



CMA 2020 – 2021 Annual Review  
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## Purpose of This Report

Section 7 of, The Collaborative Management Agreement (CMA) deals with the annual review process and is clear that the agreement will be reviewed annually for the first 3 years. The review process will include the FSMB and the IC and must include the following:

1. review and reporting on the activities of the FSMB.
2. review and reporting on the activities of the JTC.
3. an assessment of the challenges and effectiveness of the EC, FSMB, and JTC and how these bodies might need to be changed, improved, or replaced to meet the parties' intentions of effecting transformative change.

Within 60 days of the receipt of this report the parties agree to meet to review the progress and accomplishments of the collaborative management authorities and process relating to Fraser salmon emphasis on the following:

1. steps the parties will take to effect changes necessary for improvement of the tier 2 decision making processes.
2. specific or general delegation of authority by the Minister and/or Member Nations to the Fraser Salmon Management Board.
3. the effectiveness of section 6.1 appointments, strategies, and positions.
4. legislative, operational or policies actions in support of nation-to-nation, Government-to-Government, collaborative governance, and management

the progress and effectiveness of the on-going negotiations under the Framework Agreement (*Nesika* Oakut) and the Letter of Understanding for the Development of Fraser Salmon Management Processes and Agreements. The annual review may include whether the EC, the JTC, and the FSMB may be the appropriate structure for Government-to-Government, Nation-to-Nation discussions or provide advice on an alternative structure.

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Finally, it is worth noting that for 2020/2021 the FSMB, EC, and JTC did not come with a set of deliverables only specific or proposed activities as listed above.

## FSMB Scope and Purpose

The Fraser Salmon Management Board (FSMB) is comprised of four members appointed by the Fraser Salmon Management Council (FSMC), and four members appointed by Fisheries and Oceans Canada (DFO). The FSMB will have an independent chairperson chosen by the eight FSMB members by consensus. The FSMB works on a government to government, nation to nation basis to make consensus decisions and recommendations on the governance, management, and conservation of Fraser salmon. *The functioning of, and TORs for, the FSMB are fully described in the CMA (Part 3.4, and Schedule F).*

All decisions made by the FSMB should fall within the purpose and scope of the CMA as set out in subsection 2.1 a), subsection 2.1 b) and subsection 2.1c. Furthermore, the FSMB screens issues to see if they are of common interest, within the scope and purpose of the CMA, and whether they are at the migratory route scale. The FSMB is also responsible for providing operational and technical direction to the Joint Technical Committee (JTC) specifically for developing annual work plans that support collaborative governance and management. The following understanding of the overall process and roles are as follows:

- The role of the FSMC and DFO is to provide advice to FSMB
- The FSMB requires information to provide advice
- All requests by the Board for information from JTC or DFO via JTC should be directly tied to an issue / activity upon which the Board is deliberating, i.e., in the work plan
- All requests for information should come from the Board as a whole
- Where the time limit is insufficient to conduct the proper analysis, then the documentation should be made available to the Board as a whole
- The Board can strike internal working groups to research specific issues / activities, analysis and present recommendations to the Board for adoption, and subsequent recommendation to DFO
- Communication to the JTC – formal collaborative request

FSMB deliberations could include the following:

- Pre and post season strategic level planning and assessments.
- Pre-season management plans including the IFMP.
- Baseline stock assessment, monitoring and research.
- In-season operational decisions including opening and closures.
- Information gathering including TEK, science, CSAS, CSPI, SARA, and WSP; and
- Access and allocation agreements.

## Evaluation – Performance Indicators & Effectiveness

To understand the effectiveness of the FSMB, JTC, and EC and as part of what will become an annual CMA review process for the next 3 years it would make things more streamlined if the FSMB and JTC can agree upon a set of performance indicators. Performance Indicators (PI's) are a pertinent part of measuring the successes and failures of the organization to learn and grow. They would allow the FSMB, JTC, and EC to get an overview of how the CMA is performing annually. It is important that the FSMB, JTC, and EC agree to these so that there is little chance for creating conflict and better chance to agree on any suggestions for improvements. Key indicators can differ and so it is important to agree on what we are measuring and how it will be measured. The FSMB can develop a set of standards, i.e. year-to-year PI's with other PI's required only in certain situations or contexts. Some KPI might be as follows:

