

Chapter 13: Fisheries

Part 13.1 Definitions

13.1.1 In this chapter:

"Aquaculture Facility" means a place on land or in water where Aquaculture is carried on and includes all gear, equipment and structures related to Aquaculture located at that place;

"Commercial Fishing Licence" includes experimental and exploratory licences;

"Conservation" means the management of Fish, Aquatic Plants and Fish Habitat, including the management of human activities in relation to them, to foster Sustainable Utilization and maintenance of natural populations, biodiversity and ecological processes;

"Inuit Domestic Harvest Level" means the quantity of a species or stock of Fish or Aquatic Plant established in accordance with part 13.6;

"Sustainable Utilization" means the use and management of Fish, Aquatic Plants and Fish Habitat in a manner that does not impair their natural viability in order that the needs of the present may be met without compromising the ability of future generations to meet their needs;

"Total Allowable Catch" means the total quantity of a species or stock of Fish that may be Harvested, as established by the Minister; and

"Total Allowable Harvest" means the total quantity of a species of Aquatic Plant that may be Harvested, as established by the Minister.

Part 13.2 General

13.2.1 Conservation is a priority in decision-making that relates to or affects Fish, Aquatic Plants or fisheries in the Labrador Inuit Settlement Area.

13.2.2 Information relevant to the Conservation and management of Fish, Aquatic Plants, fisheries or Fish Habitat in the Labrador Inuit Settlement Area shall be shared and exchanged in a timely manner among the Minister, the Torngat Joint Fisheries Board and the Nunatsiavut Government upon the request of any of them.

Part 13.3 Emergencies

13.3.1 Nothing in this chapter shall be construed to prevent an individual from killing a Fish for survival in an emergency.

- 13.3.2 An individual who kills a Fish under section 13.3.1 may use that Fish for personal use and consumption only.
- 13.3.3 Section 13.3.1 shall not be construed as providing lawful excuse under a Law of General Application to a Person who kills a Fish as a result of negligence, mismanagement or wilful misconduct.

Part 13.4 Inuit Domestic Fishery

- 13.4.1 Inuit have the right to Harvest in accordance with this chapter, at all times of the year and throughout the Labrador Inuit Settlement Area, any species or stock of Fish or Aquatic Plant for which no Inuit Domestic Harvest Level is established up to the quantity needed for their food, social and ceremonial purposes.
- 13.4.2 If an Inuit Domestic Harvest Level is established for a species or stock of Fish or Aquatic Plant, an Inuk has the right to Harvest in accordance with this chapter, at all times of the year and throughout the Labrador Inuit Settlement Area, that species or stock of Fish or Aquatic Plant for food, social and ceremonial purposes up to the quantity specified in the documentation provided by the Nunatsiavut Government under section 13.9.8.
- 13.4.3 Any Person Harvesting under section 13.4.1, 13.4.2 or 13.4.11 may use any humane method or technology to Harvest Fish and may possess and use any equipment for that purpose.
- 13.4.4 For purposes of section 13.4.3, a method or technology used to Harvest Fish is humane if it was permissible under Laws of General Application in effect on August 1st, 1999, except as otherwise provided in Legislation implementing an International Agreement respecting the Harvesting of Fish.
- 13.4.5 Any Person Harvesting under section 13.4.1, 13.4.2 or 13.4.11 has a right of access to all lands and waters in the Labrador Inuit Settlement Area, in accordance with sections 12.13.1 and 12.13.2 and subject to sections 12.13.3 and 12.13.4.
- 13.4.6 The individual and collective rights of Inuit set out in this part are subject to management by the Nunatsiavut Government, which shall avoid unnecessary interference with the exercise of those rights.
- 13.4.7 No Person may sell Fish or Aquatic Plants Harvested under section 13.4.1, 13.4.2 or 13.4.11 except the non-edible products from Fish.
- 13.4.8 Inuit have the right to give to other aboriginal individuals and to trade, exchange or barter among themselves, and with other aboriginal individuals, any Fish or Aquatic Plant Harvested under section 13.4.1, 13.4.2 or 13.4.11.
- 13.4.9 Inuit have the right to transport outside the Labrador Inuit Settlement Area to Inuit or other aboriginal individuals any Fish or Aquatic Plant Harvested under section

13.4.1, 13.4.2 or 13.4.11, on condition that the Fish or Aquatic Plant so transported is identified as having been Harvested in the Inuit Domestic Fishery.

13.4.10 Notwithstanding section 13.4.9, an Inuk may be required by the Minister or the Nunatsiavut Government to obtain a permit to transport any Fish or Aquatic Plant outside the Labrador Inuit Settlement Area, but:

- (a) the permit shall be issued upon request unless good cause exists for refusing to issue the permit;
- (b) the permit shall contain terms and conditions established under Laws of General Application; and
- (c) any fee for the permit shall be waived.

13.4.11 An Inuk may transfer a right to Harvest under section 13.4.1 or 13.4.2 to:

- (a) that Inuk's spouse;
- (b) that Inuk's parent or child;
- (c) an individual to whom that Inuk stands in the position of a parent;
- (d) an individual who stands in the position of a parent to that Inuk;
- (e) another Inuk; or
- (f) another aboriginal individual.

13.4.12 An individual in possession of the documentation referred to in section 13.9.8 or 13.9.9 does not need any form of permit or licence to exercise the rights referred to in section 13.4.2 or 13.4.11. This section does not restrict Canada's authority to require licences for the use and possession of firearms under federal Law on the same basis as applies to other aboriginal people of Canada.

