

CASE STUDY

Aboriginal Involvement in Achieving an Agreement with European Union to Address the European Union's Wild Fur Import Ban

by

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PROLOGUE

A Case Study addresses thematic objectives and activities agreed to by governments and set out in Agenda 21 - Chapter 26 of the proceedings from the Rio Earth Summit in 1992. Learning from the ineffective strategies used by governments in an effort to prevent a European Union (EU) seal products import ban in 1983, Aboriginal groups were empowered from 1987-97, to work with governments and the fur industry to counter campaigns by anti-fur/anti-trapping organizations. Such protests had led, in 1991, to the passage of an EU Regulation potentially banning the import of most wild fur products. If imposed as originally intended, the ban would seriously undermine the ability of many Canadian Aboriginal communities to continue their traditional way of living off the land. Lobbying by Aboriginal groups was central to counter-balancing the anti-use philosophy espoused by animal rights groups. This was significant toward establishing an Agreement on International Humane Trapping Standards (AIHTS) with the EU, Canada and the Russian Federation. The AIHTS permits wild fur exports to the EU to continue undiminished. Ongoing participation of Aboriginal trappers and training of Aboriginal trapper instructors throughout Aboriginal communities further ensures the active involvement of Indigenous peoples in commercial fur harvesting activities.

OBJECTIVE

The objective of this case study is to illustrate how Aboriginal groups worked with governments and industry in ways that respond to some of the objectives and activities for which governments declared support in 1992 at the Rio Earth Summit and set out in Agenda 21 - particularly in Chapter 26 of the proceedings of that meeting. These include:

A) Establish Processes to Empower Indigenous People

(ii) Recognize that the lands of Indigenous people and their communities should be protected from activities that are environmentally unsound or that the Indigenous people involved consider to be socially and culturally inappropriate;

(iii) Recognize their values, traditional knowledge and resource management practices with a view to promote sustainable development;

(iv) Recognize that traditional and direct dependence on renewable resources and

ecosystems, including sustainable harvesting, continues to be essential to the cultural, economic and physical well-being of Indigenous people and their communities;

(vi) Support alternative environmentally sound means of production to ensure a range of choices on how to improve their quality of life so that they effectively participate in sustainable development.

B Establish Arrangements to Strengthen the Active Participation of Indigenous People

The case study will focus on how strategies were developed and delivered based on lessons learned from the seal hunt experience in order to defend and promote sustainable fur harvesting practices, and to counter anti-fur/anti-trapping protests.

1 BACKGROUND / HISTORICAL PERSPECTIVES

Anti Sealing Campaigns

Beginning in 1965, a public relations phenomenon burst onto the world wide media and generated, for the first time in the history of human/animal interactions, multi millions of individual, emotional protests calling for a ban on the use of what had been taken for granted as an abundant renewable natural resource. This was the “Seal Hunt” in Canadian waters. Each year highly emotionally charged images of a man clubbing a ‘baby’ harp seal or skinning it ‘alive’ were directed at the urban public worldwide. A protest movement which began as a small operation in New Brunswick, Canada grew into a conglomerate of individual, traditional animal welfare groups such as Societies for the Prevention of Cruelty to Animals, to Save the Seals Fund, to the International Fund for Animal Welfare and ultimately to Greenpeace which took up the issue as an environmental concern similar to its anti-nuclear and anti-whaling campaigns. Millions of dollars were donated by the public in response to the appeal to “save the baby seals!” This steady flow of funds enabled the organizations to maintain their media and lobbying campaigns principally in Europe, until, in 1983, the European Union (EU) responded by imposing at first a temporary, and later a permanent, ban on the importation into the EU of some products derived from harp and hooded seals.

Animal Rights

In 1975, another phenomenon began to take root with the publication of a book “Animal Liberation” which extolled the notion that because animals can be regarded as sentient ‘beings’ and can ‘suffer’ they can be accorded ‘rights’ akin to human rights. An increasingly urbanized public, already accustomed to referring to their pet dogs and cats as “companion animals”, and showing a growing acceptance of the notion that animals have rights, was a receptive audience for the “save the seals” campaigns. The animal rights / anti-sustainable use lobby may have had its greatest success in 1983 with the passage of the EU seal import ban, but their campaigns continue today. Most recently Germany amended its Constitution to provide ‘rights’ to animals.