- Number of new signatories to the CMA
- Reduced court challenges
- Number of joint decisions made
- Areas of agreement in the annual IFMP
- Number of successful projects completed or begun
- Number of issues successfully dealt with for the parties
- Number of joint communications or presentations conducted to support management

## Annual Review Background and Context

For this annual review it is important to stress that the CMA did not come with an implementation plan. For the FSMB members, IC, and EC there was no guidebook so procedures and processes for many important functions had to be developed from scratch. Many of the activities of the FSMB focused on either establishing or creating new processes and or procedures to have a common understanding of just how to do these things including:

1. Development of the annual work plan
2. IFMP input, follow-up, and review
3. Budget development and reporting
4. The roles and responsibilities of the Executive Committee
5. The roles and responsibilities of the Independent Chair (IC)
6. Communications and Outreach
7. Mandate development

The pressure placed on the process to produce products or outcomes must not be understated. From the outset the parties were told that additional resources would have to be supported by the development of a workplan and some indications of success from the process. Additional pressures included expectations and challenges stemming from the establishment of processes.

By August it became clear that there were serious issues developing between the parties. At issue was the lack of clarity on what services and to what level the FSMC was supposed to provide to the process overall. In support of this, a key piece that was not developed to inform the FSMC's administrative support was a detailed workplan that laid out the required workdays and associated budget for the FSMB and JTC's activities.

Without a clearly developed collaborative Vision, Mission, Purpose, and detailed work plans to guide the process, the Collaborative Management Agreement (CMA) has proven difficult and problematic. Finally, the term incremental has also created challenges and frustration since it is linked to successfully achieving common goals and objectives which seems so elusive as of March 31, 2021.

## FSMB Activities and Outcomes

It is important to stress that many processes and procedures are under development. Progress was made with respect to information flow and interface between FSMC / JTC and the FSMB. A significant amount of work went into understanding how the exchange of information in relation to decision making would occur. Flow diagrams from DFO and FSMC were developed and discussed at length. Policies and procedures for agenda development, minute approval and storage, FSMB/FSMC operational aspects like appointment processes or meeting invites, etc. have been developed. Other FSMB activities, outputs and outcomes were as follows:

1. A Budget sub-committee was formed to develop internal process for dealing with the administration of the FSMB vis-à-vis the FSMC, i.e., payment sign-off, contract management etc.
2. The Board collaboratively developed an agenda process, including a standing agenda structure, and established an agenda setting sub-committee.
3. Developed and refined FSMC / DFO / JTC process for inputting advice to the FSMB
4. Developed an FSMB definition of Consensus as follows: “**Consensus**” means that, although Parties may not support every aspect, they have reached an agreement that satisfies their major interests and addresses their significant concerns to the extent that all can support it.
5. The Board, with the support of a Hiring Sub-committee, completed the selection of their Independent Chair.
6. Hired Dawn Steele be the formal minute taker for all engagements of the board. The board has also developed a process for handling and storage of the minutes.
7. When there was a crisis with 2020 sockeye escapement and Big Bar uncertainty, some First Nations (FN) decided to go fishing during a Fraser River sockeye closure. A joint letter went out by the FSMB signed by the IC. While this was a positive signal that the FSMB was able to agree and then act upon the situation, the whole process highlighted further issues with process.
8. Created an FSMB/FSMC meeting cycle that outlines activities and timelines prior to and after each meeting. These include tasks / deliverables such as:

- Preliminary agenda circulated to the Board (14 business days prior to each meeting)
  - Comments on preliminary agenda returned (10 business days prior to each meeting)
  - Final agenda and any supporting documentation distributed (5 business days prior to each meeting)
  - Meeting (at the time, date and location adopted during the previous meeting)
  - Distribution of draft minutes (within 10 business days of the meeting)
  - Return comments on draft minutes (within 5 days of receiving the draft minutes)
  - Distribution of final minutes (within 30 business days of the meeting)
  - Distribution of follow-up documentation within 20 business days prior to next meeting
  - Administrative support by FSMC or the IC including reminders to follow-up minutes, and agenda items, actions in timely manner especially in the formative stages
9. On March 9, 2021, the Independent Chair (IC) called for a meeting of the Executive Committee. The meeting was between Andy Thomson, DFO, Regional Director Fisheries Management Branch, and Tina Donald, Acting President of the FSMC MT. Two supports were also invited to the one-hour meeting, Tracy Wimbush, Indigenous Representative, and Cory Jackson, DFO support staff. The parties agreed to the following:
- To reengage with Brenda Gaertner, LLP to run a one-day CMA refresher workshop that would include the FSMC-MT members, FSMC staff, FSMB board members to further clarify roles and responsibilities and to reality check expectations.
  - The FSMC & FSMB FN members undergo a strategic planning and visioning exercise to fully understand, not only duties and obligations, but to take a more strategic approach to implementing the CMA. Areas of interest include:
    - i. Strategic planning and visioning for implementation of CMA
    - ii. Strategic communications and outreach
    - iii. Improved inter-agency relations