13.4.13 No fee may be imposed on an individual Harvesting under section 13.4.1, 13.4.2 or 13.4.11.

Part 13.5 Limitations on the Inuit Domestic Fishery

13.5.1 The exercise by an individual of rights in the Inuit Domestic Fishery is subject only to:

- (a) Inuit Laws;
- (b) Laws of General Application in relation to Conservation, public health or public safety, including Legislation related to firearms control; and

- (c) measures in relation to Conservation, public health or public safety, established by the Minister under Legislation.
- 13.5.2 Subject to section 13.5.4, before establishing a measure referred to in subsection 13.5.1(c) that directly affects the Inuit Domestic Fishery, the Minister shall Consult the Nunatsiavut Government for the purpose of attempting to reach agreement on measures that the Nunatsiavut Government could take to effect the same purpose. If, failing agreement, the Minister establishes any measure that limits the Inuit Domestic Fishery, the Minister shall give to the Nunatsiavut Government the reasons, in writing, for any measures that have been established.
- 13.5.3 The Consultation referred to in section 13.5.2 may be terminated by the Minister 60 clear days from the date that Consultation is initiated if, in that time, the Consultation has failed to result in agreement.
- 13.5.4 If Consultation under section 13.5.2 is not practicable because of an emergency, the Minister shall, within seven clear days from the date of the establishment of a measure referred to in subsection 13.5.1(c), notify the Nunatsiavut Government of the measure that has been established and seek the advice and views of the Nunatsiavut Government as soon as practicable thereafter.

Part 13.6 Inuit Domestic Harvest Level

- 13.6.1 The Inuit Domestic Harvest Level is intended for the protection of the Inuit Domestic Fishery and is a basis for management of Harvesting of the species or stock of Fish or Aquatic Plant to which it relates.
- 13.6.2 The Inuit Domestic Harvest Level constitutes a first demand against a Total Allowable Catch or Total Allowable Harvest, in accordance with this chapter.
- 13.6.3 For each species or stock of Fish or Aquatic Plant in the Labrador Inuit Settlement Area for which a Total Allowable Catch or Total Allowable Harvest is established, the Minister shall establish an Inuit Domestic Harvest Level for the food, social and ceremonial purposes of Inuit in relation to that species or stock of Fish or Aquatic Plant.
- 13.6.4 The Nunatsiavut Government may make a recommendation for the Inuit Domestic Harvest Level for a species or stock of Fish or Aquatic Plant to the Minister or the Minister may request such a recommendation.
- 13.6.5 Subject to sections 13.6.7 and 13.6.8, the Minister shall establish the Inuit Domestic Harvest Level recommended by the Nunatsiavut Government.
- 13.6.6 The Inuit Domestic Harvest Level is an estimate of the quantity of a species or stock of Fish or Aquatic Plant in the Labrador Inuit Settlement Area needed annually by Inuit for their food, social and ceremonial purposes that is based on all relevant available information, including:

- (a) any data that may be compiled on an ongoing basis by the Nunatsiavut Government using Inuit traditional knowledge;
- (b) any data that may be compiled on an ongoing basis by Inuit Government during monitoring of the Inuit Domestic Fishery;
- (c) historical data;
- (d) information on variations in the availability and accessibility of the species or stock of Fish or Aquatic Plant; and
- (e) information that may be provided by the Nunatsiavut Government about the nutritional, social and ceremonial importance of the species or stock of Fish or Aquatic Plant to Inuit.

- 13.6.7 If the Minister determines that a recommendation referred to in section 13.6.4 is not supported by the information referred to in section 13.6.6, the Minister shall provide the Nunatsiavut Government with the determination and the reasons for the determination, and the Nunatsiavut Government may, within 30 clear days or any other time agreed upon with the Minister, make a second recommendation for the Inuit Domestic Harvest Level to the Minister.
- 13.6.8 If the Minister determines that a second recommendation referred to in section 13.6.7 is not supported by the information referred to in section 13.6.6, the Minister may, after Consulting the Nunatsiavut Government for the purpose of attempting to reach agreement on the Inuit Domestic Harvest Level, establish an Inuit Domestic Harvest Level that differs from the Inuit Domestic Harvest Level recommended by the Nunatsiavut Government.
- 13.6.9 The Consultation referred to in section 13.6.8 may be terminated by the Minister 30 clear days from the date that Consultation is initiated if, in that time, the Consultation has failed to result in agreement.
- 13.6.10 If, after having been requested to make a recommendation under section 13.6.4, the Nunatsiavut Government fails to do so, the Minister may establish the Inuit Domestic Harvest Level for a species or stock of Fish or Aquatic Plant after Consulting the Nunatsiavut Government for the purpose of attempting to reach agreement on the Inuit Domestic Harvest Level.
- 13.6.11 The Consultation referred to in section 13.6.10 may be terminated by the Minister 30 clear days from the date that Consultation is initiated if, in that time, the Consultation has failed to result in agreement.
- 13.6.12 The obligations and discretions referred to in section 13.6.5 and sections 13.6.7 through 13.6.11 may not be delegated by the Minister to a public servant below the level of Regional Director General.