Sustainable Use Endorsements

With respect to wildlife issues, governments worldwide have adopted policies which adhere to the concept of sustainable use principles and which are embodied in the World Conservation Strategy and in Resolutions adopted by members of the World Conservation Union (formerly IUCN).

North American Aboriginal communities had, for centuries before Europeans arrived, based their existence on the sustainable use of natural resources. These traditional harvesting activities often produced surplus 'products', particularly from wild animals, which were then traded with other Aboriginal communities. Such activities continued even after cultural changes such as Christian religious beliefs, new technologies and trading systems were introduced to aboriginal people by the Europeans

Canadian Strategies to Prevent EU Ban on Seal Products

During the two decades of seal hunt protests the Canadian governments and sealer groups tried in vain to counter the emotional image of 'a man clubbing a baby' with scientific evidence that the killing was humane and the animals were not being over harvested. A Committee on Seals and Sealing (COSS) consisting of Scientists in the fields of Zoology and Veterinary Pathology as well as two representatives from animal welfare organizations was established to monitor the seal hunts each year and to make recommendations for improvements where necessary. Governments adopted COSS recommendations. Fisheries experts continued to monitor seal populations, introduced annual quotas based on scientific data, passed regulations requiring humane killing of seal pups, and introduced mandatory training for sealers before they could receive their licences.

Effects of Anti Sealing Campaigns on Aboriginal Communities

Few Canadian Aboriginal communities were involved in the harp and hooded seal harvest and those who were believed that their interests would be protected by an exemption for Inuit and Greenlandic sealers written into the EU's Directive banning 'whitecoat' (new born harp seal) and 'blueback' (new born hooded seal) imports. However, the ban had the unexpected effect of causing a crash in the world markets for all seal products. There were immediate impacts on the Inuit who traditionally harvested ring seal, one being a sudden and dramatic (220%) increase in suicides after 1983. The EU's exemption, while well-intentioned ignored the realities of the international marketplace and provided no protection for the Inuit.

Other Wild Fur Products

Following what they considered a success in forcing a closure of the Canadian harp and hooded seal pup hunt, animal rights/anti-fur groups turned their attention to the other wild fur products. As had been done during the anti-sealing campaigns, the main images used

by such groups in their new anti-fur campaigns were the so called 'cruel' methods of trapping, especially on what they referred to as the "barbaric" use of leghold traps. Images of animals struggling in leghold traps were shown on television in European countries, USA and Canada along with full page newspaper and huge billboard advertisements. Again, as with the seal hunt protests, movie stars, TV personalities, renowned authors, models and politicians were enlisted by anti-fur groups to espouse their philosophy that "modern and enlightened" society did not kill wild animals for "frivolous" products.

The initial attempt to stifle the fur trade in the EU began in the UK when a Member of Parliament attempted to introduce a bill that would require a label to be attached to all wild fur products indicating that the "product may have been derived from animals caught in leg-hold traps". The intent was to use such a label to negatively connect in the consumer's mind, the above mentioned images to the fur product, thereby making it much less attractive. The proposed bill was withdrawn, but the concept moved quickly to Brussels where it found a receptive audience in the European Parliament, the same institution which had initiated the 1983 ban on some seal products.

As a result of such campaigns, where millions of dollars were raised and expended relentlessly, the EU passed a law, in November 1991, (referred to as Regulation 3254/91) potentially banning, by January, 1995, the importation of fur products derived from 13 wild fur bearing species, 12 of which are found in North America. The ban would apply if the animals were caught in leghold traps or in traps not meeting internationally agreed humane trapping standards, which in 1991 time did not exist. The law also would ban the use of all leghold traps throughout the EU member states by January 1995.

