File Number: 31603

**IN THE SUPREME COURT OF CANADA**

(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

BETWEEN:

JOHN MICHAEL KAPP, ROBERT AGRICOLA, WILLIAM ANDERSON, ALBERT ARMSTRONG, DALE ARMSTRONG, LLOYD JAMES ARMSTRONG, PASHA BERLAK, KENNETH AXELSON, MICHAEL BEMI, LEONARD BOTKIN, JOHN BRODIE, DARRIN CHUNG, DONALD CONNORS, BRUCE CROSBY, BARRY DOLBY, WAYNE ELLIS, WILLIAM GAUNT, GEORGE HORNE, HON VAN LAM, WILLIAM LESLIE SR., BOB M. McDONALD, LEONA McDONALD, STUART McDONALD, RYAN McEACHERN, WILLIAM McISSAC, MELVIN (BUTCH) MITCHELL, RITCHIE MOOR, GALEN MURRAY, DENNIS NAKUTSURU, THEODORE NEEF, DAVID LUKE NELSON, PHUOC NGUYEN, NUNG DUC GIA NGUYEN, RICHARD NOMURA, VUI PHAN, ROBERT POWROZNIK, BRUCE PROBERT, LARRY SALMI, ANDY SASIDIAK, COLIN R. SMITH, DONNA SONNENBERG, DEN VAN TA, CEDRIC TOWERS, THANH S. TRA, GEORGE TUDOR, MERVIN TUDOR, DIEU TO VE, ALBERT WHITE, GARY WILLIAMSON, JERRY A. WILLIAMSON, SPENCER J. WILLIAMSON, KENNY YOSHIKAWA, DOROTHY ZILCOSKY and ROBERT ZILCOSKY

Appellants
(Appellants)

and

HER MAJESTY THE QUEEN

Respondent
(Respondent)

and

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Interveners

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(Rules 37 and 42)

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# TABLE OF CONTENTS

## PART I: OVERVIEW AND FACTS

### A. Introduction and Overview of the Nee Tahi Buhn Indian Band's Position

1. This case is a test of the Court's commitment to two principles that have become cornerstones of Canadian constitutional law: the principle of substantive equality, and the principle that the special relationship between aboriginal peoples and the federal government permits the latter to confer special civil rights upon the former. The test is a serious one: at issue here is a preference based on race – perhaps the most suspect and dangerous of markers – that bears upon the ability of the claimant group to work and earn income, which is among the interests that must be most carefully protected from the poison of discrimination. Yet it is the very challenges of this case that make it all the more important to stay the course charted in our constitution, and navigated by this Court in the decades since. If our constitutional guarantees are to be meaningful, it is the hard cases that matter most.

2. Both of the principles at stake in this case are built into s. 15(1) of the *Charter*, by virtue of the interpretive directions set out in ss. 15(2) and 25. On the basis of either of those directions, the Pilot Sales Program ("PSP") should be upheld.

### B. Facts

3. The PSP is not a regulation, licence, or other legal instrument. It is a program within a program. Specifically, the PSP is part of the Aboriginal Fisheries Strategy ("AFS")[1] that was implemented by the federal government in the wake of *R. v. Sparrow*.[2] The PSP involved the issuance of certain licences to aboriginal groups, pursuant to ss. 4 and 5(1)(l) of the *Aboriginal Communal Fishing Licences Regulations* ("*ACFLR*"), including Licence No. FRD-98-CL278/MBT. That licence, and the Regulations that authorize it, are the subject of the appellants' challenge.[3]

4. The evidence is that, in the trial judge's words, the AFS "is part of a new social contract including Aboriginals, aimed to increase economic opportunities in Canadian fisheries for

[1] Trial judge, at para. 43
[2] [1990] 1 S.C.R. 1075
[3] Appellants' Factum, at para. 137

Aboriginal people while achieving predictability, stability and enhanced profitability for all participants" (para. 44). The appellants do not seem to dispute that this is the object of the AFS.[4]

5. That fact – the PSP is part of a federal program intended to improve the economic conditions of aboriginal people – is dispositive of this case.

## PART II: POINTS IN ISSUE

6. This Factum will advance two arguments:

(1) The principle of substantive equality, which encompasses the interpretive rule in s. 15(2), means that ameliorative laws aimed at disadvantaged groups are not discriminatory. The object of the AFS, of which the PSP forms part, is to improve the economic circumstances of aboriginal groups, and the PSP is therefore consistent with the *Charter*'s guarantee of substantive equality.