- 13.6.13 The Minister shall give notice to the Nunatsiavut Government and the Torngat Joint Fisheries Board of any decision that the Minister makes concerning an Inuit Domestic Harvest Level.
- 13.6.14 If, for a species or stock of Fish or Aquatic Plant in the Labrador Inuit Settlement Area for which a Total Allowable Catch or Total Allowable Harvest is established, the Total Allowable Catch or Total Allowable Harvest is less than the Inuit Domestic Harvest Level, all Recreational Fishing, commercial fisheries and Harvesting of Fish and Aquatic Plants by Persons other than Inuit and an aboriginal people referred to in section 13.6.16 in the Labrador Inuit Settlement Area directed at that species or stock of Fish or Aquatic Plant shall be closed and, subject to section 13.6.16, the Minister shall allocate the Total Allowable Catch or Total Allowable Harvest to Inuit.
- 13.6.15 If, after a Total Allowable Catch or Total Allowable Harvest has been established for a species or stock of Fish or Aquatic Plant in the Labrador Inuit Settlement Area, the Minister reduces that Total Allowable Catch or Total Allowable Harvest for a period of time to a quantity that is less than the Inuit Domestic Harvest Level, all Recreational Fishing, commercial fisheries and Harvesting of Fish and Aquatic Plants by Persons other than Inuit and an aboriginal people referred to in section 13.6.16 in the Labrador Inuit Settlement Area directed at that species or stock of Fish or Aquatic Plant shall be closed for that period and, subject to section 13.6.16, the Minister shall allocate the Total Allowable Catch or Total Allowable Harvest to Inuit.
- 13.6.16 If an aboriginal people of Canada, other than Inuit, has an aboriginal or treaty right in the Labrador Inuit Settlement Area with respect to a species or stock of Fish or Aquatic Plant to which section 13.6.14 or 13.6.15 applies, the Minister shall, prior to making any allocation of that species or stock of Fish or Aquatic Plant, Consult the Nunatsiavut Government and determine an equitable allocation of the Total Allowable Catch or Total Allowable Harvest for Inuit.

Part 13.7 Customary Fishing Areas

- 13.7.1 To protect the Inuit Domestic Fishery and facilitate Harvesting in the Inuit Domestic Fishery the Minister shall, after considering the recommendations of the Nunatsiavut Government respecting fishing areas that are of customary or traditional importance to Inuit, establish such areas in the Zone and the fisheries management measures applicable in such areas.
- 13.7.2 The fisheries management measures applicable in a Customary Fishing Area may, where appropriate, identify parts of the Customary Fishing Area where specified species or stocks of Fish or Aquatic Plant may be Harvested solely by Inuit and place restrictions or limitations on fisheries other than the Inuit Domestic Fishery, including:
- (a) restrictions on type of equipment, including vessel size;

- (b) limitations on when Harvesting may be conducted; and
 - (c) limitations on the species or stocks of Fish or Aquatic Plant that may be Harvested.
- 13.7.3 The Minister shall give the reasons, in writing, to the Nunatsiavut Government if the Minister does not accept its recommendations concerning a Customary Fishing Area.
- 13.7.4 The Minister may change the boundaries of, or disestablish, a Customary Fishing Area or may amend the fisheries management measures applicable in a Customary Fishing Area.
- 13.7.5 Subject to section 13.7.6, before deciding to change the boundaries of, or disestablish, a Customary Fishing Area or before deciding to amend the fisheries management measures applicable in a Customary Fishing Area, the Minister shall Consult the Nunatsiavut Government and shall inform the Nunatsiavut Government in writing of the decision.
- 13.7.6 If Consultation under section 13.7.5 is not practicable because of an emergency, the Minister shall, within seven clear days from the date of a decision referred to in section 13.7.5, notify the Nunatsiavut Government of the decision and seek the advice and views of the Nunatsiavut Government as soon as practicable thereafter.
- 13.7.7 The Minister shall give notice to the Torngat Joint Fisheries Board of any decision that the Minister makes under this part.

Part 13.8 Times and Places for the Inuit Domestic Fishery

- 13.8.1 If the Nunatsiavut Government recommends times and places for the Inuit Domestic Fishery, the Minister shall either establish the recommended times and places or, after Consulting the Nunatsiavut Government for the purpose of attempting to reach agreement on those times and places, establish times and places that differ from those recommended by the Nunatsiavut Government. The Minister shall give to the Nunatsiavut Government, on a timely basis, the reasons, in writing, if the Minister establishes times and places that differ from those recommended by the Nunatsiavut Government unless agreement on times and places has been achieved through Consultation.
- 13.8.2 If, after having been requested to make a recommendation for times and places for the Inuit Domestic Fishery, the Nunatsiavut Government fails to do so, the Minister may establish the times and places after Consulting the Nunatsiavut Government for the purpose of attempting to reach agreement on the times and places.
- 13.8.3 The Consultation referred to in sections 13.8.1 and 13.8.2 may be terminated by the Minister 30 clear days from the date that Consultation is initiated if, in that time, the Consultation has failed to result in agreement.

Part 13.9 Nunatsiavut Government Powers and Authorities

13.9.1 The Nunatsiavut Government may make laws in relation to the following matters:

- (a) the management of the Inuit Domestic Fishery subject to section 13.4.6 and decisions of the Minister under sections 13.6.3, 13.6.14 and 13.6.15 and measures established by the Minister under sections 13.7.1, 13.7.4, 13.8.1 and 13.8.2;
- (b) the management of Aquaculture in waters overlying Labrador Inuit Lands;
- (c) subject to section 13.9.10, the determination of who may:
 - (i) Harvest Fish under the Commercial Fishing Licences and the Recreational Fishing opportunities;
 - (ii) operate pursuant to the Aquaculture licences; and
 - (iii) carry out the processing under the Fish processing licences, issued to the Nunatsiavut Government under part 13.12;
- (d) subject to section 12.10.1, the determination of who may Harvest Fish in Waters overlying Labrador Inuit Lands;
- (e) subject to section 12.10.1, the management of access to or use of Labrador Inuit Lands for purposes of Harvesting of Fish; and
- (f) the management of the transfer of opportunities to Harvest Fish under section 13.4.11.

13.9.2 If there is a Conflict between an Inuit Law under section 13.9.1 and

- (a) a federal Law of General Application related to Conservation;
- (b) a Law of General Application related to public health or public safety; or
- (c) a measure in relation to Conservation, public health or public safety established by the Minister under a Law of General Application and in accordance with section 13.5.2,

the Law of General Application or measure prevails to the extent of the Conflict.

13.9.3 Except as provided in section 13.9.2, if there is a Conflict or inconsistency between an Inuit Law under section 13.9.1, and a federal or Provincial Law, the Inuit Law prevails to the extent of the Conflict or inconsistency.