- This would be achieved by seeking the services of a consulting firm specializing in Indigenous governance and business.
- That a full cost accounting of the above be developed by FSMC.
- Both parties agreed to increase meeting frequency to provide ongoing direction and follow-up and to increase transparency. This will be achieved by meeting 4 X per year starting with the first meeting, June 18 from 2-3pm and subsequently September, December, March dates and times to be determined.

***NOTE: While the meeting was positive and demonstrated collaborative decision making at a high level several issues with the process were identified and require clarity for the parties to proceed further with engagement with the EC.***

## Independent Chair (IC)

**The role of the IC** - The Chair is responsible for acting as a neutral party to support the FSMB in making consensus decisions and recommendations to the FSMC and DFO on the collaborative management of Fraser Salmon at the migratory route scale, as further laid out in the FSCMA and the annual work plan developed by the FSMB (the “Work Plan”).

The Chair has the following duties and responsibilities:

- working with the FSMB to establish an appropriate process that supports a constructive and respectful meeting environment.
- attending all meetings of the FSMB, which are expected to, but may not always, take place in the Lower Mainland of British Columbia.
- soliciting agenda items prior to each meeting of the FSMB, preparing the meeting agenda, and distributing it with any supporting materials to each member of the FSMB.
- facilitating and mediating discussions of the FSMB with the aim of achieving consensus.
- assisting the FSMB in identifying when it may be appropriate to rely upon any of the options set out in the FSMCA for dispute resolution.
- documenting areas of agreement and disagreement and providing the FSMB and the Executive, upon a matter being referred to the Executive, with a summary of those areas of agreement and disagreement.
- preparing notes from each meeting of the FSMB, circulating them to the members of the FSMB for review within 7 days of the meeting, and finalizing them for the record.
- assisting the FSMB with preparation of a detailed annual report by May 31 of each year as further set out in section 7.1 of the FSCMA.
- those further duties and responsibilities set out in the terms of reference for the Chair required by the FSMCA and contemplated in the 30-Day Tasks (the “Terms of Reference”), as amended from time to time.
- providing written monthly progress reports on FSMB activities to FSMC (with copy to DFO) suitable for sharing with the Signatory Nations.
- such other duties to support the FSMC in providing required administration and support for the FSMB, as set out in the FSCMA, and as agreed by the FSMB; and
- such other duties as established by the FSMB from time to time.

In the nine months of acting as an IC, i.e., June-March I have developed agendas, first alone, then with a voluntary agenda sub-committee consisting of one DFO and one FN rep. I/we have followed all the agenda development procedures and timings. I have had the opportunity to develop two briefing notes as follows:

1. IFMP timing
2. Clarity on the use of the EC

I have also written monthly reports with observations and recommendations which have been distributed as far as the FSMB and ED of the FSMC. To the best of my knowledge these reports have not gone further than that. I have conducted one voluntary mediation dealing with the use of triggering language during FSMB deliberations. The process was successful in that it allowed both sides a chance to clear the air about the use of certain language.

## Joint Technical Committee (JTC)

The Joint Technical Committee (JTC) is comprised of a minimum of two co-chairs, one from DFO and one from FN. Responsibilities include: chairing meetings, setting agendas, and recording of each meeting.

The larger JTC will be comprised of a total of 10 at any time, 5 from each of the parties. The invitation to join the committee shall be extended by the FSMB. Members of the Committee may be removed or replaced by the Board.

The primary purpose of the Committee is to assist the Board in fulfilling its oversight and decision-making responsibilities on specific technical matters which are beyond the scope or expertise of non-technical Board members. The JTC shall inform and advise the FSMB in relation to the development and advancement of advice or recommendations for fisheries management for salmon.

