

April 11, 2024

Mr. Ken McDonald
Chair
Standing Committee on Fisheries and Oceans
House of Commons
Ottawa ON K1A 0A6

Dear Mr. McDonald,

On behalf of the Government of Canada (Government), I would like to thank the House of Commons Standing Committee on Fisheries and Oceans (Committee) for its report, *FOREIGN OWNERSHIP AND CORPORATE CONCENTRATION OF FISHING LICENCES AND QUOTA* (report). The report provides valuable insight into the challenges faced by commercial fishery participants and coastal communities who depend on commercial fisheries both as a livelihood and a pillar of their history and culture. The Government continues to actively work with harvesters, licence holders, First Nations, and industry to better understand the key issues they face and to explore the impacts of potential solutions.

My Department takes very seriously the challenges described by the witnesses who provided testimony to the Committee. I understand that many harvesters are concerned about the level of control and consolidation of commercial access amongst both foreign and domestic fisheries participants. It is also clear that many harvesters are calling for the Department to consider implementing Atlantic inshore-style policies in fisheries where such protections for independent harvesters have not historically been present. Since the 2019 Committee report titled "*West Coast Fisheries: Sharing Risks and Benefits*", which included recommendations for changes to the Pacific licensing regime, Fisheries and Oceans Canada (DFO) has advanced the foundational work required to better understand the key issues, in preparation to engage on these important topics.

It's important to note that commercial fisheries have evolved differently on the East and West Coasts over time. In Eastern Canada, the inshore fisheries have been managed for several decades with the explicit intention of preventing vertical integration in the fishery by protecting small-craft, independent fishing enterprises, whereas the midshore and offshore fisheries are managed to promote large-scale commercial fisheries intended meet the demand of Canadian and international seafood markets. Pacific fisheries have historically focused on achieving conservation objectives while enabling fleets to adapt and self-rationalize to support their economic viability. Any potential changes to Pacific Region's licensing regimes would need to include careful analysis and consideration of the extent to which such changes could address the issues faced, and the impacts of such changes on all fishery participants.

Pursuant to the Department's intention to explore changes to Pacific commercial fisheries, DFO is undertaking more in-depth engagement with Indigenous peoples and organizations, fishery participants, and key stakeholders as part of its West Coast Fisheries Modernization efforts. This engagement invites input from a broad cross section of commercial fishery interests on issues such as the development of a public Licence and Quota Registry, socio-economic data requirements, transparent and inclusive advisory processes, the results of the Beneficial Ownership Survey, potential policy solutions to address foreign control, and the viability of Atlantic inshore-style or other policies in Pacific fisheries. These engagements will inform DFO's next steps as it considers the challenges highlighted by the Committee.

RECOMMENDATION 1:

That the Government of Canada immediately accelerate the implementation of the recommendations made in the 2019 report by the House of Commons Standing Committee on Fisheries and Oceans “*West Coast Fisheries: Sharing Risks and Benefits*” by prioritizing the adequate allocation of resources to ensure staffing and work required to move forward with the recommendations.

The Government acknowledges the recommendation and action is ongoing.

The Government's response to the 2019 report outlined efforts underway to address the Committee's concerns. Since then, DFO has advanced the complex work required to address the concerns raised by harvesters, licence holders, and First Nations with respect to the Pacific licensing regime. DFO has also reported on its progress on this work to the Committee, most recently during an in-person appearance this past June and through the response to a follow-up letter received in December 2023. Since the Government's response to the 2019 report was released in June 2020, DFO has completed a comparative analysis of fishery licensing and policy regimes on the west and east coasts, commenced the development of a public Licence and Quota Registry; developed and published the results of the Beneficial Ownership Survey to improve the Department's, industry's, and public's understanding of licence eligibility holders and vessel owners, the results for which were published in September 2023; and developed the first five of a set of dashboards with commercial and recreational fisheries socio-economic data.

It is expected that further progress will be made through the West Coast Fisheries Modernization engagement in 2024-2025.

