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ABORIGINAL RIGHTS TO FISH IN BRITISH COLUMBIA

Introduction

Every summer, when the sockeye salmon begin running down the east and west coasts of Vancouver Island towards the Fraser River, the possibility and even the expectation of conflict on the water begins to grow. Many people want access, there are seldom enough fish to satisfy everyone, and the size of salmon runs are notoriously difficult to predict. Occasionally the number of returning fish is higher than expected, but more frequently there are fewer, sometimes many fewer as was the case in 2004. When this happens, fingers are pointed, blame ascribed, and the future of the fishery appears uncertain.

The salmon fishery is not, of course, the only disputed fishery, but it is the most publicly visible. The remarkable life cycle of salmon begins and ends on small rivers and streams, many of which are surrounded by human settlements. The earliest Aboriginal and non-Aboriginal settlements grew up around the salmon fisheries. As a result, British Columbians pay attention to salmon. Many use the fish to define themselves and the environment in which they live. But if salmon have symbolic appeal for British Columbians, the conflict over salmon reveals Canada's failure to form lasting and just settlements with First Nations in this province over land and other resources.

The fisheries of British Columbia are a primary point of conflict between the government of Canada, which has the principal jurisdiction over the resource, and Aboriginal peoples. Although the conflict has received more of the public's attention over the past several decades, it is not new. As early as the 1870s, during the rapid emergence of an industrial commercial fishery on the Fraser, Skeena, Nass, and other rivers, Aboriginal fishers disputed access to important fishing grounds with cannery owners. By the 1890s, sport fishers on Vancouver Island were clashing with Aboriginal peoples over fish weirs on the

ivers. These are the historical roots of a conflict that has continued for more than a century, a conflict that is intimately connected to the largely unresolved issues of Aboriginal title and self-government.

A. Aboriginal Fisheries

Aboriginal peoples have a long history with the fisheries in British Columbia. The temperate climate of the British Columbia coast and much of its interior produced an abundance of resources, but none were more important to Aboriginal peoples than the fisheries. In the interior, the anadromous salmon provided plentiful supplies of protein along the major river systems. In places where salmon were easily caught and where Aboriginal peoples developed techniques to preserve them, the fish became a valuable item of trade. Salmon sustained Aboriginal societies, cultures and economies. Along the coast, salmon were also important, but Aboriginal peoples harvested a great diversity of marine fish and mammals and built one of the densest non-agrarian, pre-industrial populations anywhere.

Aboriginal peoples used and managed the fisheries. Far from being unregulated, the fisheries with rules defining who had the rights to catch which fish, with what technology, from which locations, and at what times of year. Individuals who held the names that entitled them to certain rivers or fishing grounds owned and managed the fisheries. 'Ownership' might confer priority, but generally not the right to exclude other community members. As a result, ownership might better be understood as stewardship of the resource for the community rather than as a right to exclusive possession. Outsiders, however, could be excluded.

It is this history of long co-existence with fish, and the use and regulation of the fisheries that lie at the heart of Aboriginal claims to the fisheries. Aboriginal rights are recognized in the *Constitution of Canada*, but the rights that are protected derive not from the *Constitution* itself - they emerge from the long and enduring relationship between Aboriginal peoples and their fisheries.

Part B - Aboriginal Rights to Fish

Since 1982, Aboriginal and treaty rights have been protected under section 35 of the *Constitution*. The provision is brief, but important:

35.(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

It was left to the courts to determine the scope and meaning of this provision. Given the important of the fisheries to Aboriginal peoples, it is not surprising that disputes over fishing rights have been pivotal to the development of Aboriginal and treaty rights. In British Columbia, these disputes emerged in the late 19th century in British Columbia as Canada reallocated the fisheries to other interests.

Food, Social, and Ceremonial Fisheries

The “Indian food fishery” is a category constructed in Canadian law. It operated to provide some minimal protection for an Aboriginal food fishery while opening the rest of the resource to the industrial commercial canneries. In the commercial fisheries, which grew dramatically in the late 19th century, Canada refused to recognize any prior right of Aboriginal peoples. The Department of Marine and Fisheries, precursor to Fisheries and Oceans Canada, constructed the fisheries as an open-access resource. Aboriginal peoples, if they wanted to participate in the commercial fisheries, could do so on the same terms as everyone else, or so they were told. In practice, Aboriginal fishers were ineligible for some licences, and discriminated against in the allocation of others. But even had they been able to participate on equal terms, the effect of opening the fisheries was to erase the prior rights of Aboriginal peoples to their fisheries.

