastal First Nations and the Provincial Government of B.C.. Through this agreement, First Nations can engage in a government-to-government process on land use planning in their traditional territories,

thereby overcoming First Nations' previous objections to the provincial land use planning process. This agreement also established ecosystem-based management (EBM) as the standard for the Coast, and an agreement to work together on interim measures in forestry and tourism. Since this time, new partnerships have been developed with industry, federal and provincial governments, environmental groups and other interests to begin the move to a new conservation-based economy with increased First Nation involvement.

A second major agreement was signed on November 6, 2002 on marine issues. *The Interim Measures Framework for Fish and Aquatic Resources* was an agreement between the Government of Canada and Coastal First Nations to work together on ecosystem-based marine use planning, economic measures and cooperative management arrangements. The Government of Canada also agreed to longer-term negotiations on resource management issues and will consider policy and regulatory changes that may require drafting new legislation.

Progress is also being made on a number of conservation-based economic development initiatives. Several First Nations have signed forestry agreements with the Province for tenure access and revenue sharing. A pilot project on shellfish aquaculture is well underway to develop and implement a business plan for a coastal shellfish industry. As well, a tourism study has confirmed the potential of developing two or three high-end lodges in traditional territories to meet the growing demand for cultural ecotourism. This fall, negotiations with

the Province will begin on a government-to-government basis to finalize land use plans that will ensure ecosystem-based management principles are implemented.

In August 2003 the Turning Point Initiative Society was incorporated under the Province of British Columbia's Society Act, and continues to provide regional strategic planning, negotiation and administrative support to Coastal First Nations on environmental and economic issues. The Board Members of the Turning Point Initiative Society represent the Gitga'at First Nation, Council of the Haida Nation, Skidegate Band Council, Old Massett Village Council, Haisla Nation, Wuikinuxv Nation, Heiltsuk Nation, Kitasoo/Xaixais First Nation, and the Metlakatla First Nation.

Over the next three years, from 2004 to 2007, the Turning Point Initiative Society will strive for responsible resource management practices, the recognition of Aboriginal Rights and Title, local resource management and decision-making and the creation of a conservation-based economy on the coast.

Coastal First Nations now play a leadership role in many of these discussions and we have been working closely with government, industry, environmental groups and other interests to achieve workable solutions. Through the Turning Point Initiative, individual First Nations communities and the voices of their members can now inform and influence government, industry and other major stakeholders who are making resource management decisions on the Coast.

TURNING POINT INITIATIVE

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