Aboriginal Livelihood Threatened / Unprepared to Respond / Response Strategies

As with the dramatic effect which the EU's seal product import ban had had on Inuit, the EU wild fur import restrictions could seriously affect the livelihoods of some 35,000 Aboriginal trappers and their families by causing the international market to shun all wild furs. And, just as with the 1983 import ban, the EU's ban on wild fur imports would not prevent Aboriginal peoples from hunting or trapping the animals for their own basic subsistence use, but there would be no markets available to sell the furs harvested from the animals. While it was not recognized by anti-fur groups, money from fur sales is an important part of a traditional subsistence economy in many Canadian Aboriginal communities because this income, while limited, supported other harvesting activities necessary for their survival (e.g. hunting and fishing).

Consequently, the land based way of life essential to Aboriginal peoples' survival was being threatened by the activities and cultural philosophies of people in far off lands who once coveted the products supplied by these same Indigenous communities. Aboriginal communities were puzzled by the inconsistency, if not hypocrisy, shown by many governments, which while claiming to subscribe to the sustainable use philosophy, took actions - such as import bans - clearly designed to reduce or eliminate use of renewable resources such as seals and wild furbearing species. During the decades of anti-sealing

protests, and initially with the other wild fur protests, Aboriginal people were ill-prepared, without power and adequate resources to mount their own sophisticated challenges against these threats, and therefore were at risk of losing part of their traditional livelihoods by default.

2 ESTABLISHING PROCESSES TO EMPOWER ABORIGINAL PEOPLE IN PROTECTING TRADITIONAL RIGHTS TO SUSTAINABLE HARVESTING OF WILDLIFE

Countering the European Union's Wild fur Import Ban

Apart from the fact that the EU wild fur import ban was drafted and put in place in response to the relentless and high-profile anti-fur/animal rights campaigns mentioned above, EU parliamentarians and officials justified it on grounds that it would protect endangered species and address the public's concerns related to the perceived cruelty of capturing animals in jaw type leghold traps. They argued that banning the importation of wild fur products derived from animals caught in such devices would force producer countries to accept 'enlightened' EU moral standards in this regard and prohibit their use. The Regulation did not define 'humane', nor describe which traps would be considered humane. The assumption was that any alternative trapping system had to be more humane than leghold traps.

Further, the 'logic' of the animal rights groups protests espoused to an urban public was that the best way to save wild animals was to eliminate their economic value. This would ensure that humans would have no interest in killing them. So, wildlife would be best protected ('saved') if trade in products derived from them was stopped. This philosophy is in sharp contrast to rural and aboriginal values which follow sustainable use principles, where it is believed animal populations are best protected when their value is increased. Moreover, Aboriginal communities share a common belief that wild animals are gifts from the Creator, and that they give themselves to the hunters if the hunters showed proper respect and practised their traditional values (taking only what was needed, sharing the results of the hunt). To not use these gifts would be to show enormous ingratitude to the Creator.

The anti-trapping lobby had convinced over 50% of EU parliamentarians to require the European Commission (the executive and most powerful arm of the EU government system) to draft a Regulation, which is binding on all Member States, and which they hoped would achieve a success similar to that of the Seals Directive by ultimately ridding the world of a "barbaric" practice. The animal rights groups had falsely convinced a large sector of the urban European public that virtually all wild fur bearing animals used by the fur trade suffered lingering, painful deaths and the vast majority were captured by means of leghold traps or other cruel trapping systems.

The moral arguments related to animal cruelty promoted by animal rights groups were also strengthened by the portrayal of fur products as unnecessary, luxury items and that this use should not be tolerated in an 'enlightened' society, regardless of the humaneness

of methods used to produce them. Fur retailers were picketed and consumers were threatened on the street with injury or with having their fur garments sprayed with paint.

While certain EU politicians and bureaucrats defended the intent of the wild fur import regulation as a means to improve animal welfare related to trapping, this justification was clearly an attempt to give the Regulation an altruistic objective. The real intention was to respond to the agenda of the animal rights lobby which was to destroy the fur trade. The EU's claim that the Regulation would make trapping more humane by banning leghold traps was undermined by the lack of any mention within the law of any other type of trap which would be considered as more humane once the use of all legholds had been banned.