The poorly protected Indian food fishery was the remnant of these prior rights to the fisheries. Aboriginal peoples fishing for food were required to hold an annual food fish permit that allowed them to catch fish that they and their families could consume. As the commercial fisheries grew and put increasing pressure on the fish stocks, Canada sought to limit the Aboriginal food fishery. The Department of Fisheries tried to limit food fishing permits to those who could not work in the wage economy. In some places it suspended or

closed the food fishery altogether while commercial or sport fishing continued. In short, the legal category of Indian food fishing set aside a small portion of the resource for Aboriginal peoples, while at the same time opening the majority of the fisheries to commercial interests, primarily the industrial canneries. It played the same role in the fisheries as the Indian reserve did on land. The larger issues of rights and title were ignored while tiny portions of traditional territories or fisheries were set-aside for Aboriginal peoples. The rest were opened to non-Aboriginal use and exploitation.

Aboriginal peoples participated extensively as fishers and cannery workers in the commercial industry, but only as labourers who were subject to discriminatory policies that restricted their access to certain kinds of fishing licences. Canada refused to recognize that their long history as users and stewards of the resource established an Aboriginal right to fish. Instead, it viewed food fishing as a discretionary privilege, a view that, for the most part, did not change until 1990 with the Supreme Court of Canada's decision in *R. v. Sparrow*.

In *Sparrow* the Supreme Court articulated its understanding of the Aboriginal rights provision in the *Constitution* for the first time. It was, and remains, centrally important to the development of Aboriginal rights in Canada. The case emerged from a dispute between the Musqueam Nation and Canada over access to the salmon fishery near the mouth of the Fraser River. This led to charges against Musqueam fishers for violating the net length regulations. The Musqueam argued in their defence that they had an Aboriginal right to fish and that the regulations infringed their right; Canada argued that it had the right and responsibility to manage the fishery, including restricting gear types.

The Supreme Court agreed with the Musqueam. They had an Aboriginal right to fish based on their long history of harvesting fish near the mouth of the Fraser River, and the regulations infringed that right. However, the Court also held that Canada had jurisdiction over the fishery and that it might be justified in infringing the recognized Aboriginal right if it did so for certain limited purposes, including conservation of the fisheries. In *Sparrow* the Court determined that the net length restriction was not justified. Canada had used it to limit Musqueam fishing in order to enhance an earlier sport and commercial fishery. In

effect, the regulation required the Musqueam to conserve fish for other users. This violated Canada's obligations to uphold the 'honour of the Crown' in its dealings with Aboriginal peoples. Conservation was a valid objective that might justify infringing an Aboriginal right to fish, but in implementing that objective Canada had to respect its special relationship with Aboriginal peoples. This meant that the burden to conserve fish stocks could not fall primarily or entirely on Aboriginal peoples.

The Supreme Court decision in *Sparrow* did more than re-establish Musqueam rights to fish. It set out a priority scheme that applied generally. Canada's first obligation was to ensure that sufficient fish remained to conserve and sustain the resource. If there were enough fish to open a sustainable fishery, then the Aboriginal food, social and ceremonial fishery had first priority. Only after its needs were met could Canada allocate fish to the general sport and commercial fisheries. As a result, the food fishery was no longer a discretionary privilege, granted or withheld by the government of Canada, but a constitutionally protected right conferring priority to the fishery over other users.

The Supreme Court did not indicate where an Aboriginal right to a commercial fishery might fit in this priority scheme, something it would address several years later.

Commercial Fisheries

In 1996, the Supreme Court of Canada released three decisions that became known, after the lead case, as the *Vander Peet* trilogy. In each case, Canada had charged Aboriginal fishers with catching and selling or attempting to sell fish without a commercial licence. The principal issue in each case was whether the Aboriginal defendants had an Aboriginal right to a commercial fishery.