13.9.4 Subject to this chapter, the Nunatsiavut Government may:

- (a) recommend the Inuit Domestic Harvest Level to the Minister;
 - (b) recommend the location and boundaries of Customary Fishing Areas, and the fisheries management measures applicable therein, to the Minister; and
 - (c) recommend times and places for the Inuit Domestic Fishery to the Minister.
- 13.9.5 The Nunatsiavut Government shall make its recommendations under section 13.9.4 to the Minister in writing and shall, at the request of the Minister, provide all supporting information.
- 13.9.6 The Nunatsiavut Government shall, in making a recommendation for the establishment of a Customary Fishing Area, provide its reasons for considering the area to be of customary or traditional importance to Inuit.
- 13.9.7 The Nunatsiavut Government shall inform the Torngat Joint Fisheries Board of its recommendations to the Minister and shall inform the Minister and the Torngat Joint Fisheries Board in a timely manner of the measures it proposes taking to manage the Inuit Domestic Fishery.
- 13.9.8 Where an Inuit Domestic Harvest Level is established, the Nunatsiavut Government shall provide to each Inuk who has a right to participate in the Inuit Domestic Fishery and has been allocated a portion of the Inuit Domestic Harvest Level by the Nunatsiavut Government, documentation that specifies the species or stock of Fish or Aquatic Plant that may be Harvested and the quantity that may be Harvested by that Inuk.
- 13.9.9 The Nunatsiavut Government shall provide to each individual to whom an opportunity to Harvest has been transferred under section 13.4.11 documentation specifying that the individual is authorized to participate for a specified period of time in the Inuit Domestic Fishery, the name of the transferor and, where an Inuit Domestic Harvest Level is established and the transferor has been allocated a portion of the Inuit Domestic Harvest Level by the Nunatsiavut Government, the species or stock of Fish or Aquatic Plant that may be Harvested and the quantity that may be Harvested.
- 13.9.10 The Nunatsiavut Government shall not authorize any Non-Beneficiary to Harvest or operate under a Commercial Fishing Licence, Fish processing licence or Aquaculture licence issued to the Nunatsiavut Government if that Person is not eligible to be issued a similar licence by the Minister.
- 13.9.11 Where the Inuit Domestic Harvest Level exceeds the Total Allowable Catch or Total Allowable Harvest, or the portion of the Total Allowable Catch or Total Allowable Harvest allocated for Inuit under section 13.6.14 or 13.6.15, the Nunatsiavut Government shall not allocate that excess.

Part 13.10 Torngat Joint Fisheries Board

- 13.10.1 On the Effective Date, there shall be established a public body known as the Torngat Joint Fisheries Board.
- 13.10.2 The Torngat Joint Fisheries Board shall consist of seven members, including the chairperson, to be appointed as follows:
- (a) the chairperson shall be nominated by the members referred to in subsections (b), (c) and (d) and appointed by the federal Minister;
 - (b) three members shall be appointed by the Nunatsiavut Government;
 - (c) two members shall be appointed by the federal Minister; and
 - (d) one member shall be appointed by the Province.
- 13.10.3 If the members of the Torngat Joint Fisheries Board referred to in subsections 13.10.2(b), 13.10.2(c) and 13.10.2(d) fail to agree on the nomination of the chairperson within 60 clear days from the commencement of discussions, the appointment shall be made by the Chief Justice.
- 13.10.4 For purposes of section 13.10.3, discussions shall be deemed to have commenced when all members of the Torngat Joint Fisheries Board referred to in subsections 13.10.2(b), 13.10.2(c) and 13.10.2(d) have been first appointed and thereafter:
- (a) 90 clear days prior to the expiration of the term of office of an incumbent chairperson; or
 - (b) on the date of receipt by the Torngat Joint Fisheries Board of notice of the death, resignation or termination of appointment of the incumbent chairperson.
- 13.10.5 Each member of the Torngat Joint Fisheries Board:
- (a) shall be appointed for a term of four years;
 - (b) may be reappointed to office;
 - (c) shall, before assuming office, take and subscribe an oath in the form set out in schedule 13-A before an officer authorized by Law to administer oaths; and
 - (d) shall be subject to such rules relating to conflict of interest as may be agreed among the Parties from time to time but no member shall be considered to be in a position of conflict of interest or to be biased solely because the member is an Inuk or a public servant.

- 13.10.6 The chairperson may be removed from office for cause at any time by the federal Minister.
- 13.10.7 A member of the Torngat Joint Fisheries Board other than the chairperson may be removed from office for cause at any time by the Government that appointed the member.
- 13.10.8 No member of the Torngat Joint Fisheries Board shall be a delegate of the Government that appointed the member.
- 13.10.9 Subject to section 13.10.20, each member of the Torngat Joint Fisheries Board has the right to participate fully in all deliberations and decisions of the Torngat Joint Fisheries Board.
- 13.10.10 A vacancy in the membership of the Torngat Joint Fisheries Board, excluding the chairperson, shall be filled within 30 clear days by a replacement member appointed by the Government that made the original appointment. A vacancy in the position of the chairperson shall be filled in the manner set out in subsection 13.10.2(a) and section 13.10.3.
- 13.10.11 A quorum of the Torngat Joint Fisheries Board shall be the chairperson, two members appointed by the Nunatsiavut Government and one member appointed by each of the federal Minister and the Province.
- 13.10.12 The Torngat Joint Fisheries Board may hire the employees necessary for the conduct of its business.
- 13.10.13 The Parties shall review and approve the annual budget of the Torngat Joint Fisheries Board.
- 13.10.14 The Parties shall determine the level of compensation to be paid to members of the Torngat Joint Fisheries Board.
- 13.10.15 The Parties may, by agreement, accommodate other aboriginal people of Canada on the Torngat Joint Fisheries Board.
- 13.10.16 The Parties may identify substitutes to attend meetings of the Torngat Joint Fisheries Board if members are unable to attend.
- 13.10.17 The Parties shall negotiate the funding of the operations of the Torngat Joint Fisheries Board as part of the Implementation Plan.
- 13.10.18 Subject to section 13.10.19, all decisions of the Torngat Joint Fisheries Board shall be by consensus of the members.
- 13.10.19 If, in the opinion of the chairperson, a decision of the Torngat Joint Fisheries Board cannot be decided by consensus after reasonable efforts have been made to achieve consensus, the chairperson may declare that the decision shall be decided by a vote in accordance with section 13.10.20.

