



April 20, 2022

Members of the Senate Standing Committee on Fisheries and Oceans  
SENATE OF CANADA  
Committees Directorate  
Chambers Building, room 1037  
Ottawa K1A 0A4

Re: Study on the implementation of Indigenous rights-based fisheries across Canada

Committee Members:

On April 20, 2021, Chief George Ginnish, Chief of Natoaganeg and Co-Chair of Mi'gmaw'e'l Tplu'taqnn Inc. (MTI) appeared as a witness into your study on the implementation of Indigenous rights-based fisheries across Canada. We understand you are at the stage where you are beginning to prepare a report that we hope will include recommendations and guidance to the Government of Canada that could finally lead to the implementation of a rights-based fishery. For MTI's submission on this topic, please accept this letter and attached document that was sent the Federal Special Representative on Fisheries, Allister Surrette, in March 2021.

We had high hopes after the Supreme Court made their decision in the *Marshall* case. As you have heard from several presenters, the Mi'gmaq have been waiting for almost twenty-three years on the implementation of a rights-based fishery. Unfortunately, what were deemed "interim measures" seem to have become more permanent within the Department of Fisheries and Oceans policies and funding models. As a result, there is a perception that there is little to no desire within most levels of the Department of Fisheries and Oceans or at the political level to see our participation in the fisheries in our ancestral waters as we believe our ancestors and yours who signed the Peace and Friendship intended.

Over the years, we have prepared submissions and made interventions to various federal negotiators, departmental officials, and Ministers of Fisheries and Oceans. In terms of positions and asks, very little has changed. Therefore, we have attached a submission that we made to the Allister Surrette in March 2021 when he was asked by the DFO to act as a neutral third party to look at what was causing the tensions between Indigenous and non-Indigenous fishers and to present opportunities on how all sides could move forward. The areas identified in our submission are as true today as they were in March 2021, and as they were twenty-three years ago after the ruling of *Marshall*.

While more details are contained in the attached document, in summary, here are some further recommendations for your consideration:

**1) Focus on shared stewardship and the right to self-determination**

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The Mi'gmaq, Wolastoqiyik and Peskotomuhkati never ceded the lands and waters within our respective territories. The Peace and Friendship Treaties were signed with the intent of establishing cooperation and partnership between our Nation and Canada. The Treaties were intended to protect not only our right to fish to survive (i.e., food, social and ceremonial), but also to thrive through fishing for trade. However, the reality remains that despite having a right to fish, our communities benefit far less from the fishery than do our non-Indigenous neighbours.

The Treaties are a Nation-to-Nation agreement which recognizes and affirms that the Mi'gmaq will continue to remain autonomous regarding our own internal matters, and that any matters which affect both of our Nations would be resolved through cooperation and collaboration. However, Canada now seeks to unilaterally control the fishery through DFO and continuously interferes in our own rights-based fisheries.

Too much emphasis has been placed on attempting to impose a definition of a 'moderate livelihood', a phrase that does not even appear in the treaties. This is one of the reasons rights-based fisheries have not been realized. Instead, all parties need to start looking at how we work together to implement systems of shared governance, shared principles, and shared decision-making relating to the fisheries, while also recognizing that a treaty-based fishery should be self-governing. This relates as much to license allocation as it does to conservation.

## **2) Ensure federal negotiators are provided with the mandate to negotiate rights-based fisheries**

The unilateral approach has also been imposed when it comes to negotiations on a rights-based fishery. Rather than working collaboratively to co-develop a negotiation mandate for our tables, federal negotiators were sent to the table with per capita based funding for gear, vessels, and licenses, which was determined entirely by DFO and does not meet the needs or aspirations of our people. This is a backwards approach to implementing a rights-based fisheries.

While gear, vessels and licenses are important for fishing, the amount is never enough for smaller communities to adequately participate in the fisheries. It is particularly apparent when we see that sellers will often inflate prices on gear, vessels, or licenses when they hear that a community has funds to spend on those items. More importantly, this unilateral approach ignores the central point of implementing a rights-based fishery and how the fishery can be used to sustain our communities for future generations.

Having more discussion regarding mandates on the front end would prevent frustrations from both sides and ensure a more productive negotiation process. This central point needs to be addressed before we can have discussions on the items that need to be purchased and the cost of participating in those fisheries.

Canada has tied its own hands by requiring that all access be purchased, and by adhering to a “no additional effort” policy in fisheries where the science does not support this. Canada needs to be more flexible in terms of approaches to making access available, with the recognition that a rights-based fishery must take priority over a license-based one.

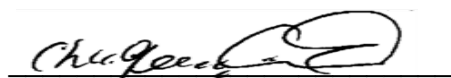
### **3) Create more opportunities for Treaty Education**

We all need to do a better job at ensuring DFO officials have access to appropriate educational materials and seminars on Treaty Education. While we agree more has been done in this regard especially in the offices in Ottawa, Moncton and Halifax, perhaps more attention needs to be paid to those DFO officials working on the ground and in the waters in the Gulf and Maritime Region. These are the officials that should best be able to understand and communicate rights of Indigenous fishers and know the contents of any Rights Implementation Agreements (RIAs) that are signed between governments.

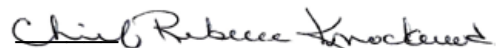
Support is needed from DFO to provide sessions and materials to non-Indigenous fishers. Relationship building between our governments is important, but it is also important that we create a dialogue within the fishing communities to prevent the violence we saw in Nova Scotia last year. This can only be done if non-Indigenous fishers are prepared to renounce the use of violence and come to the table with open hearts and open minds in this time of reconciliation.

We thank you for the opportunity to submit this letter and the attached document. We hope this information will be useful in your deliberations. Should you have any questions or need clarification on any of the materials, we would be pleased to discuss this further.

In Peace and Friendship,



Chief George Ginnish, Co-chair  
chair



Chief Rebecca Knockwood, Co-

Cc: Senator Brian Francis  
Malian Levi  
Dean Vicaire  
Jennifer Coleman  
Derek Simon  
Tanya McGraw