SPECIAL CHIEFS ASSEMBLY
DECEMBER 4, 5 & 6, 2012, GATINEAU, QC

Resolution no. 49/2012

TITLE:	Defining Aboriginal Fisheries
SUBJECT:	Fisheries
MOVED BY:	Chief Bob Chamberlin, Kwicksutaineuk Ah-kwa-mish First Nation, BC
SECONDED BY:	Grand Chief Ken Malloway, Proxy, Kwaw Kwaw Apilt First Nation, BC
DECISION:	Carried; 1 opposed, 3 abstentions

WHEREAS:

A. First Nations are the traditional stewards, users, managers and harvesters of all aquatic resources in Canada since time immemorial.

B. First Nations have never surrendered their rights to access and harvest fish.

C. Section 35 of the *Constitution Act* recognizes, affirms and protects First Nations rights to access, harvest and utilize fish.

D. The Supreme Court of Canada has reaffirmed First Nations rights to fish for food, social, ceremonial, and economic purposes.

E. The Government of Canada is contemplating the unilateral imposition of a limited definition of Aboriginal as it relates to fisheries in the *Fisheries Act* without consulting or accommodating First Nations on this definition.

F. The definition and the act of establishing the definition of Aboriginal as it relates to fisheries contradicts the Government of Canada's fiduciary duty to protect the rights of First Nations and contravenes the *United Nations Declaration on the Rights of Indigenous Peoples* by preventing First Nations from determining, defining, and protecting all of their traditional fisheries.

G. Each First Nation has distinct food, social, ceremonial, economic, traditional, and treaty fisheries, and the diversity of these fisheries are not captured in the definition of "Aboriginal" as it relates to fisheries proposed in Bill C-45.

Certified copy of a resolution adopted on the 5th day of December, 2012 in Gatineau, Quebec

SHAWN A-IN-CHUT ATLEO, NATIONAL CHIEF

H. The current proposed definition in Bill C-45 applies a rigid and narrow scope to First Nations fisheries, and First Nations rights to fisheries must be interpreted flexibly so as to allow evolution of rights and the understanding of rights over time.

I. First Nations seek to protect all traditional fisheries.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the National Chief to notify the Government of Canada that it has failed to discharge its duty to consult and accommodate First Nations on the definition of Aboriginal as it relates to fisheries in the *Fisheries Act* and is undermining its fiduciary duty to First Nations.
2. Mandate the Assembly of First Nations to seek legislative amendments to the definition of Aboriginal as it relates to fisheries to include traditional fisheries and fisheries practiced consistent with an Aboriginal or Treaty right.
3. Direct the Assembly of First Nations to secure information and resources from the Government of Canada to engage in tier-1 dialogues with First Nations across Canada and to facilitate tier-2 dialogues with the Department of Fisheries and Oceans on any policy or regulation that may be created which clarifies the definition of aboriginal as it relates to fisheries, food fisheries, social fisheries, or ceremonial fisheries.
4. Denounce the Department of Fisheries and Oceans for failing to be transparent in its processes and for withholding information, documents, and plans from First Nations across Canada who will be impacted by the definition of Aboriginal as it relates to fisheries.

Certified copy of a resolution adopted on the 5th day of December, 2012 in Gatineau, Quebec

SHAWN A-IN-CHUT ATLEO, NATIONAL CHIEF