- 13.10.20 If a decision of the Torngat Joint Fisheries Board is decided by vote, the decision shall be decided by a majority of votes cast and the chairperson shall vote only in order to break a tie. In the event of a decision by vote, a member in the minority may file a report that shall be appended to the decision.
- 13.10.21 The Governments may have non-voting advisors or observers attend meetings of the Torngat Joint Fisheries Board. The costs of each advisor or observer shall be paid by the Government sending that individual.
- 13.10.22 The Torngat Joint Fisheries Board shall conduct its business in Inuktitut and in one of Canada's official languages but the Nunatsiavut Government may, from time to time, waive the requirement that business be conducted in Inuktitut.
- 13.10.23 Inuit may use Inuktitut in all their dealings with the Torngat Joint Fisheries Board.
- 13.10.24 All resolutions, decisions, rules, recommendations and advice of the Torngat Joint Fisheries Board shall be made available in Inuktitut.
- 13.10.25 The obligations of the Torngat Joint Fisheries Board under sections 13.10.22, 13.10.23 and 13.10.24 may be met through interpretation and translation.
- 13.10.26 Communication from the Torngat Joint Fisheries Board:
- (a) to Canada shall be in one of Canada's official languages;
 - (b) to the Province shall be in English; and
 - (c) to the Nunatsiavut Government shall be in English and, at the request of the Nunatsiavut Government, in Inuktitut.
- 13.10.27 The Torngat Joint Fisheries Board may make rules respecting the management of its internal affairs and the conduct of its business.

Part 13.11 Powers and Responsibilities of the Torngat Joint Fisheries Board

- 13.11.1 The Torngat Joint Fisheries Board shall make recommendations to the Minister in relation to:
- (a) the Conservation of species or stocks of Fish in the Labrador Inuit Settlement Area listed in schedules 13-B and 13-C, species of Aquatic Plants in the Labrador Inuit Settlement Area and Fish Habitat in the Labrador Inuit Settlement Area; and
 - (b) the management of fisheries in the Labrador Inuit Settlement Area, other than the Inuit Domestic Fishery and the Inuit Domestic Harvest Level, with respect to a species or stock of Fish listed in schedules 13-B and 13-C,
- and shall be the primary body making such recommendations.

- 13.11.2 The recommendations referred to in section 13.11.1 may include recommendations respecting:
- (a) waters within which Harvesting is to be carried out;
 - (b) the establishment of Total Allowable Catches, Total Allowable Harvests and allocations to the Labrador Inuit Settlement Area;
 - (c) the attachment of catch controls, such as quotas, to licences to fish;
 - (d) the attachment of fishing effort controls, such as vessel size and gear restrictions, to licences to fish;
 - (e) the management of non-aboriginal food fisheries;
 - (f) the management of Recreational Fishing, including the establishment and variation of quotas of Fish that may be taken for Recreational Fishing purposes from a river or watershed or from a Sports Fish Camp;
 - (g) the criteria and conditions for issuance of licences to transport Fish to, from and in the Labrador Inuit Settlement Area; and
 - (h) the criteria for issuance of Commercial Fishing Licences and licences for the commercial processing of Fish, which may include:
 - (i) traditional participation in the fishery, adjacency and residency requirements;
 - (ii) socio-economic needs; and
 - (iii) economic viability.
- 13.11.3 The Torngat Joint Fisheries Board may make recommendations to the Minister on:
- (a) the exercise of licensing responsibilities by authorities other than the Minister;
 - (b) standards and requirements for the professional certification of Harvesters engaged in commercial fisheries in the Zone;
 - (c) the use, management and maintenance of fishing or recreational harbours in the Labrador Inuit Settlement Area;
 - (d) plans for the Conservation and management of particular Fish Habitats in the Labrador Inuit Settlement Area;
 - (e) the Harvesting of Aquatic Plants in the Labrador Inuit Settlement Area; and
 - (f) Aquaculture in the Labrador Inuit Settlement Area.

- 13.11.4 The Torngat Joint Fisheries Board may:
- (a) collect the data necessary to formulate its recommendations;
 - (b) subject to chapter 11, participate in Environmental Assessment processes and recommend to the Minister and the Nunatsiavut Government measures to monitor impacts of Projects and Undertakings on Fish, Aquatic Plants and Fish Habitat;
 - (c) if approved by the Minister and the Nunatsiavut Government, implement measures to monitor impacts of Projects and Undertakings on Fish, Aquatic Plants and Fish Habitat;
 - (d) conduct studies and research and undertake public education and awareness programs; and
 - (e) advise the Minister on any matter that relates to any species or stock of Fish or Aquatic Plant, Fish Habitat or fishery in the Labrador Inuit Settlement Area and, through advisory processes established by the Minister, the Conservation and management of Fish in Waters Adjacent to the Zone.
- 13.11.5 At the request of either the Minister or the Nunatsiavut Government, whichever has jurisdiction with respect to the particular matter, and subject to funding specially provided by the Government making the request, the Torngat Joint Fisheries Board may perform any function that relates to any species or stock of Fish or Aquatic Plant, Fish Habitat or fishery in the Labrador Inuit Settlement Area, including:
- (a) functions related to fisheries management measures such as monitoring catch and quotas, exercising co-operative enforcement responsibilities and assisting in the resolution of fishing gear conflicts;
 - (b) functions related to the use, management and maintenance of fishing or recreational harbours; and
 - (c) functions related to Aquaculture, including the issuance of Aquaculture licences.
- 13.11.6 The Torngat Joint Fisheries Board shall make its recommendations to the Minister in writing and shall, at the request of the Minister, include all supporting information.
- 13.11.7 Before making a recommendation that might affect the Inuit Domestic Fishery, the Torngat Joint Fisheries Board shall Consult the Nunatsiavut Government. The Torngat Joint Fisheries Board shall provide the reasons, in writing, to the Nunatsiavut Government if the Torngat Joint Fisheries Board does not accept its advice. The Torngat Joint Fisheries Board shall advise the Minister of the results of the Consultation.