The hypocrisy inherent in EU Regulation 3254/91 becomes obvious with its inclusion of a potential ban on fur products derived from 13 species, 12 of which are North American and one found in Russia, while omitting from the list mink and fox. These species are also trapped wild furbearers, but ranching of mink and fox is a gigantic industry in several EU member states. Furthermore, the Regulation ignores the fact that furbearing animals are trapped throughout EU member countries, largely for reasons of pest control. In fact Member States trap five times more furbearing animals considered as pests than those trapped for food and fur in Canada. The trapping methods are virtually the same as used in Canada therefore prohibiting the importation of fur products based on a method of obtaining them would do nothing to improve the welfare of furbearing animals trapped in the EU countries.

The foregoing also underscores the notion that in the EU there is a general assumption that the reason for trapping (e.g., commercial for fur production versus pest control), determines the degree of humaneness or respect which the animals should receive. For example, muskrats in the Netherlands are seen as pests and "they deserves to die" with little consideration for their pain or suffering. However, if the same animals are being trapped for their fur, then they must be trapped as humanely as possible. As for the need to 'conserve' the 13 listed species, none of them is considered by the Convention on International Trade in Endangered Species (CITES) to be threatened by trade pressure.

The fur trade, Canadian governments, Aboriginal and non Aboriginal trappers recognized the threat the EU Regulation would have on the economic contribution trade in wild fur makes annually to the Canadian GNP (some \$600 million) as well as on the livelihoods of some 80,000 individuals, about 40% of whom are Aboriginal people. Canada exports 90% of its annual wild fur production. About 75% of those exports eventually end up in the EU. To loose access to that market would be devastating for Canada's wild fur producers.

Having experienced the failure of government efforts to prevent the 1983 EU seal products import ban, and recognizing that it would be virtually impossible to prohibit the use of all leghold traps for all species listed in the EU Regulation, consideration was given as to what could be done differently to prevent, block or alter the EU draft Regulation in order to maintain the wild fur trade.

Elements of the Strategy

The following elements related to various aspects of anti-fur campaigns leading up to, and the implementation of the EU wild fur Regulation, and beyond (1985 - 1997) needed to be addressed if the fur trade was to be maintained. Analysis of such elements and counter strategy development by the fur industry, Aboriginal and non Aboriginal trappers, federal and provincial/territorial governments and national Aboriginal organizations was undertaken. Of major concern to aboriginal people was the potential for EU Regulation 3254/91 to impinge on traditional rights to harvest and sell fur resources granted under Treaties or the Canadian Constitution.

Following the EU seal product import ban, the Canadian government established in 1984, a “Royal Commission on Seals and Sealing” to “inquire into and make recommendations on all aspects of seals and sealing in Canada, including social, cultural, ethical, scientific, economic, resource management, and international implications”. Among the 42 recommendations made in the Commission’s 1986 Report three can be broadly extrapolated beyond seals to apply to the use of wild furbearing animals. The Report states that “it is acceptable to take wild animals providing the numbers taken are controlled, the methods used are ‘humane’ and it serves a useful purpose”.

Animal Welfare: Was there a real problem with respect to the use of leghold and other trapping methods which was unrelated to the emotional rhetoric of the anti-fur groups? If so what was Canada doing about it, or needed to do about it?

Endangered Species: Was there a legitimate concern on the part of certain EU officials, animal welfare and conservation groups that the species listed in the regulation were endangered or threatened? Did trapping in Canada risk the potential capture of endangered species?

Moral Aspects Related to Use of Furbearing Animals: Were there compelling arguments internationally to support the belief expressed by EU parliamentarians and officials that they were on a moral high ground, and therefore had some justification in trying to inject their values concerning animal use on other cultures? Were there compelling arguments that moral concern about animal use should override moral concern for human livelihoods and/or ability of Aboriginal people to continue to live off the land?

Trade Related Issues: Was Regulation 3254/91 inconsistent with the rules of the General Agreement on Tariffs and Trade (GATT), which became the World Trade Organization (WTO)? What would be the implications for Canada and the fur trade should the EU Regulation be challenged at the GATT/WTO? Would a successful challenge require the EU to amend Regulation 3254/91? How would Aboriginals trappers be affected if Canada raised a WTO challenge?