In *R. v. Vander Peet*, the Court outlined the test that a First Nation must meet to establish an Aboriginal right to a commercial fishery. In short, the activity - commercial fishing - must have been an integral part of a distinctive pre-European contact Aboriginal culture. Aboriginal rights, therefore, arose prior to and could not derive from interaction with Europeans. Moreover, the activity claimed as a right had to be integral to the pre-European culture, not peripheral. It was not an easy standard to meet, and the Court

determined that the Stó:lō Nation, whose traditional territory includes much of the Fraser Valley and for whom salmon were an integral part of their culture and economy, had not established an Aboriginal right to a commercial salmon fishery in *Vander Peet*.

In *R. v. Gladstone*, however, the Court held that the Heiltsuk Nation, whose traditional territory includes much of the central coast around Bella Bella, had established an Aboriginal right to a commercial herring spawn-on-kelp fishery. This fishery involves the harvest of kelp fronds covered in layers of herring spawn. The Court accepted Heiltsuk evidence that they had conducted a commercial spawn-on-kelp fishery before contact with Europeans. It also determined that the regulatory scheme governing the fishery, under which the Heiltsuk held one licence, violated their right to a commercial fishery. However, it did not rule on whether Canada was justified in infringing that right. Instead, it set out some general guidelines for determining when Canada might justifiably infringe an Aboriginal right to a commercial fishery.

In *Sparrow*, the Court held that conservation was a valid objective that might enable Canada to justify its infringement of an Aboriginal right. In *Gladstone*, it suggested that in the context of a commercial fishery Canada might justifiably infringe an Aboriginal right to promote regional and economic fairness or to recognize the historical reliance on and participation in the fishery by non-Aboriginal fishers. In short, although the Heiltsuk had a constitutionally protected Aboriginal right to a commercial fishery and therefore had priority, Canada had a reasonably broad mandate to infringe that right, not only for conservation purposes, but also to allocate the fishery among other users.

The commercial fisheries remain sites of continuing conflict, but there have been few developments in the case law since the *Vander Peet* trilogy. If anything, the conflict appears likely to escalate before a resolution is found. That resolution may come in the form of a court decision or, perhaps more likely, through negotiated agreements and treaties.

C. Treaty Rights to Fish

There are relatively few historical treaties in British Columbia, a function of the province's longstanding refusal to acknowledge Aboriginal title. The province's position changed in 1990, and in 1992 it entered negotiations with First Nations and the federal government under the auspices of a modern treaty process. Fisheries have formed an important part of those negotiations, as they did in the few 19th century treaties signed on Vancouver Island in the 1850s while it was proprietary colony of the Hudson's Bay Company.

"Fisheries as Formerly"

The first formal recognition of Aboriginal fishing rights appears with the earliest colonial settlement on Vancouver Island. Between 1850-1854, James Douglas, the senior Hudson's Bay Company (HBC) official and then the Governor of the Colony of Vancouver Island, concluded fourteen agreements, known as the Douglas treaties, with the Aboriginal peoples of the Saanich Peninsula and the areas around the future town sites of Nanaimo and Port Hardy. When oral negotiations concluded, Douglas asked the Chiefs to sign their mark to indicate an agreement. Douglas added the written text later. It was a short two paragraphs, the first describing the lands that the HBC had purchased and the second describing the terms of the sale. In addition to a monetary payment, the HBC guaranteed to reserve the village sites and enclosed fields of the signing groups, as well as the right to hunt over unoccupied Crown lands and the right to conduct their "fisheries as formerly."

It is clear that the "fisheries as formerly" clause was intended to protect Aboriginal fisheries. Before the treaties Douglas wrote that he thought Aboriginal peoples should have their fisheries "fully secured to them by law." Afterwards he indicated that Aboriginal peoples "were to carry on their fisheries with the same freedom as when they were the sole occupants of the country." But it is also clear that Douglas expected non-Aboriginal immigrants to participate in the fisheries as well. He probably assumed, as many did, that ocean fisheries were inexhaustible and that they would be a source of great wealth for the colony and its Aboriginal and immigrant inhabitants.

It also appears likely that Douglas expected Aboriginal peoples to continue their commercial fisheries. Even in the mid-19th century the HBC relied on fish caught by Aboriginal peoples, primarily salmon, as a source of food for its labour force and as one of its principal export products from the western edge of North America. As a result, the distinction between food fisheries and commercial fisheries that would emerge later in the 19th century would not have made much sense to Douglas. He would have expected, under the terms of the Douglas treaties, that Aboriginal peoples would have a right to continue to catch fish as a source of food, but also for sale.

