

# First Nation Participation in Commercial Fisheries Following the *Marshall* Decision

September 17, 2009, marks the 10<sup>th</sup> anniversary of the Supreme Court of Canada's (SCC) *Marshall* decision, which affirmed a treaty right to hunt, fish and gather in pursuit of a "moderate livelihood" arising out of Peace and Friendship Treaties of 1760 and 1761. In the ten years since the decision, Fisheries and Oceans Canada (DFO) has negotiated fishing agreements and undertaken a variety of initiatives to support the participation of the 34 affected Mi'kmaq and Maliseet First Nations in the Maritimes and the Gaspé region of Quebec in commercial fisheries.

From 2000 to 2007, following the SCC decision, DFO invested almost \$600 million in the *Marshall* Response Initiative (MRI) and reached agreements with 32 of the 34 eligible First Nations. This initiative, which ended March 31, 2007, provided significant support for increased commercial fisheries access (including vessels and gear, and commercial fisheries infrastructure) and internal governance development, and has become a significant driver for economic development in these communities.

As a result of the MRI, the Mi'kmaq and Maliseet First Nations:

- hold approximately 1,300 communal commercial fishing licences and constituting 520 fishing enterprises.
- are provided with a potential economic return that exceeds \$45 million annually -- a significant increase over the estimated \$15 million generated in 2000.
- have more than 1,000 community members earning income from fishing.
- have had an estimated 2,000 First Nations community members receive training or mentoring that covers a broad range of practical fishing skills, including safety at sea, basic seamanship, watch-keeping duties, other harvest-related tasks, vessel maintenance and winterization.

In addition to these direct benefits, hundreds of other jobs have been created as an indirect result of the increased access to the fishery, in areas ranging from boat repair and supply services to the management and operation of fishing enterprises to science and habitat management. Some First Nation communities have also made progress in developing other fishery-related business opportunities, such as recreational fishing facilities and eco-tourism initiatives.

## **Building Capacity**

Building management and governance skills through training and mentoring continues to be a priority through the Atlantic Integrated Commercial Fisheries Initiative (AICFI). This program, which invests \$20 million over two years, includes:

- Creation and implementation of business development plans and the integration of fisheries management systems.
- A mentoring program which ran from 2004-2008 saw hundreds of Aboriginal fishers matched with non-Aboriginal mentors to share fishing knowledge and foster the transfer of skills.
- The growing harvesting operations and business expertise of First Nations can be directly attributed to the MRI and AICFI, although some fluctuation in landed value has occurred recently due to high volatility in the marketplace.

The process of negotiating fisheries agreements and of working together on capacity building activities has led to better understanding and communication between First Nations and the Government of Canada. First Nations are participating more fully in DFO decision-making processes and sharing their views with industry and DFO about resource management issues.

The MRI and other programs such as AICFI, have delivered concrete benefits to First Nations and their community members and provided a foundation for greater economic self-reliance and an improved quality of life.

### **Treaty**

In addition, DFO continues to work towards longer-term fishing arrangements with Mi'kmaq and Maliseet First Nations through the processes being led by Indian and Northern Affairs Canada