Through a series of cooperative meetings, studies, and reports, fur industry groups,

including Aboriginal representatives determined the Canadian status related to the above elements. Subsequently, with the provision of funding from government and fur trade sources an overall strategy was formulated and carried forward.

Animal Welfare, Endangered Species and Trapping / Canadian Status

Some \$12 million was jointly provided over 10 years (1984-94 and ongoing to \$14 million to 2002) by the federal government and the fur trade for trap research and development toward improvements in animal welfare related to trapping. Virtually every country in the world permits the trapping of animals for various reasons and the trapping methods used are the same. However no country, including the EU, had invested in the search for improved trapping systems to the degree that Canada had. This fact proved to be a powerful element in countering the animal rights campaigns accusing the wild fur trade as cruel and uncaring of animal welfare.

Furthermore, Canadian provinces and territories, working with trappers and certain animal welfare organizations had been making steady progress toward improvements in animal welfare related to trapping. These jurisdictions, by 1983 had banned the use of many trapping devices, introduced trapping seasons and quotas, mandatory trapper education programs and continued to support the ongoing humane trap research program established by the not for profit Fur Institute of Canada. The government of Canada supported representatives of Aboriginal organizations to participate in the membership of the Institute where they had opportunity to hear reports on and to provide input to the trap research and development program. With government support, Aboriginal trappers were often involved in the field testing of new trapping systems.

Aboriginal trappers, having adapted to the use of iron and steel-jawed leghold traps, ironically brought over to Canada by Europeans in the 1700s, also adapted to the use of modern killing trap systems developed in Canada beginning in the 1940s. Such methods were also more efficient and resulted in better quality pelts which increased their value at auction.

All provinces and territories, which are responsible in Canada for the management of wildlife, restricted or prohibited the trapping, and entering into trade, any species considered endangered or threatened under (CITES).

It was Canada that initiated the interest in developing international humane trapping standards through ISO, the International Organization for Standardization. The federal government provided the funding (some \$1.5 million), starting in 1987, over ten years toward the chairmanship and secretarial responsibilities of an ISO Technical Committee established to draft the standards. The objective was to develop scientifically credible methodologies to determine the humane aspects of trapping systems- criteria which did not form part of the EU fur ban Regulation which was based on the perceived 'cruelty' of certain trapping methods. It was this initiative that provided the political incentive for the EU Commission to alter the first draft of the wild fur Regulation and to introduce an element that would reduce the potential that the trade ban was contrary to GATT rules.

(see Trade Aspects below). The EU Commission injected an OR clause into Regulation 3254/91 that apart from banning trade in fur products derived from animals caught in leghold traps, they would not be banned if such animals were caught in traps that “meet internationally agreed humane trapping standards”.

Even before the ISO trap standards process began, Canadian groups were engaged in drafting national humane trap standards and this initiative continued through to 1997 when a national standard for killing traps was formally adopted. The government provided support for representatives of aboriginal organizations to be involved in the development of both national and ISO trap standards activities.

Trade Aspects

The Canadian government developed the strategies, in cooperation with Aboriginal groups and other fur trade interests, related to potential actions that could be taken under WTO rules. Clearly the EU Regulation 3254/91 was contrary to Article XI of the GATT which states that international barriers to trade in products can not be put in place based on the methods of production. EU Commission Trade officials understood this situation, but argued that because the EU itself banned the use of leghold traps in its member states, this justified the wild fur ban on products derived from animals caught in such devices. However, EU trade officials after being informed, in 1990, of the discussions ongoing with the ISO trap standards setting process which was supported by wild fur producing countries, included the optional OR clause which would allow trade in products derived from animals taken in traps that met internationally agreed humane trapping standards. They considered this option would protect the Regulation from a challenge in the WTO and, in fact, better address the question of animal welfare, albeit not to be applied to EU trapping methods, as those were for non-commercial purposes.