- 13.11.8 The Minister shall notify the Torngat Joint Fisheries Board, in writing, of the Minister's decision with respect to any recommendation the Torngat Joint Fisheries Board makes under sections 13.11.1 and 13.11.3 and shall give timely written reasons to the Torngat Joint Fisheries Board if the Minister does not accept its recommendation.
- 13.11.9 The Minister shall Consult the Torngat Joint Fisheries Board prior to establishing special initiatives or programs that relate to any species or stock of Fish or Aquatic Plant, Fish Habitat or fisheries in the Labrador Inuit Settlement Area, including licence retirement and emergency response programs.
- 13.11.10 The Minister shall Consult the Torngat Joint Fisheries Board before making any decision to remove or change any of the limited entry criteria applicable to participation in commercial fisheries in the Labrador Inuit Settlement Area directed at a species or stock of Fish listed in schedule 13-B that are in effect on the Effective Date.
- 13.11.11 The Minister shall Consult the Torngat Joint Fisheries Board before issuing any Aquaculture licence for a site in the Labrador Inuit Settlement Area.

Part 13.12 Commercial Harvesting

- 13.12.1 If in any calendar year after the Effective Date the Minister decides to issue more Commercial Fishing Licences to fish in the Labrador Inuit Settlement Area for a species or stock of Fish listed in schedule 13-B than the number available for issuance in the year of the Agreement, the Minister, when issuing those additional licences, shall take into account the following criteria:
- (a) residency in the Labrador Inuit Settlement Area;
 - (b) adjacency to the Zone; and
 - (c) individual historical attachment to the commercial fishery of that species or stock in the Labrador Inuit Settlement Area.
- 13.12.2 Subject to section 13.12.9, if in any calendar year after the Effective Date the Minister decides to issue more Commercial Fishing Licences to fish in the Labrador Inuit Settlement Area for a species or stock of Fish listed in schedule 13-B than the number available for issuance in the year of the Agreement, the Minister shall offer to issue 70 percent of the additional licences to the Nunatsiavut Government.
- 13.12.3 Subject to section 13.12.9, if in any calendar year after the Effective Date the Minister decides to issue more Commercial Fishing Licences to fish in the Labrador Inuit Settlement Area for a species or stock of Fish listed in schedule 13-C than the number available for issuance in the year of the Agreement, the Minister shall offer to issue 60 percent of the additional licences to the Nunatsiavut Government.

- 13.12.4 Subject to section 13.12.9, if in any calendar year after the Effective Date the Minister decides to issue more Commercial Fishing Licences to fish in Waters Adjacent to the Zone for a species or stock of Fish listed in schedule 13-D than the number available for issuance in the year of the Agreement, the Minister shall offer to issue 20 percent of the additional licences to the Nunatsiavut Government.
- 13.12.5 Subject to section 13.12.9, if after the Effective Date the Minister decides to issue Commercial Fishing Licences to fish in the Labrador Inuit Settlement Area for a species or stock of Fish listed in schedule 13-C that was not subject to commercial licensing on the Effective Date, the Minister shall offer to issue 60 percent of the licences to the Nunatsiavut Government.
- 13.12.6 Subject to section 13.12.9, if after the Effective Date the Minister decides to issue Commercial Fishing Licences to fish in Waters Adjacent to the Zone for a species or stock of Fish listed in schedule 13-D that was not subject to commercial licensing on the Effective Date, the Minister shall offer to issue 20 percent of the licences to the Nunatsiavut Government.
- 13.12.7 If in any calendar year after the Effective Date the Minister decides to issue more Commercial Fishing Licences to fish for shrimp in Waters Adjacent to the Zone than the number available for issuance in the year of the Agreement, the Minister shall offer access to the Nunatsiavut Government through an additional Commercial Fishing Licence issued to the Nunatsiavut Government or by some other means to 11 percent of the quantity available to be Harvested under those licences.
- 13.12.8 Subject to section 13.12.9, if after the Effective Date the Minister decides to issue commercial licences to Harvest in the Labrador Inuit Settlement Area an Aquatic Plant that was not subject to commercial licensing on the Effective Date, the Minister shall offer to issue 60 percent of the licences to the Nunatsiavut Government.
- 13.12.9 If the system for allocating commercial opportunities in relation to a species or stock of Fish or Aquatic Plant changes from the system existing on the Effective Date, the Minister shall offer to the Nunatsiavut Government participation under the new system that is at least as favourable as that set out under sections 13.12.2 through 13.12.8 in relation to that species or stock of Fish or Aquatic Plant.
- 13.12.10 Nothing in this part prevents the Minister from continuing to issue Commercial Fishing Licences available for issuance on the Effective Date.
- 13.12.11 After Consulting the Torngat Joint Fisheries Board and the owners or operators of Sports Fish Camps existing in the Labrador Inuit Settlement Area on the Effective Date, the Minister shall establish and cap:
- (a) the total amount of a species of Fish that may be taken annually at or from those Sports Fish Camps; and