The meaning of the fisheries clause in the Douglas treaties has not been settled and is the subject on continuing litigation. United States' courts have interpreted contemporary treaties in what is now Washington State as dividing the commercial fisheries equally between the American Indian tribes and the non-Native fishing community. On the Atlantic coast, in *R. v. Marshall*, the Supreme Court of Canada interpreted an 18th century treaty between the Mi'kmaq and the British as guaranteeing the right to fish not only for food, but also to support a moderate livelihood. In British Columbia, the Tsawout Nation on the Saanich Peninsula used the fisheries clause in the Douglas treaties defensively to stop the development of a marina on their traditional fishing grounds, but beyond this there has been little litigation. In part, this may be because many of the important fisheries of the Douglas treaty Nations on southern Vancouver Island were in the waters around the San Juan Islands, territory that is now within the United States. The international border inhibits their access to many traditional fishing territories more so than Canadian fisheries policy.

Most First Nations in British Columbia are not parties to a treaty and therefore have no treaty rights to fish. However, the fisheries clause in the Douglas treaties should not be understood as creating rights, but rather as recognizing rights that existed when the treaties were concluded. As such, the Douglas treaties are evidence of fishing rights held by Aboriginal peoples across the province.

Modern Treaties

Negotiations over the management of and access to fisheries in British Columbia are an integral part of the modern treaty negotiation process in British Columbia. The first modern treaty in British Columbia - the Nisga'a Final Agreement - includes a chapter on fisheries and a separate Harvest Agreement. Under the 1999 treaty, Nisga'a citizens have the right to harvest defined quantities of fish. The amounts vary depending on the conservation needs and the size the stock. In the case of sockeye salmon, for example, the Nisga'a have a treaty right to 10.5% of those fish returning to the Nass River to spawn. The treaty does not place limitations on the use of these fish and, as part of the treaty, this fishery is secured under the constitutional protection of Aboriginal and treaty rights. The treaty also contains provisions that outline structures to enhance Nisga'a participation in the management of the Nass River fisheries, and there are funds provided to help increase Nisga'a participation in the commercial fisheries.

The fishing rights set out in the Harvest Agreement, although referred to in the treaty, are not part of it and therefore do not enjoy constitutional protection. The Harvest Agreement is a renewable 25-year agreement that provides additional fish allocations. For example, the Harvest Agreement provides the Nisga'a with 13% of each year's total allowable sockeye salmon catch. Together, the treaty and the Harvest Agreement re-establish a significant Nisga'a presence in the fisheries in their traditional territory.

In 2007, the Tsawwassen concluded the first treaty to emerge from the modern Treaty Process. The fisheries provisions in it, and in a number of other agreements-in-principal with other First Nations, emulate the model established in the Nisga'a Treaty, although with some important differences. The Tsawwassen Final Agreement includes an allocation for Fraser River sockeye that provides, at most, one percent of the Canadian total allowable catch; the percentage declines as the run size increases. This lower proportion that the Nisga'a secured on the Nass reflects the fact that there are a great many more First Nations with a claim to the fishery on the Fraser than the Nass. But unlike the Nisga'a treaty, the Tsawwassen agreement stipulates that the fish caught under the treaty will be used for domestic purposes. To augment opportunities for the Tsawwassen to

participate in the commercial fisheries, Canada has agreed to issue commercial licences. For sockeye, these licences would represent a fishing capacity of 0.78% of the Canadian commercial catch. However, as with the Nisga'a Harvest Agreement, Tsawwassen access to the commercial fishery would not be part of the treaty.

Extrapolating from the Tsawwassen Final Agreement and other AIPs, a 2004 study suggests that if future settlements across the province are based on similar figures, First Nations domestic and commercial fisheries under the treaties and harvest agreements will amount to approximately one-third of the total catch of sockeye salmon in the province. Although significant, this is considerably less than the American Indian Tribes in Washington State who control fifty percent of the fisheries. However, in some Pacific coast fisheries Aboriginal fishers already comprise a significant portion of the regular commercial fleet. Determining the exact percentages of Aboriginal participation in the fisheries is difficult, but it is likely that in the near future a larger proportion of fish will be caught under treaty rights or harvest agreements than is presently the case.