(2) Advancement of the special relationship between the federal government and aboriginals, by way of the federal government's power to confer special civil rights on aboriginals, is among the purposes of both s. 91(24) of the *Constitution Act, 1867* and s. 25 of the *Charter*. The protection in s. 25 for "other rights and freedoms that pertain to the aboriginal peoples" should be interpreted to encompass rights-granting laws, like the *ACFLR*, that are "in relation to […] Indians" for purposes of s. 91(24).

## PART III: ARGUMENT

### A. Section 15

(1) *Substantive Equality and Subsection 15(2)*

7. The principle of substantive equality has been the hallmark of this Court's approach to s. 15 since it first considered the section in *Andrews*.[5] Hence it was said in *Law* that there is a resulting "requirement that there be substantive rather than merely formal inequality in order for an infringement of s. 15(1) to have been made out."[6]

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[4] The appellants' submission is, instead, that the AFS must not be "confused" with the PSP: see Appellants' Factum, at paras. 27-28.

[5] *Andrews v. Law Society of British Columbia*, [1989] 1 S.C.R. 143, at pp. 163 and 169

[6] *Law v. Canada (Minister of Employment and Immigration)*, [1999] 1 S.C.R. 497, at para. 84

8. Subsection 15(2) is perhaps the best evidence we have in the text of s. 15 that the substantive approach was what was intended by the Framers. The subsection is a powerful reminder that the recognition of different needs and capacities among groups defined by enumerated or analogous grounds can *advance* equality when that recognition aims at ameliorating disadvantage. A formalistic approach to s. 15(1) would have been impossible to square with the interpretive direction set out in s. 15(2). A coherent approach to the guarantees in the *Charter* therefore requires that s. 15(1) be read in such a way that the two subsections work in harmony.[7] In this sense, s. 15(2) is not an exception to the rule;[8] instead, it informs and sheds light on the nature of the rule itself.

9. Subsection 15(2) does more than just illuminate its partner. Its language is clear; the subsection teaches that the equality right does "not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups". The text speaks for itself: to regard as discriminatory a program that is ameliorative in the sense described in s. 15(2) would be to ignore the express words of the constitution.[9] No court has that power.

10. The application of s. 15(2) calls for an analysis similar to that described in *Law* (hence the "interpretive interdependence"[10] of the two provisions), but which is more focussed. Under s. 15(2), two questions are central. First, does the law or program have as its object the amelioration of a group's conditions? Second, is the individual or group targeted by the law or program disadvantaged? These questions echo the "ameliorative purpose" and "pre-existing disadvantage" factors that are familiar from the *Law* analysis.[11] If both questions are answered "yes", the program is not discriminatory.

11. This approach comports with the essential nature of the equality right, which is to avoid preferences that lead excluded persons to reasonably conclude that they are not worthy of equal participation and respect in Canadian society. As Iacobucci J. observed in *Lovelace*:

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[7] *Lovelace v. Ontario*, [2000] 1 S.C.R. 950, at para. 106

[8] *Lovelace*, at paras. 101-103

[9] In *Lovelace*, Iacobucci J. expressly did not foreclose that s. 15(2) could have independent application (see para. 100); what was rejected was the theory that s. 15(2) should be regarded as an "exemption or defence".

[10] *Lovelace*, at para. 107

[11] While in a standard equality claim it is ordinarily the claimant's pre-existing disadvantage that is the subject of the contextual analysis, when a court is presented with a purported ameliorative program it must orient the inquiry toward the comparator group.

> one must recognize that exclusion from a targeted or partnership program is less likely to be associated with stereotyping or stigmatization or conveying the message that the excluded group is less worthy of recognition and participation in the larger society.[12]

Negative association of that kind is made all the less likely when the subject of the targeted program is disadvantaged relative to Canadian society as a whole.