While Canada had a strong case if the issue were to be taken as a dispute to the WTO, it was highly conceivable that the EU, rather than remove Regulation 3254/91, would choose to pay compensation either in an amount equivalent to the value of the Canadian wild fur products imported/sold in the EU, OR as an equivalent reduction in EU duties being applied to some other Canadian products being imported. Such compensation would not go to Canadian trappers. And because the EU is the major, direct or indirect, market for fur products, there was the strong potential that the international trade would simply stop using / designing for wild fur, resulting in an international collapse in demand for wild fur products, just as had resulted after the 1983 introduction of the EU Seals Directive. Also, the WTO process could have taken several years to resolve the dispute, which in the meantime the EU Regulation would have remained in place and the importation of wild fur products from Canada would have been suspended. Nonetheless, Canada convinced the EU Commission that it would not hesitate to take the fur ban issue to the WTO if the EU would not remove its Regulation or if some compromise solution could not be found that would maintain the importation of Canadian wild fur products into its member states. Ultimately, the compromise was the development and signing of an Agreement on International Humane Trapping Standards (AIHTS) to meet the second part OR clause in Regulation 3254/91 (see AIHTS below).

Aboriginal organizations were kept informed of the strategies related to the Canadian government's very limited ability to raise and resolve the wild fur issue through the WTO, and most understood the wider implications of the loss of the EU market. And they instinctively understood that injecting the potential aboriginal plight into the WTO dispute process, could embarrass the EU considerably and they were able to bring this point sharply forward in delegations to European officials. The point was recognized in a statement to the EU parliament when Sir Leon Brittan, Vice President of the EU Commission to explain the positive results that could be achieved through adoption of the AIHTS. Sir Leon stated that "An embargo on furs would achieve nothing (*for animal welfare*) and certainly have negative economic, social and political consequences both within the third countries and in the European Union affecting indigenous communities, but not only indigenous communities".

Summary

Given the foregoing review of the elements related to the EU rationale put forward to justify its wild fur ban regulation, the Canadian government and the fur industry considered that it had a substantially strong case to present to the EU Commission, parliamentarians, officials and the public to counter the anti-fur protests. However, as with the defense of the seal hunt, the arguments related to welfare, endangered species and trade, were technical and regardless of how 'right' they were they would not be sufficient to counter the emotional images of animals struggling in leghold traps. There needed to be an image equally evocative to that of the 'cruel' leghold trap - and that element was the image of Aboriginal people losing their culture and their livelihood.

Unlike the seal hunt there were three other factors that proved crucial to the strategy of Canada's counter arguments. First, while the EU had no commercial seal hunt, large numbers of furbearing animals as those listed in Regulation 3254/91 are trapped, using the same or similar type of trapping systems as used in Canada. Second, the EU had no standards criteria to demonstrate that the traps they permitted were humane. Thirdly, this time the Aboriginal groups were now well prepared to bring forth one of the most compelling arguments to counter the wild fur ban - that of moral equivalency, the fourth element for consideration.

Moral Considerations

One of the most significant roles Aboriginal people were able to contribute to the strategy was in challenging the anti-fur/animal rights moral arguments related to the use of fur and trapping. The animal welfare issue related to trapping is a technical problem, with technical solutions. However, when the anti-fur groups added to their position that trapping any animal, any time, is always morally wrong - regardless of the humaneness of the capture methods - technical measurements or arguments could not be used as counterpoints. It was Aboriginal people that provided the counter-balance by expressing their moral right to continue their way of life, a large part of which is based on their ability to hunt and to trap, and to market their furs. In delegations to Europe, Aboriginal

representatives, recalling the disastrous effects the 1983 Seals Directive had on the Inuit, asked parliamentarians, officials and the media “why are you trying to kill us and deny our children the ability to live off the land with a ban on the importation of wild furs”? Thereby invoking another dimension, sometimes referred to as “potential cultural genocide” for consideration by EU officials as they moved forward with implementing Regulation 3254/91.