In general (in addition to the responsibilities below), the Committee shall discharge its responsibilities by conducting investigations, analysis, and diligence to validate and test the technical aspects of the FSMB opportunities, risks and threats to any technical work being considered.

The Committee has been meeting 2 X per month, ½ day prior and ½ day post FSMB meetings. In addition to the general statement of responsibilities above, the JTC is responsible for:

- overseeing and reviewing the technical aspects and making recommendations to the Board for consideration.
- periodic consideration of reports on specific salmon related areas of interest, e.g., conservation or hatcheries.
- periodic consideration of technical issues, challenges and risks facing fisheries operations, with a view to giving Management advice about appropriate solutions, actions, and risk mitigations.
- reviewing on an annual basis the challenges and opportunities, risks and mitigations required to be effective and bringing any serious salmon management issues to the attention of the Board.
- on behalf of the Board (but not in replacement of its jurisdiction to review and approve), overseeing the detailed technical aspects of any technical projects, as well as obtaining regular updates from management and science regarding progress and performance.

## The Executive

The purpose of the Executive is to work on a Government-to-government, Nation-to-Nation basis to find solutions and make consensus decisions that support the collaborative governance and management of Fraser salmon as per section 3.3. In the event of a dispute and referred to under section 4.3 the role of the Executive is to meet and engage in good faith discussions and negotiations to reach a mutually acceptable resolution including options for consideration.

On March 9, 2021, the IC requested a meeting with the Executive to try and get things moving in a positive manner. The purpose was to check-in, to update, to reinvigorate the process, and to receive direction on next steps. Also, to the extent possible to provide clear direction to assist the parties overcome challenges including priority areas of investigation and follow-up to get CMA on track.

The following were areas where there remained uncertainty, unresolved issues, or topics that needed to be clarified. The IC was looking for feedback as follows:

1. The issue of mandated authority was challenging to both DFO and First Nations. The primary issue was how mandates are developed between the parties and eventually given to the FSMB for formal discussions and negotiations. The board needs to know when and how they can engage or not. Both DFO and FSMC/FSMB Members need clarity as to their respective mandates and what is their authority and how they receive it.
2. Clarification is required on the process for seeking authority and mandating the FSMB to undertake their work. The parties need to provide direction to the FSMB on how to handle any “joint communication, or media” it should be clear, and able to be responsive for reviewing, editing, and submitting to the greater public including non-signatories.
3. Signatory FNs need a clear understanding of the where and how the different conversations happen and at what scale, e.g., local, regional, sub-regional, watershed wide. More importantly how their issues are eventually brought to the FSMB for deliberation and action.

After the meeting with the Executive more questions on process were raised, e.g., how does the Executive provide the direction and/or mandate to the FSMB as per 3.3 a) (i)? What is the process to enable this to happen?

- What is the process and/or procedures?
- What external considerations must be met? i.e., FSMC AGA, DFO internal review
- What external processes must be completed? i.e., MT Meeting, DFO sign off

As per the FSCMA Schedule “E”, Executive TOR, “Delegates must carry the mandate and authority of his/her organization when dealing with a matter within the purpose of the Executive”. Note that the FSMCA Schedule “F” FSMB TOR, nor Schedule “G” JTC TOR do not contain this language.

At present the FSMC needs to determine the process with the Executive Mandate considering 3.3 a) (i) as there are FSMC by-laws and process that need to be reviewed and confirmed.

## Challenges and Effectiveness

**Mandate process** – One of the key features of the CMA was to offer the Parties process efficiency yet as of March 31, 2021, the pathways by which the FSMB members receive direction from their respective Party (i.e., Member Nations of the FSMC and DFO) is still not 100% clear. Understanding the processes and procedures for mandate development is slowly emerging but this is taking too long. The existing terms of reference for each of the structures does not provide the resolution that each of the parties requires to reach a common understanding.