12. Three further observations are apposite to the instant case.

13. First, s. 15(2), like the principle of substantive equality of which it forms part, applies equally to all ameliorative laws and programs. There is no race exception. The Court should refuse the appellants' invitation to evade the substantive analysis that s. 15 requires.[13]

14. Second, the inquiry into the object of the impugned law or program must be approached with attention to the context that surrounds the measure at issue. Just as it would be misleading to attribute a purpose to a particular provision of a statute without considering its place in the larger statutory scheme, it is equally inappropriate to break a government program into its component parts, and insist that each be independently intended to ameliorate. The fact is that most, if not all, ameliorative programs will have a number of interlocking parts, each of which will serve its own function. Benefits will be intermixed with burdens as well as neutral components, such as administrative requirements.[14]

15. Thus did the trial judge (and the appellants) err in narrowing their focus to the object of the PSP, which the trial judge found to be the prevention of poaching (para. 191). The PSP formed but one part of a larger program, the AFS, which must be scrutinized as a whole to determine its compliance with the substantive equality guarantee. As this case illustrates, piecemeal assessment of the kind called for by the appellants will tend to diminish the legitimacy of affirmative action and other ameliorative programs. In complex, polycentric areas, such as Canada's fisheries, where innumerable imperatives require accommodation, the appellants' approach could utterly sterilize the government's ability to introduce such programs. So long as

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[12] *Lovelace*, at para. 86

[13] See Appellants' Factum, at paras. 1, 45-47, and 59.

[14] The gear restrictions imposed in the Hupacasath/Tseshaht Fishery provide a simple example of a burdensome program component: see Respondent's Factum, at para. 36.

an impugned component of a program is not *inconsistent* with the program's object,[15] it should be scrutinized as part of the larger whole.

16. Third, although the group that is targeted by the law or program must be relatively disadvantaged, there is no requirement that the measure target the source of the disadvantage.[16] If, for instance, a disadvantaged group is hampered by lack of access to employment, the government can choose to address that group's disadvantage by increasing access to education, or by any other means. That is so because the purpose of s. 15 is advanced so long as Canadian society moves toward greater substantive equality, which may more effectively be accomplished by building on the *strengths* of a disadvantaged group.[17] Accordingly, the text of s. 15(2) does not require that the source of the group's disadvantage be targeted; it requires only that the government aim to ameliorate the conditions of a disadvantaged group, and that aim may be achieved in many ways.

17. The appellants are therefore wrong to argue that because aboriginal disadvantage occurs "in parts of Canada *outside* the British Columbia commercial fishery",[18] s. 15(2) is inapplicable. They effectively expect that an ameliorative program be narrowly tailored to correspond to actual proof of specific disadvantages.[19] That analysis is not just contrary to the text and purpose of s. 15; it would, contrary to *Lovelace*,[20] treat s. 15(2) as a watered-down version of s. 1, a Diet *Oakes*. Further, s. 15(2)'s focus on the "object" of the measure suggests that the Framers' design was that courts would not hold government's efforts to assist disadvantaged groups to a "strict scrutiny" (or equivalent) standard. An intrusive, demanding standard could frustrate such

[15] An inconsistency could suggest that the component has its own, distinct object, therefore requiring independent scrutiny.

[16] This is a potential point of departure from the ordinary *Law* framework, which requires correspondence between the measure and the actual needs of the targeted group. In the s. 15(2) context, the "correspondence" factor should be understood to expect only that the targeted group have "needs" in the sense that the group is disadvantaged. In this sense, the existence of disadvantage, together with an ameliorative purpose, loosens the degree of correspondence that would otherwise be sought.

[17] In *Gosselin v. Quebec (Attorney General)*, [2002] 4 S.C.R. 429, at para. 42, McLachlin C.J. quoted the Chinese proverb: "Give a man a fish and you feed him for a day. Teach him how to fish and you feed him for a lifetime." And when a man already knows how to fish very well, common sense dictates that his conditions may be improved by giving him greater access to a fishery.

[18] Appellants' Factum, at para. 83 (emphasis in original). The trial judge fell into this error as well: see para. 200.

[19] See also the trial judge's "rational connection"-based analysis: para. 202. While the absence of a rational connection between the program and the targeted group's disadvantages might, in a different case, give rise to an inference that the program's object is not ameliorative, there is no basis for an inference of that kind in this case.

[20] *Lovelace*, at para. 107

efforts, and work against the attainment of substantive equality. At times programs that are instituted with the best of intentions will not yield the best results, but the Framers adjudged that intentions will nevertheless be controlling. If in practice an ameliorative program proves unsuccessful, it should be government, not a court, that terminates it.