D. Aboriginal Rights and Public Rights

Although it seems likely that Aboriginal participation in and control over the fisheries will increase under the treaties, the Treaty Process in British Columbia has not produced agreements as quickly as many optimistically predicted. In order to bridge the gap between increased judicial recognition of Aboriginal rights and the conclusion of treaties, Canada instituted a series of what were to be interim measures.

Interim Measures

Following the decision in *Sparrow*, Canada created an Aboriginal Fisheries Strategy (AFS) to help enhance Aboriginal participation in fisheries across Canada, and to act as an interim measure while it negotiated treaties in British Columbia. Many of the programs under AFS included local co-management and fisheries enforcement initiatives, scientific studies, and habitat enhancement projects. Not all First Nations were prepared to participate in the AFS programs, just as not all have entered treaty negotiations. For

those that have, the AFS programs are understood largely as temporary arrangements leading to treaties or to a general resolution of outstanding claims to fishing rights.

The most controversial element of the AFS has been the pilot sales program. This program blurred the distinction between food and commercial fisheries by allocating fixed quotas of salmon to several First Nations for whatever purposes they determined, including food fish or for sale. As part of this program, in some cases Canada opened the fishery to First Nations with pilot sales agreements before it opened the fishery to the general commercial fleet. In response, some members of the commercial fleet conducted a protest fishery, fishing on the Fraser when the river was closed except to those fishing under a pilot sales agreement. Canada laid charges and eventually secured convictions, but only on appeal after the fishers had been acquitted at trial and the pilot sales program cancelled as a result. The case, *R. v. Kapp*, is on its way to the Supreme Court of Canada, which will hear argument that the Aboriginal only fishery violated the equality guarantees in the *Charter of Rights and Freedoms*. In addition, the commercial fishers argue that the fishery is at odds with the common law doctrine of the public right fish - that unless parliament granted an exclusive fishery (or the right to grant an exclusive fishery) in tidal waters, the public had a right to fish.

In the absence of treaties or comprehensive agreements for the fisheries, these disputes are not likely to disappear. Indeed, they are almost certain to escalate.

Conclusion

Migratory animals such as salmon inhabit a great many ecosystems and lead lives that cross numerous international and domestic boundaries. They are remarkably resilient and yet susceptible to the changes in their environments and to the ability of humans who live across these many boundaries to establish workable institutions that will facilitate acceptable harvest levels. Within British Columbia, the problems are compounded by a long refusal to recognize or confront the reality of Aboriginal rights and title. In the last few decades, the processes have begun in courts and at negotiating tables to find respectful ways in which Aboriginal and non-Aboriginal peoples can occupy the province together and share resources. Some of the most difficult discussions revolve around the

allocation and management of the fisheries. That they are difficult, however, does not mean they can be avoided. The sooner we can move closer to a resolution the better for all our sakes, and for the fish.

Bibliographic Note

For a highly readable introduction with many helpful illustrations to the variety of Aboriginal fishing methods and fishing technologies in British Columbia prior to European contact, see Hilary Stewart's *Indian Fishing: Early Methods on the Northwest Coast* (Vancouver: J.J. Douglas Ltd., 1977). For a discussion of Aboriginal management of the fisheries, see the second chapter of Dianne Newell's *Tangled Webs of History: Indians and the Law in Canada's Pacific Coast Fisheries* (Toronto: University of Toronto Press, 1993). See also the first chapter in Douglas C. Harris, *Fish, Law, and Colonialism: The Legal Capture of Salmon in British Columbia* (Toronto: University of Toronto Press, 2001).

One of the first and still very helpful books on the relations between Aboriginal peoples and immigrants in British Columbia is Robin Fisher's *Contact and Conflict: Indian-European Relations in British Columbia, 1774-1890* (Vancouver: UBC Press, 1977, 1992). See also Cole Harris' *The Resettlement of British Columbia: Essays in Colonialism and Geographical Change* (Vancouver: UBC Press, 1997). On the Douglas Treaties and the formation of the colonial land policy in British Columbia, see Cole Harris' *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2002). See also Douglas C. Harris, *Landing Native Fisheries: Indian Reserves and Rights to Fish in British Columbia* (Vancouver: UBC Press, forthcoming 2008) on the relationship between the regulation of the fisheries and the construction of an Indian reserve geography.