RECOMMENDATION 2:

That the Minister of Fisheries, Oceans and the Canadian Coast Guard make it a condition of licence that the licence and quota holder be the licence owner with “boots on the deck” and that, before such licence is issued, it is proven that the licence holder is a Canadian citizen and/or a 100% Canadian-owned entity; that the proof of beneficial ownership be the responsibility of the licence holder in full, and that this policy be fully implemented within two years of the establishment of an independent fishery finance agency.

The Government acknowledges the Committee’s recommendation.

The Government recognizes the importance of having Canadians benefit from Canadian fisheries, which is why these are key principles in the Atlantic inshore fishery. Regular administrative reviews and enforcement actions allow DFO to ensure that licence holders are compliant with the inshore regulatory requirements under part III of the *Atlantic Fishery Regulations, 1985* and part I.1 of the *Maritimes Provinces Fishery Regulations* (referred to as the “inshore regulations”).

Atlantic midshore and offshore fisheries, as well as Pacific fisheries, each have different features. Where Atlantic inshore-style policies, Canadian ownership requirements on licence eligibility criteria, or beneficial ownership transparency requirements in commercial fisheries do not already exist, the Government must adequately consult and engage with all implicated fishery participants on the potential risks and benefits of any significant changes to the licensing regime. With this in mind, DFO is engaging on foreign ownership and the concept of owner-operator requirements as part of its work on West Coast Fisheries Modernization in 2024-2025.

RECOMMENDATION 3:

That, given the flaws in Fisheries and Oceans Canada’s Beneficial Ownership Survey, Fisheries and Oceans Canada provide a detailed update and projected timeline for establishing the Canadian ownership criteria for holders of licences and quota. The timeline for the full transition to Canadian ownership should be seven years or less, as recommended in the 2021 Gardner Pinfold Consultants Inc. report entitled Comparative analysis of commercial fisheries policies and regulations on Canada’s Atlantic and Pacific coasts.

The Government acknowledges the recommendation and action is ongoing.

The Government recognizes the value of the Committee’s recommendation to limit licence eligibility to Canadian citizens and remains committed to continuing research efforts into licence and quota leasing practices and the discussion of foreign ownership during the West Coast Fisheries Modernization engagement discussions.

RECOMMENDATION 4:

That an independent consultation and support office for fishers be established so that owner-operators have a forum where they can speak freely and consult, sheltered from pressures placed on them by markets and by foreign companies.

The Government acknowledges the recommendation and challenges the Committee faced when seeking input from witnesses whose livelihoods could be negatively impacted for speaking openly about their concerns.

DFO is committed to ensuring there are fora available to receive anonymous input and feedback, and efforts will continue to be dedicated to protecting and promoting opportunities for harvesters to be honest and candid without fear of reprisal. Tips on alleged circumventions of the Inshore regulations can already be raised to DFO through a variety of anonymous avenues. For example, DFO's fishery officers interact directly with harvesters and local communities on a regular basis and when indicated by a member of the public that they want privacy, fishery officers regularly take steps to ensure complaints can be heard in private, and free from judgment. In addition, anonymous concerns on fisheries matters can be submitted to DFO through email, phone call, or through programs such as "1-800-Crimestoppers". Concerns are assessed on a case-by-case basis to provide an appropriate response.

The Committee's recommendation provides further support for DFO's intention, and ongoing work, to ensure the appropriate engagement tools will be leveraged and made available for fishery participants to submit feedback during the West Coast Fisheries Modernization engagement in a way that protects their identity, to mitigate the risk of reprisal and ensure protection in accordance with the *Privacy Act*.

RECOMMENDATION 5:

That Fisheries and Oceans Canada suspend licences that are found to be used in contravention of current and new Owner-Operator policies until such infraction is remedied.

The Government supports the recommendation.