(2) *The AFS, Including the PSP, Aims to Ameliorate the Conditions of Aboriginal People*

18. The disadvantage of aboriginal communities cannot seriously be questioned, and it is certainly not disproven by the photographs and anecdotal evidence upon which the trial judge relied.[21] While it may be that the Musqueam and Tsawwassen bands are less disadvantaged than other aboriginal communities,[22] "all aboriginal peoples have been affected 'by the legacy of stereotyping and prejudice against Aboriginal peoples'".[23] As this Court has recognized, it cannot be doubted that "[a]boriginal peoples experience high rates of unemployment and poverty".[24] The marginalization of aboriginal peoples in the Canadian economy is notorious. Thus, the question is only whether the AFS is a "law, program or activity that has as its object the amelioration of conditions" of aboriginal groups.

19. The AFS aims at a number of objectives, among which are the improvement of the economic conditions of aboriginal communities and the recognition of the special relationship between those communities and the fishery. The purpose of the AFS is evidenced by the 1992 Department of Fisheries and Oceans backgrounder.[25] The backgrounder reveals that the AFS was, as the trial judge put it, "aimed to increase economic opportunities in Canadian fisheries for Aboriginal people".[26] The publication also shows the link between the PSP and the ameliorative purpose of the AFS. In the words of the Department, "[certain] bands see sale as an economic

[21] See paras. 195 and 197

[22] The evidence summarized at paras. 38-46 of the Respondent's factum, however, reveals that the economic disadvantage experienced by those bands is substantial.

[23] *Lovelace*, at para. 69 (emphasis added), quoting *Corbiere v. Canada (Minister of Indian and Northern Affairs)*, [1999] 2 S.C.R. 203, at para. 66

[24] *Lovelace*, at para. 69

[25] Ex. 3, Tab 8, R.R. Vol. X, pp. 1759h-1759i

[26] Trial judge, at para. 44

opportunity, and a route to self-sufficiency and independence, objectives which are consistent with the purposes of the Aboriginal fisheries strategy."[27]

20. A program that aims to increase employment and generate income for aboriginal peoples cannot reasonably be considered to demean the claimants' dignity, or that of the rest of Canadian society. For these reasons, the AFS and the PSP contained within it, fall within s. 15(2), and the *ACFLR* and the Licence are therefore not discriminatory.

**B. Section 25**

21. The right to catch and sell fish, granted to the Tsawwassen, Musqueam and Burrard bands pursuant to the *ACFLR*, would obviously be "abrogated or derogated from" if the Licence or the authorizing provisions of the *ACFLR* were to be declared invalid.[28] It is also apparent that the Tsawwassen and Musqueam bands have not established an aboriginal or treaty right to fish commercially. That being so, the s. 25 issue is only whether the rights conferred under the *ACFLR* are "other rights and freedoms that pertain to the aboriginal peoples of Canada".

22. The language of the clause is open-ended. Only two points are certain. First, it cannot be that s. 25 is limited to constitutional rights protected by s. 35. Were that so, the "other rights and freedoms" clause would be meaningless. This point is confirmed by the species of rights that are deemed to be included by s. 25(a) – rights and freedoms recognized by the *Royal Proclamation of 1763* – since the *Royal Proclamation* is not part of the constitution.[29] Second, it is equally certain that the word "pertain" is not so broad as to capture every statutory right that applies to aboriginal peoples. This Court has undoubtedly struck down a number of statutory regimes of general application that conferred rights on aboriginals. The proper interpretation of the phrase must lie somewhere between an approach that would limit s. 25 to s. 35 rights, and an approach that would make its application limitless.

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[27] Quoted by the trial judge, at para. 45.

[28] The "abrogation or derogation" element of s. 25 can likely explain the result in *Corbiere*. Since the *Charter* required that the right to vote in band elections be *extended*, no right or freedom was "abrogated or derogated from" as a result of the application of the *Charter*: see paras. 23-24.

[29] See s. 52(2) of the *Constitution Act, 1982*, and the attached Schedule.

23. In the absence of clear textual guidance, the proper interpretation of s. 25 falls to be ascertained with reference to two interpretive aids: the constitutional context in which s. 25 operates, and the historical and legal tradition in Canada that aboriginals have a special relationship with the federal government.