**IFMP Reform** - Both DFO and First Nations agree that the current IFMP process is a significant source of concern requiring reform. At the workshop back in June 2020 there was talk about restructuring the IFMP to better reflect the spirit and intent of the CMA. From the outset, DFO expressed interest in reforming the IFMP and suggested a starting point might be focused on the Food Social Ceremonial section of the IFMP even suggesting that it be written by First Nations. Unfortunately, without an implementation plan the exercise became focused on scope and cost and process for inclusion, i.e. the regional input process including the non-signatories. The FSMC and the Main Table (MT) continue to work through their regional processes to provide recommendations for reforming the IFMP. Finally, the FSMC conducted a series of regional engagement sessions in March, after that it is not clear if more are planned or not. There was a Fraser Forum on Conservation and Harvest Planning March 2-4 which provided some direction in this regard. There were elements in the 2021 work plan that pertain to the IFMP, much of it technical and long-term focused, not specific enough. To date there has been no concrete steps or actions identified to tackle the 2022 IFMP. The FSMC hosted a series of regional engagement sessions and will seek clarity and direction. It is important that whatever the approach taken to demonstrating progress, that it be collaborative. As of the date of this report there has been no suggestions brought forward on how to demonstrate progress. It remains a tough issue and requires attention recognizing that reform will take time. The question is what can be done now to show progress. FSMC meetings planned will help provide some direction on this important issue. The FN FSMB members work with the MT to decide how best to tackle this issue recognizing that reform will take time. The First Nations Fisheries Council (FNFC) is currently undertaking work to review the IFMP processes and develop recommendations for modernizing the existing approach. Given the broad impact of the IFMPs, including stocks and fisheries outside of the purview of the FSCMA, the

recommendations from this process will need to be considered considering this larger work and could provide a good opportunity for collaboration with the FNFC organization.

**Annual Work Planning** - The FSMB has agreed to an annual work plan, which includes the work of the Joint Technical Committee (JTC). The process of establishing the annual work plan has exposed some process challenges and has created some confusion and frustration amongst the FSMB, JTC, DFO staff, FSMC staff, and representatives. The time to do an annual work plan took many by surprise. The crux of the issue was the lack of process clarity and transparency for DFO and FSMC members to feel comfortable enough to issue mandates for their FSMB members to sign-off on the plan. Work was done and ongoing to help clarify the process. The annual work plan was signed off by March 31 in order to not delay funding flow. Both parties have exchanged decision making matrix or flow charts to help clarify the process for seeking input and final sign-off. The last-minute nature of the sign off, and the total time required were red flags and clear indications of the lack of movement implementing the CMA.

**Signatory and Non-signatory Nations** - Signatory and non-signatory FNs need a clear understanding of where and how the different conversations happen and at what scale, e.g., local, regional, sub-regional, watershed wide. More importantly how their issues are eventually brought to the FSMB for deliberation and action.

**Communication and Outreach** – It has already been identified that Indigenous community members of the CMA have been disappointed at the pace of implementation and the lack of meaningful and transformative change. Communications planning is vital for long-term success and requires a collaborative approach as demonstrated with the 2020 sockeye escapement crisis and First Nations (FN) fisheries during Fraser River closures. At that time a letter went out by the FSMB signed by the IC, but it was last minute and required a lot of unnecessary juggling, in short, the process was clunky and could have been handled better. The whole process highlighted issues in the process that require clarity. The FSMC MT needed to provide oversight which it did not. In the future direction to the FSMB on how to handle any “joint communication, or media” it should be clear, and able to be responsive for reviewing, editing, and submitting to the greater public including non-signatories.

**FSMB FSMC joint Strategic Planning** – The ongoing uncertainty about roles and responsibilities, mandates, and terms of references between the parties and FSMB seems to indicate the need a collaborative and all-inclusive strategic planning session with a professional firm that specializes in structural and collaborative board governance. Also, with strategic communication and outreach. In

addition to or simultaneously run a “refresher” workshop for both FSMB and FSMC MT to empower and steer the ship in a clear direction.

## Summary of Recommendations

- Clarify the processes and procedures for mandate development
- The Parties, and the FSMB, to engage in and support the work underway to update the IFMP process
- Signatory and non-signatory FNs need a clear understanding of where and how the different conversations happen and at what scale, e.g., local, regional, sub-regional, watershed wide. More importantly how their issues are eventually brought to the FSMB for deliberation and action.
- In the future direction to the FSMB on how to handle any “joint communication, or media” it should be clear, and able to be responsive for reviewing, editing, and submitting to the greater public including non-signatories.
- Fund a collaborative and all-inclusive strategic planning session with a professional firm that specializes in structural and collaborative board governance. Also, with strategic communication and outreach.
- Run a “refresher” workshop for both FSMB and FSMC MT to empower and steer the ship in a clear direction.