In April 2021, the principle of Owner-Operator was enshrined in the new inshore regulations which contain eligibility criteria for the issuance of inshore licences. DFO verifies compliance with these regulatory criteria, and where inshore licence holders do not meet the criteria, licences must be refused. Non-compliance also allows for the suspension or cancellation of licences, potentially removing them forever, depending on the particular circumstances at play. The inshore regulations also contain prosecutable offences.

The suspension and cancellation of licences is governed by section 9 of the *Fisheries Act*, which empowers the Minister of Fisheries, Oceans, and the Canadian Coast Guard to suspend or cancel licences in specific circumstances. Where agreements contravening the inshore regulations have been entered into, paragraph 9(1)(b) of that

Act allows for the suspension or cancellation of licences to which these agreements apply. If the matter that gave rise to the suspension or cancellation of a licence is not resolved within a 12 month-period, the inshore regulations provide that the licence holder is not eligible to hold the same type of licence again.

The Government is delivering on its commitment to protect the independence of the Atlantic inshore fleet and keep the economic benefits of inshore fishing licences in the hands of independent harvesters. To that effect, DFO is applying the inshore regulations through both enforcement actions and administrative reviews of licence holders' eligibility.

Since April 2021, over 2,700 or 28 per cent of all licence holders subject to the inshore regulations have been reviewed and brought into compliance with the regulations where necessary. Data on these administrative review efforts are updated every six months on DFO's website.

RECOMMENDATION 6:

That Fisheries and Oceans Canada prohibit the transfer and sale of snow crab fishing licences outside the provinces where they were issued, and that residency criteria be standardized between provinces and set at a number of years of residency that will make it possible to stop the acquisition of these licences, so that they remain within the respective communities and provinces.

The Government supports the Committee's objective of ensuring that Atlantic and Quebec snow crab fishing licences remain in their respective communities and provinces. Residency requirements have historically been implemented to ensure that benefits from the inshore fishery flow to the coastal communities where these licence holders reside, thus supporting the socio-economic stability of rural coastal communities in the Atlantic and Quebec regions. Given that socio-economic goals can vary from fishery-to-fishery and region-to-region, the residency requirements themselves will subsequently vary between fisheries and regions.

It should be noted, however, that climate change has created uncertainty in the size, location, and migration of fish stocks, which in turn has impacts on coastal communities. DFO is currently reviewing the concept of residency in the context of commercial licensing and climate change to determine if any changes are necessary to the current requirements. The Committee's recommendation of standardizing residency criteria will be considered during this review.

RECOMMENDATION 7:

That, in relation to sales and purchases of vessels, licences and quota, transactions involving lawyers' trust accounts be subject to oversight from the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) in order to facilitate the identification of money laundering operations.

The Government acknowledges the Committee's desire to improve transparency in commercial fisheries as well as to identify and deter money laundering operations. As Canada's financial intelligence unit, the Financial Transactions and Reports Analysis Centre's mandate is to facilitate the detection, prevention and deterrence of money laundering and the financing of terrorist activities, while ensuring the protection of personal information under its control.

The Government recognizes that legal professionals can be exposed to money laundering risk scenarios. As explained in the Supreme Court of Canada's decision in 2015 (*Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7, [2015] 1 S.C.R. 401), the legal profession is exempt from certain operative provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. For this reason, a working group with the Federation of Law Societies of Canada was formed in June 2019. Since forming, the working group has been examining issues related to money laundering and terrorist financing in the legal profession and ways to strengthen information sharing between the law societies and the Government. The Government will continue to engage the working group to examine ways to address money laundering risk while respecting solicitor-client privilege.

With respect to environmental crime, which includes illegal fishing and natural resource harvesting, in the 2023 Fall Economic Statement the government announced its intention to introduce legislative changes to combat environmental crime by enabling FINTRAC to share financial intelligence with enforcement officers at Environment and Climate Change Canada and Fisheries and Oceans Canada. DFO will continue to support FINTRAC in its mandate to detect, prevent, and deter money laundering.

RECOMMENDATION 8:

That any acquisition with an individual or a cumulative market share of 20% or more by a corporation or beneficial owner trigger a review by the Competition Bureau.