24. First resort should be had to the context provided by the constitution itself. It is eye-catching that the language of s. 25 – "rights and freedoms that pertain to the aboriginal peoples" – echoes the language of s. 91(24) of the *Constitution Act, 1867*, which confers on Parliament the exclusive authority to make laws "in relation to […] Indians, and lands reserved for the Indians".

25. The constitution thus expressly contemplates that Parliament will make laws that "relate" to aboriginal peoples. In this light, s. 25 can sensibly be read to reflect an intention on the part of the Framers that:

> Although the *Charter* is intended to constrain the exercise of legislative power conferred under the *Constitution Act, 1867* where the delineated rights of individual members of the community are adversely affected, it cannot be interpreted as rendering unconstitutional distinctions that are expressly permitted by the *Constitution Act, 1867*.[30]

This view has particular force once it is understood that the purpose of s. 91(24) was, in part, to permit Parliament to confer special civil rights and freedoms on aboriginal peoples. That aspect of s. 91(24) is made clear by the historical context from which the subsection emerged.

26. As Justice Holmes famously opined, "[u]pon this point a page of history is worth a pound of logic."[31] The Crown established the Indian Department in 1768, in furtherance of the *Plan of Management of Indians, 1768, Lords of Trade*. The *Royal Proclamation* had declared that all lands not ceded to or purchased by the Crown remained "reserved to the said Indians", and that only the Crown could execute any further purchases of those lands. Under this regime, the Indian Department's principal business was the management of Indian lands that were surrendered by treaty to the Crown. Fair surrender required consideration for and accommodation of aboriginal peoples, whose way of life had been dramatically and

[30] *Reference re Bill 30, An Act to Amend the Education Act (Ont.)*, [1987] 1 S.C.R. 1148, *per* Estey J. (concurring), at p. 1207; see also *Adler v. Ontario*, [1996] 3 S.C.R. 609, at para. 33

[31] *New York Trust Company v. Eisner*, 256 U.S. 345 (1921), at p. 349

detrimentally affected by European settlement. This was recognized by the Bagot Commission in 1842, who recommended that aboriginals remain under the protection of the Crown. In 1857, that view was largely repeated by the Pennefather Commission, who additionally suggested that special funding be provided to assist aboriginals to integrate.[32]

27. So it was that by 1867 it was well understood that aboriginals required special treatment relative to the rest of the Canadian population. Accordingly:

> [O]ne of the purposes of section 91(24) is to manage the adverse impact upon Indians of the loss of their lands and way of life; both of which were given up to accommodate European settlement, and the building of a new nation. In order to do this government must legislate (and act) specially and selectively for the benefit of Indians.[33]

28. The conferral of civil rights on aboriginal peoples has been part of this "special and selective" legislative regime since at least the 1850 *Act for the protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them from trespass and injury*.[34] That Act evolved into what is now the *Indian Act*,[35] which, as this Court recently canvassed in *McDiarmid Lumber*,[36] continues to this day to articulate a special civil rights regime for certain aboriginals.

29. The special role and responsibility of the federal government vis-à-vis aboriginal peoples, manifested in legislative instruments like the *Indian Act*, must have been known to the Framers of the *Constitution Act, 1982*. They could not have intended that the *Charter* would denude the federal government of its power to "manage the adverse impact upon Indians of the loss of their lands and way of life". It cannot be that the *Constitution Act, 1982*, which recognized aboriginal rights in s. 35, at the same time robbed aboriginal peoples of the special civil rights they were given under s. 91(24). The "other rights and freedoms" clause should therefore be interpreted to

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[32] These historical facts are drawn from Charlotte A. Bell, "Have You Ever Wondered Where s. 91(24) Comes From? Or, for the Erudite, the Content of s. 91(24) of the *Constitution Act, 1867*," (2005) 17 *National Journal of Constitutional Law* 285, at pp. 288-289, 293.

[33] Bell, "Have You Ever Wondered," at p. 293

[34] S. Prov. C. 1850, 13 & 14 Vict., c. 74, s. VIII

[35] R.S.C. 1985, c. I-5

[36] *McDiarmid Lumber Ltd. v. God's Lake First Nation*, [2006] 2 S.C.R. 846, 2006 SCC 58, at paras. 46-55

encompass and protect from "abrogation or derogation" those civil rights that fall within s. 91(24).