Few of the general treatments of relations between Aboriginal peoples and immigrants in the 19th century give much attention to the fisheries. Newell's *Tangled Webs of History* provides an overview of the conflict from the 1870s to the 1990s. Harris, *Fish, Law, and Colonialism*, provides more detail on the period from the Douglas Treaties in the 1850s to the 1890s, and then several detailed case studies of disputes over fish weirs on the Babine and Cowichan rivers. Several other books provide a more general analysis of the fisheries,

but pay considerable attention to Aboriginal peoples involvement in the commercial fisheries. See Geoff Meggs's *Salmon: The Decline of the British Columbia Fishery* (Vancouver: Douglas & McIntyre, 1991, 1995) and Alicja Muszynski, *Cheap Wage Labour: Race and Gender in the Fisheries of British Columbia* (Montreal and Kingston: McGill-Queen's University Press, 1996). See also the terrific collection of photographs in Geoff Meggs and Duncan Stacey, *Cork Lines and Canning Lines: The Glory Years of Fishing on the West Coast* (Vancouver: Douglas & McIntyre, 1992).

Although the history of treaties is different, there are some important parallels with the west coast of the United States. For an analysis of the Coast Salish fisheries in Puget Sound, including an interpretation of the treaty rights to fish, see Daniel Boxberger, *To Fish in Common: The Ethnohistory of Lummi Indian Salmon Fishing* (Lincoln: University of Nebraska Press, 1989). The history of the relationship between humans and the Columbia River fisheries is told in Joseph E. Taylor III, *Making Salmon: An Environmental History of the Northwest Fisheries Crisis* (Seattle: University of Washington Press, 1999). On the court cases and disputes in the 1970s, see Fay Cohen, *Treaties on Trial: The Continuing Controversy over Northwest Indian Fishing Rights* (Seattle: University of Washington Press, 1986).

There are also important developments on the Atlantic coast that have affected and have been affected by the litigation in British Columbia. See Ken Coates, *The Marshall Decision and Native Rights* (Montreal & Kingston: McGill-Queen's University Press, 2000). For a detailed historical examination of the treaties between the Mi'kmaq and the British, and a consideration of the role of historian as expert witness in a treaty rights case, see William C. Wicken, *Mi'kmaq Treaties on Trial: History, Land, and Donald Marshall Junior* (Toronto: University of Toronto Press, 2002).

There is a large and rapidly growing literature on Aboriginal and treaty rights in Canada. Two of the recent and influential book-length contributions to this literature include Kent McNeil's *Emerging Justice? Essays on Indigenous Rights in Canada and Australia* (Saskatoon: Native Law Centre, University of Saskatchewan, 2001), and John Borrows', *Recovering Canada: The Resurgence of Indigenous Law* (Toronto: University of Toronto

Press, 2002). A recent collection of essays on the subject, including fishing rights, is the volume edited by Ardith Walkem and Halie Bruce, *Box of Treasures or Empty Box: Twenty Years of Section 35* (Penticton, B.C.: Theytus Books, 2003).

Two reports from 2004 on the state and future of British Columbia's fisheries pay particular attention to Aboriginal and treaty rights. Canada and British Columbia commissioned a legal scholar, Don McCrae, and an economist, Peter Pearse, to write a report on the fisheries following treaties. *Treaties and Transition: Towards a Sustainable Fishery on Canada's Pacific Coast* (April 2004) (available on-line at: http://www-comm.pac.dfo-mpo.gc.ca/publications/jtf/tint_e.htm). First Nations criticized the governments for commissioning a report without their involvement and this led to a separate report by the First Nations Panel on Fisheries, comprised of Russ Jones, Marcel Shepert, Neil Sterritt, *Our Place at the Table: First Nations in the B.C. Fishery* (May 2004) (available on-line at: <http://www.fns.bc.ca/pdf/FNFishPanelReport0604.pdf>)

Chapter 8 of the Nisga'a Final Agreement deals with the fisheries protected under the treaty and those in the Nisga'a Nation Harvest Agreement (available on-line at: <http://www.ainc-inac.gc.ca/pr/agr/nsga/>). Chapter 7 of the Tsawwassen Final Agreement includes the arrangement over access to the fisheries (available on-line at: http://www.gov.bc.ca/arr/firstnation/tsawwassen/down/final/tfn_fa.pdf).

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