The Government acknowledges the recommendation.

The *Competition Act* provides the Competition Bureau with the authority to review any acquisition of, or by, commercial fishery participants.

Although the *Competition Act* contains thresholds for advance notification of a merger based on the size of parties to the transaction and the size of the transaction itself, all mergers as defined in the *Competition Act* are reviewable by the Competition Bureau, regardless of their size. These mergers may be remedied where they lessen or prevent

competition substantially. Due to consumer or competitor complaints, or public information, the Bureau can – and regularly does – become aware of transactions that do not require notification, and can investigate and seek remedies against them where necessary.

The Government is currently in the process of reforming the *Competition Act*, including merger review, with considerably more effective measures. Among other proposals, Bill C-59, before Parliament at the time of writing, would: reformulate how asset and share values are calculated for the purpose of determining notifiability so as to close loopholes and be more inclusive of competition from abroad; lengthen the limitation period for non-notified mergers from one year to three; prevent transactions from closing while an interim injunction is being sought; and institute a civil procedure to address non-notified mergers that surpass the thresholds. These changes would support the Competition Bureau's mandate to effectively review mergers across Canadian industry, including those in the commercial fishing industry.

RECOMMENDATION 9:

That Fisheries and Oceans Canada recognize, affirm, and incorporate the guiding principle that Canada's fisheries are a public good, and that the benefit from those fisheries should first and foremost support the people of Canada and the communities which rely on the fisheries.

The Government supports the recommendation and action is ongoing.

DFO is, and will continue to be, guided by a range of principles, including the principle that DFO manages Canada's commercial fisheries for the public good. The Minister of Fisheries, Oceans and the Canadian Coast Guard is mandated to work to support sustainable, stable, prosperous fisheries through the continued implementation of the modernized *Fisheries Act*, so that fish and fish habitats are protected for future generations and so that Canada's fisheries can continue to grow the economy and sustain coastal communities. Further to this, section 2.5 of the *Fisheries Act* outlines considerations for the Minister's decision making, one of which is "social, economic, and cultural factors in the management of fisheries". Additionally, DFO has a role in the Government of Canada's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples Act. DFO is mandated to work with Indigenous peoples to advance their rights as well as consistent, sustainable, and collaborative fisheries arrangements with Indigenous and non-Indigenous fish harvesters.

RECOMMENDATION 10:

That Fisheries and Oceans Canada implement an ecosystemic approach involving integrated management to ensure that it is not always reacting rather than acting.

The Government supports the recommendation and action is ongoing.

The Government of Canada agrees that an ecosystem approach involving integrated

management is beneficial. DFO continues to analyze how ecosystem information can be better incorporated in fisheries management. DFO's ecosystem approach to fisheries management (EAFM) seeks to incorporate information about how fish stocks may be influenced by various elements of their ecosystems (including climate, habitat, temperature, chemistry, and key food web interactions) into fish stock assessments to foster better-informed management choices. Broad and comprehensive application of EAFM across federally-managed fisheries will require extensive new data and information and the development of new tools to enable integration of ecosystem data and information into decision-making processes.

In fall 2023, DFO completed an early round of engagement with Indigenous Peoples, co-management partners, industry, and stakeholders about the broad adoption of an EAFM. Feedback is currently being summarized and will help inform a Strategic Plan for advancing implementation of EAFM. Another round of engagements will follow this year (dates to be confirmed) on the draft Strategic Plan. Once finalized, this Strategic Plan will serve as the foundational strategic departmental guidance to inform the development of an Implementation Plan for operationalizing EAFM at the fishery level.

The Government recognizes that an EAFM offers a means through which to support fisheries resilience and adaptive management in pursuit of the dual goals of economic prosperity and ecosystem sustainability. Adopting an EAFM is highly dependent on the collection of essential environmental data and information and the associated scientific research and assessment to support decision-making. The rate and extent of EAFM implementation is entirely contingent on the availability of resources, particularly for critical scientific work.