- (b) the amount of a species of Fish that may be taken annually at or from each such Sports Fish Camp.
- 13.12.12 The amount of a species of Fish established under subsection 13.12.11(b) shall not be transferred to a third party separately from a transfer of the Sports Fish Camp.
- 13.12.13 If the total amount of a species of Fish available for Sports Fish Camps in the Labrador Inuit Settlement Area exceeds the number established under subsection 13.12.11(a), the Minister shall make an allocation to the Nunatsiavut Government on a priority basis for the purpose of supporting the establishment and continued operation of Sports Fish Camps owned by Inuit Businesses.
- 13.12.14 If a commercial fishery in the Labrador Inuit Settlement Area for a species or stock of Fish listed in schedule 13-B or 13-C is closed for an indefinite period but Recreational Fishing with respect to that species or stock remains open in the Labrador Inuit Settlement Area, the Minister shall offer to the Nunatsiavut Government 80 percent of all commercial Recreational Fishing opportunities in the Labrador Inuit Settlement Area with respect to that species or stock that are surplus to the number established under subsection 13.12.11(a).
- 13.12.15 Any Fish that are surplus to the numbers established under subsection 13.12.11(a) and section 13.12.13 and, when applicable, section 13.12.14 may be allocated by the Minister at the Minister's discretion.
- 13.12.16 The Nunatsiavut Government has a right of first refusal to establish any Aquaculture Facility in the Labrador Inuit Settlement Area outside Labrador Inuit Lands and, upon approval of the Minister, to obtain the Aquaculture licences necessary to establish such Aquaculture Facility.
- 13.12.17 The exercise of the right of first refusal referred to in section 13.12.16 is governed by schedule 13-E.
- 13.12.18 If the Nunatsiavut Government does not exercise its right of first refusal under section 13.12.16, or if the right of first refusal is exercised and the Nunatsiavut Government fails, without just cause, to establish an Aquaculture Facility within two years of notifying the Minister of its intention to exercise the right of first refusal pursuant to paragraph 3 of schedule 13-E, the Minister may declare that the right of first refusal of the Nunatsiavut Government has lapsed and the opportunity to establish an Aquaculture Facility may then be made available in accordance with paragraph 9 of schedule 13-E.
- 13.12.19 The Province shall Consult the Nunatsiavut Government prior to making any decision to privatize or decommission any publicly-owned Fish plant or Fish processing facility in the Labrador Inuit Settlement Area.
- 13.12.20 If the Province decides to privatize or decommission any publicly-owned Fish plant or Fish processing facility in the Labrador Inuit Settlement Area, the Nunatsiavut Government shall have a right of first refusal to acquire the Fish plant or Fish

processing facility for the sum of \$1.00 and, upon approval of the Minister, to obtain the necessary licences therefor.

- 13.12.21 If in any calendar year after the Effective Date the Minister decides to issue more licences for land-based Fish processing capacity in the Labrador Inuit Settlement Area than the number available for issuance in the year of the Agreement or to otherwise increase the processing capacity existing on the Effective Date, the Minister shall offer to issue 70 percent of the additional licences or processing capacity to the Nunatsiavut Government.
- 13.12.22 For greater certainty:
- (a) nothing in this part affects section 13.6.2; and
 - (b) nothing in the Agreement prevents Inuit from acquiring additional commercial fishing opportunities or Recreational Fishing opportunities or establishing additional Aquaculture Facilities through the processes applicable to all Persons.
- 13.12.23 Without limiting the authority of the Nunatsiavut Government under subsection 13.9.1(c), all licences issued to the Nunatsiavut Government under this part shall be subject to Laws of General Application governing any other similar licence.
- 13.12.24 For purposes of calculating the number of licences available for issuance in sections 13.12.2, 13.12.3, 13.12.4 and 13.12.7, a licence is deemed to be available for issuance if a Person is eligible to be issued the licence in accordance with the then existing federal policy for the issuance of Commercial Fishing Licences.

Part 13.13 Harvesting Outside the Labrador Inuit Settlement Area

- 13.13.1 Canada and the Nunatsiavut Government shall negotiate an arrangement for communal food fishing licences to be issued in accordance with the *Fisheries Act* for fishing in the Tidal Waters of Lake Melville by Beneficiaries resident in Labrador outside the Labrador Inuit Settlement Area.
- 13.13.2 The arrangement referred to in section 13.13.1 shall be for a period of nine years. Prior to the expiration of the nine years, the Minister may extend the arrangement.
- 13.13.3 An arrangement referred to in section 13.13.1 or 13.13.2:
- (a) shall not form part of the Agreement; and
 - (b) is not intended to be a treaty or land claims agreement and is not intended to recognize or affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

Part 13.14 Interjurisdictional Matters

- 13.14.1 Any Legislation implementing an International Agreement that relates to any species or stock of Fish or Aquatic Plant, Fish Habitat or the management of fisheries in or affecting the Labrador Inuit Settlement Area shall be interpreted and administered to treat Inuit on at least as favourable a basis as any other aboriginal people of Canada.
- 13.14.2 Canada shall include Inuit representation, nominated by the Nunatsiavut Government, in discussions leading to the formulation of Canada's position respecting any International Agreement, or an amendment thereto, that relates to any species or stock of Fish or Aquatic Plant, Fish Habitat or the management of fisheries in or affecting the Labrador Inuit Settlement Area, and the discussions shall extend beyond those generally available to non-governmental organizations.
- 13.14.3 Any Legislation implementing a Domestic Interjurisdictional Agreement that relates to any species or stock of Fish or Aquatic Plant, Fish Habitat or the management of fisheries in or affecting the Labrador Inuit Settlement Area shall be interpreted and administered to treat Inuit on at least as favourable a basis as any other aboriginal people of Canada affected by the Legislation.
- 13.14.4 When Canada or the Province negotiates a Domestic Interjurisdictional Agreement, or an amendment thereto, that relates to any species or stock of Fish or Aquatic Plant, Fish Habitat or the management of fisheries in or affecting the Labrador Inuit Settlement Area, the Torngat Joint Fisheries Board shall have a role in the negotiations commensurate with its status, functions and responsibilities.