30. It follows that Kirkpatrick J.A.'s view that s. 25 applies only to rights that "relate to a significant aspect of aboriginal life, culture or heritage, and relate to aboriginals as aboriginals"[37] is too narrow. In addition to being unworkably vague, and essentially duplicative of the inquiry into whether a s. 35 right exists, that approach would fail to protect fully the government's s. 91(24) power. Rather, the Court's traditional query with respect to s. 91(24) – whether the law "singles [aboriginals] out for special treatment"[38] – should control the s. 25 inquiry.

31. To adopt this approach is not, as Mackenzie J.A. suggested, "to constitutionalize aboriginal commercial salmon fisheries",[39] nor to, as the appellants say, create a "ratchet effect" that would "seriously curtail the legislative and regulatory powers of governments".[40] Section 25 *preserves* the government's power to legislate (and to repeal legislation) in relation to aboriginal peoples; it neither "constitutionalizes" statutory rights, nor does it at all "curtail" government power.

32. The *ACFLR* single out aboriginals for the conferral of special fishing rights. It is therefore an exercise of federal authority under s. 91(24), as is the issuance of licences thereunder. The *ACFLR* and the Licence at issue here are thus protected by s. 25.

## PART IV: SUBMISSIONS REGARDING COSTS

33. The Nee Tahi Buhn do not seek costs, and ask that costs not be awarded against them.

## PART V: DISPOSITION OF THE ISSUES

34. The impugned portions of the *ACFLR* and the Licence should not be regarded as contrary to s. 15, because of the interpretive directions set out in s. 15(2) and 25.

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[37] Court of Appeal, at para. 138

[38] *R. v. Sutherland*, [1980] 2 S.C.R. 451, at p. 455, quoting *Four B Manufacturing Ltd. v. United Garment Workers of America*, [1980] 1 S.C.R. 1031, at p. 1048; see also *Delgamuukw v. British Columbia*, [1997] 3 S.C.R. 1010, at para. 179

[39] Court of Appeal, at para. 115

[40] Appellants' Factum, at para. 113

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**, this 18th day of November, 2007.

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**Ryan D.W. Dalziel**

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**Tim Dickson**

## PART VI: TABLE OF AUTHORITIES

| **AUTHORITY** | **PARAS. CITED** |
|---|---|
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## PART VII: PROVISIONS DIRECTLY AT ISSUE

*Aboriginal Communal Fishing Licences Regulations*, S.O.R./93-332

COMMUNAL LICENCES

4. (1) The Minister may issue a communal licence to an aboriginal organization to carry on fishing and related activities.

(2) The Minister may designate, in the licence,

(a) the persons who may fish under the authority of the licence, and

(b) the vessels that may be used to fish under the authority of the licence.

(3) If the Minister does not designate the persons who may fish under the authority of the licence, the aboriginal organization may designate, in writing, those persons.

(4) If the Minister does not designate the vessels that may be used to fish under the authority of the licence, the aboriginal organization may designate, in writing, those vessels.

5. (1) For the proper management and control of fisheries and the conservation and protection of fish, the Minister may specify in a licence any condition respecting any of the matters set out in paragraphs 22(1)(b) to (z.1) of the Fishery (General) Regulations and any condition respecting any of the following matters, without restricting the generality of the foregoing:

(l) the disposition of fish caught under the authority of the licence.

PERMIS COMMUNAUTAIRES

4. (1) Le ministre peut délivrer un permis communautaire à une organisation autochtone en vue de l’autoriser à pratiquer la pêche et toute activité connexe.

(2) Le ministre peut désigner dans le permis :

a) les personnes autorisées à pêcher au titre du permis;

b) les bateaux qui peuvent être utilisés au titre du permis.

(3) Dans le cas où le ministre ne désigne pas les personnes autorisées à pêcher au titre du permis, l’organisation autochtone peut les désigner par écrit.

(4) Dans le cas où le ministre ne désigne pas les bateaux qui peuvent être utilisés au titre du permis, l’organisation autochtone peut les désigner par écrit.

5. (1) Afin d’assurer une gestion et une surveillance judicieuses des pêches et de voir à la conservation et à la protection du poisson, le ministre peut, sur un permis, indiquer notamment toute condition relative aux points visés aux alinéas 22(1)b) à z.1) du Règlement de pêche (dispositions générales) et toute condition concernant ce qui suit :

l) l’aliénation du poisson pris en vertu du permis.