RECOMMENDATION 11:

That Fisheries and Oceans Canada develop a regulatory framework making access easier for the next generation of fishers and guaranteeing healthy management and intergenerational transfers by considering the socioeconomic impacts experienced by communities.

The Government supports this recommendation and shares the Committee's desire to improve its understanding of intergenerational transfer of commercial access. The recent motion proposed by the Committee in February 2024 to undertake a study on "the need for training and financial support for the next generation of fishers" is in line with DFO's ongoing work to support new entrants and expand its understanding on the options available to the Department to address the challenges related to intergenerational transfer.

RECOMMENDATION 12:

That Fisheries and Oceans Canada recognize that it is imperative to favour food sovereignty in fisheries in Canada and that the various departments involved collaborate more with each other in order to prioritize food security and sovereignty and to preserve the culture and identity of coastal communities, while acting with full transparency.

The Government supports the recommendation and action is ongoing.

The Government understands the importance of food security in Canada, especially in regard to coastal communities. The Government also recognizes the important role that international trade in fish and seafood plays in supporting the livelihoods of coastal communities and works closely with trading partners to support market access. DFO actively works with industry to promote Canadian seafood products both at home and abroad. Given its vast coast lines and strong management regime, Canada is well positioned to meet the growing demand for aquatic protein and to contribute to food security domestically and internationally.

RECOMMENDATION 13:

That the Government of Canada immediately initiate the implementation processes described in Sections 3.4 and 3.5 in the 2021 Gardner Pinfold Consultants Inc. report.

The Government acknowledges the recommendation and action is ongoing.

The Government recognizes the Committee's desire to establish Atlantic inshore-style policies in Pacific region. DFO is discussing the option of implementing Atlantic inshore-style policies, along with other potential approaches that could support sharing of the risks and benefits of fishing, as part of its West Coast Fisheries Modernization engagement taking place through 2024-25.

RECOMMENDATION 14

That Fisheries and Oceans Canada meaningfully engage and work alongside Indigenous peoples through the process of the implementation of a made-in-BC owner-operator policy.

The Government acknowledges the recommendation and action is ongoing.

The Government is committed to meaningfully engaging and working alongside Indigenous peoples throughout the process of considering changes to commercial fisheries policy. The invaluable lessons learned from the Department's ongoing nation-to-nation relationships with Indigenous peoples on Pacific fisheries will continue to be applied as DFO conducts its West Coast Fisheries Modernization engagements.

All DFO consultations with Indigenous groups are guided by the requirements set out by the *United Nations Declaration on the Rights of Indigenous Peoples Act*, which provides

a roadmap for the Government of Canada and First Nations, Inuit and Métis to work together to implement the UN Declaration based on lasting reconciliation, healing and cooperative relations. On June 21, 2023, the UN Declaration Federal Action Plan, developed in consultation and cooperation with First Nations, Inuit and Métis from across Canada, was released. The implementation of the Action Plan and the UN Declaration will contribute to the Government of Canada's continued efforts to break down barriers, combat systemic racism and discrimination, close socio-economic gaps, and promote greater equality and prosperity for Indigenous peoples.

RECOMMENDATION 15:

That the Minister of Fisheries, Oceans and the Canadian Coast Guard declare that the department's agenda is to evolve a "fair share" of risks and benefits model for the distribution between stakeholders of the total gross revenue of each West Coast fishery.

The Government acknowledges the recommendation and action is ongoing.

As part of the West Coast Fisheries Modernization engagement, DFO is discussing options to implement Atlantic inshore-style policies in Pacific region and will invite recommendations for other potential strategies that could more equitably distribute the benefits of commercial fisheries across its participants and coastal communities.

RECOMMENDATION 16:

That, regarding West Coast fisheries, Fisheries and Oceans Canada permit the 'unstacking' of licences and establish a licence exchange board to allow licence trading that contributes to Canadian beneficial ownership.

The Government acknowledges the recommendation and action is ongoing.