**Schedule 13-A: Oath of Office of Torngat Joint Fisheries Board Members
(subsection 13.10.5(c))**

I, _____ do solemnly affirm (or swear) that I will faithfully, truly, impartially and honestly and to the best of my judgement, skill and ability, execute and perform the duties required of me as a member of the Torngat Joint Fisheries Board. (So help me God.)

| | |
|--------------------------------|-----------------------|
| _____) | |
| (Officer Administering Oath)) | |
| _____) | _____) |
| (Date)) | (Signature of Member) |

Schedule 13-B: (sections 13.11.1, 13.11.10, 13.12.1, 13.12.2 and 13.12.14)

ARCTIC CHAR
ATLANTIC SALMON
SCALLOP

Schedule 13-C: (sections 13.11.1, 13.12.3, 13.12.5, and 13.12.14)

| | |
|--------------|----------------------------|
| GREY SEAL | WOLF FISH |
| HARP SEAL | BROOK TROUT |
| RINGED SEAL | LAKE TROUT |
| HARBOUR SEAL | OUANANICHE |
| HOODED SEAL | NORTHERN PIKE |
| BEARDED SEAL | WHITEFISH |
| WALRUS | LANDLOCKED CHAR |
| CLAM | BURBOT |
| MUSSEL | SKATE |
| SQUID | SUCKERS |
| WHELK | SHARK |
| SHRIMP | ARCTIC COD (POLAR COD) |
| SEA URCHIN | GRENADIER |
| SEA CUCUMBER | ATLANTIC HALIBUT |
| STAR FISH | FLOUNDER |
| LUMP FISH | SOLE |
| ROCK COD | PLAICE |
| TOM COD | REDFISH |
| SCULPIN | ROCK CRAB |
| SMELT | TOAD CRAB |
| CAPELIN | SNOW CRAB |
| EEL | PORCUPINE CRAB |
| SAND LANCE | STONE CRAB |
| MACKEREL | SPINY CRAB |
| HERRING | GREENLAND HALIBUT (TURBOT) |
| SEA TROUT | |

The list in this schedule is subject to the addition of further species or stocks of Fish as agreed to by the Nunatsiavut Government and the Minister.

Schedule 13-D: (sections 13.12.4 and 13.12.6)

HARP SEAL
HOODED SEAL
SQUID
SEA CUCUMBER
CAPELIN
SAND LANCE
WOLF FISH
SKATE
SHARK
ARCTIC COD (POLAR COD)
GRENADIER
ATLANTIC HALIBUT
FLOUNDER
SOLE
PLAICE
REDFISH
TOAD CRAB
SNOW CRAB
PORCUPINE CRAB
STONE CRAB
SPINY CRAB
GREENLAND HALIBUT (TURBOT)

The list in this schedule is subject to the addition of further species or stocks of Fish as agreed to by the Nunatsiavut Government and the Minister.

Schedule 13-E: Right of First Refusal for Aquaculture in the Labrador Inuit Settlement Area Outside Labrador Inuit Lands (sections 13.12.17 and 13.12.18)

1. Any Person other than an Inuit Business who intends to apply to the Minister for a licence to carry on Aquaculture in the Labrador Inuit Settlement Area outside Labrador Inuit Lands shall forward a letter of intent to the Province.
2. Within 30 clear days from receipt of a letter of intent referred to in paragraph 1, the Minister shall notify the Nunatsiavut Government.
3. The Nunatsiavut Government shall have 90 clear days from receipt of the notice under paragraph 2 to notify the Minister in writing whether or not it intends to exercise the right of first refusal referred to in section 13.12.16.
4. If the Nunatsiavut Government does not exercise the right of first refusal within the time set out in paragraph 3, the right of first refusal shall lapse.
5. The Minister shall, within 21 clear days from the receipt of notice from the Nunatsiavut Government that it intends to exercise the right of first refusal, notify the Person referred to in paragraph 1 of the Nunatsiavut Government's decision.
6. The Nunatsiavut Government shall have 120 clear days from the date it gives the notice referred to in paragraph 3 within which to complete any required community consultations, identify an operator if the operator will not be the Nunatsiavut Government (herein "designated operator"), make application for rights to occupy the proposed Aquaculture Facility and apply to the Minister for an Aquaculture licence.
7. The Minister shall approve, with or without conditions, or reject the licence application referred to in paragraph 6 within 60 clear days of the Nunatsiavut Government or designated operator obtaining an approval required under Part X of the *Environmental Protection Act* or from the aquaculture licensing committee under the *Aquaculture Act*, whichever is later.
8. If the license referred to in paragraph 6 is issued, the Nunatsiavut Government or designated operator must make every attempt to establish the Aquaculture Facility within two years from the date of the license and if the Nunatsiavut Government or designated operator fails, without just cause, to establish the Aquaculture Facility within that time, the Minister may declare that the right of first refusal of the Nunatsiavut Government has lapsed.
9. If the Minister declares that the right of first refusal of the Nunatsiavut Government has lapsed or that the licence application of the Nunatsiavut Government referred to in paragraph 6 has been finally rejected, the opportunity to obtain an Aquaculture licence may then be made available to the original applicant or other third party and the Nunatsiavut Government shall not have a further right of first refusal in relation to the application, except at the discretion of the Minister.

10. The Minister may extend any time period set out in this schedule when requested by the Nunatsiavut Government.