The Government acknowledges the Committee's desire for Canadian ownership of commercial fishing enterprises and improving intergenerational transfer by permitting the 'unstacking' of previously-combined licences, as well as by establishing a licence exchange board to facilitate the transfer of commercial access. DFO is open to engaging on the potential to adjust certain licensing requirements while working to ensure conservation objectives are not placed at risk. DFO intends to discuss these topics with fisheries participants during the West Coast Fisheries Modernization engagement.

RECOMMENDATION 17:

That Fisheries and Oceans Canada call for expressions of interest from a limited number of communities willing to engage in a pilot program to test the viability of a community-based licence. The community-specific pilot project should target a specific area and a specific species in an emerging fishery.

The Government acknowledges the recommendation and action is ongoing.

The Government recognizes the importance of coastal communities' access to commercial fisheries. DFO presently issues community-based licences to Indigenous communities in the form of communal commercial licences for the purpose of supporting Indigenous access to commercial fisheries and supporting the exercise of collective fishing rights. DFO has a variety of programs designed to support these communities in acquiring licences for this purpose. The Department will conduct further analysis on the Committee's proposal for a community-specific pilot project that targets specific areas and emerging species.

With regards to piloting community fishing licenses for non-Indigenous communities, this recommendation will be further analyzed by DFO as a means to support fishing communities in Atlantic Canada, and in particular, to support access to new entrants within these communities.

RECOMMENDATION 18:

That the Government of Canada establish, within five years, an independent fishery financing agency, similar to Farm Credit Canada, with sufficient risk tolerance to finance and mentor new entrants to acquire licences and quota and to refinance existing licence holders to become independent of illegal trust and supply agreements with fish processors.

The Government acknowledges the recommendation; however the Government already has a range of financing programs in place to support small and medium fishing enterprises, to enable Indigenous access to commercial fisheries, and to implement rights-based fisheries.

The Government of Canada recognizes the importance of supporting new entrants to the fishery and the Committee's interest to ensure existing licence holders remain independent. Financing for small businesses, including independent harvesters, is provided by Innovation, Science, and Economic Development Canada through the Canada Small Business Financing Program, as well as through a variety of provincial and community loan boards. DFO also provides support to Indigenous communities to increase and diversify their participation in the commercial fishery. DFO programs that provide financing to Indigenous harvesters include: the Allocation Transfer Program (ATP), the Marshall Response Initiative (MRI), the Atlantic Integrated Commercial Fisheries Initiative (AICFI), the Pacific Integrated Commercial Fisheries Initiative (PICFI), and the Northern Integrated Commercial Fisheries Initiative (NICFI).

RECOMMENDATION 19:

That the Minister of Fisheries, Oceans and the Canadian Coast Guard develop a strategy with their provincial counterparts, while respecting provincial jurisdiction, to reduce foreign ownership and corporate concentration at both levels of responsibility.

The Government acknowledges the recommendation and action is ongoing.

The Government is committed to engaging provincial counterparts through existing federal/provincial fora to discuss concerns related to foreign ownership and corporate concentration of the fisheries supply chain under each government's respective jurisdictional responsibility.

As part of the current ownership review process for the reissuance of fishing licences in the midshore and offshore fisheries in Atlantic Canada, the Government will continue to request from any prospective licence recipient a variety of sources of information such as: the certificate of incorporation; the articles of incorporation showing the ownership structure of the company; and an attestation from a lawyer confirming that the proposed licence holder has met the requirements associated with the foreign ownership policy provisions.

DFO works closely with the Province of British Columbia on an ongoing basis on fisheries matters, including exploring respective roles and responsibilities and strategies regarding foreign ownership and corporate concentration issues.

CONCLUSION

Once again, on behalf of the Government of Canada, I would like to thank the members of the Standing Committee and its staff for their work in preparing this report and its recommendations, along with the numerous witnesses who shared their insights and experiences in Canada's commercial fisheries.

Sincerely,



The Honourable Diane Lebovillier, P.C., M.P.
Minister of Fisheries, Oceans and the Canadian Coast Guard