As a gesture to ‘soften’ the effect of an EU fur ban on Aboriginal people, some officials suggested that an exemption for wild fur produced by Aboriginal people could be incorporated into the Regulation. Reflecting on the total uselessness ‘Aboriginal exemption’ set out in the EU Seals Directive when all international markets for seal products collapsed, Aboriginal groups indicated to the EU that their gesture was not acceptable. Moreover, an exemption was, to say the least, patronizing and smacked of colonialism.

Because representatives of aboriginal groups had become involved in the Fur Institute of Canada’s humane trap research program, the national and international humane trap standards processes, and the all fur industry strategy planning to counter the anti-fur protests, they were able to take their own decision to reject the EU exemption offer.

They were also well-positioned to express their values related to adherence to a “circle of life” philosophy and the notion of ‘respect’ for the animals they harvested and this was the moral equivalency to the supposed concern for animal welfare and use of ‘cruel’ traps raised by the EU as justification for the wild fur Regulation.

Aboriginal Strategy Development

Funded in part by the Canadian government, the Inuit Circumpolar Conference brought together representatives of Aboriginal people from Alaska, Canada and Greenland who were engaged in harvesting renewable marine resources as a subsistence activity. Building on this solidarity the government provided funds specifically for representatives of several Canadian Aboriginal organizations to meet and consider the implications of the effects of the seal products ban and government’s failed strategies to prevent it, as well as potential harm the continuing anti-fur protests would have on all Aboriginal communities. Out of that meeting, Indigenous Survival International (ISI) Canada was established in April 1985 as part of an Alaskan, Greenlandic, Canadian alliance of Aboriginal peoples. It was the first of its kind created specifically to protect Aboriginal harvesting rights and to maintain international markets for fur products, but also to act as a counter to the campaigns of animal rights and environmental groups protesting against commercial use of any wildlife resources.

The Inuit Tappirisat of Canada (ITC) decided to remain outside the ISI membership, but retained a working relationship with the other groups and, ultimately, with the fur industry in general by becoming a member of the Fur Institute of Canada in 1991. However, although the Inuit would be least affected by EU regulation 3254/91 (they trapped very few of the furbearers listed in it), their representatives had a very good grasp

of world opinion related to sustainable use activities, especially of sealing and whaling. They understood that if the anti-fur forces could succeed in having the importation of wild fur banned in Europe, an exemption from the ban for Aboriginal produced products would provide no protection whatsoever. Because of this concern and with funding from the Government of Canada an ITC representative established quarters and an office in Brussels for several months during 1994-95. This empowered the representative to meet regularly with members of the EU parliament, officials of the European Commission (particularly Directorate General I (trade) Directorate General XI (environment) and media to raise concerns on behalf of all indigenous people about the disastrous affects of the fur ban Regulation if it were to be imposed.

At the same time the federal government also provided funding toward the establishment of the Aboriginal Trappers Federation of Canada (ATFC). While there existed provincial and territorial trappers organizations across Canada with native and non native members, ATFC was the first organized specifically to represent solely the native trapper perspective regarding the sustainable use of furbearing animals at the national level. ATFC activities concentrated on responding to anti-fur protests in Canada. The government provided funding to ATFC between 1985 and 1990, and its activities included educational exhibits in parks, shopping malls and schools as well as presentations to the media.

In July 1985 the Canadian government, funded the Dene Nation to undertake some research and develop strategies to counter the anti-trapping/animal rights activities. A report was completed which reviewed five options:

- Do nothing
- Completely abdicate responsibility to government and industry
- Combine forces with government and industry
- Launch a counter campaign in complete independence of governments and industry and distinguish native concerns and interests as entirely unique
- Develop and launch an independent Aboriginal counter campaign, but in cooperation with the efforts of industry and government.

The fifth option which was an example of Agenda 21 - Chapter 26 objective of establishing processes to empower Indigenous people was adopted. Following an ISI presentation to, and recommendations from, the Standing Committee on Aboriginal Affairs and Northern Development, the government provided core funding of \$150,000 per year over 5 years to ISI. This empowered ISI to work with other Canadian fur trade interests and government in the development of complementary strategies to counter the rising anti-fur protests and ultimately, the proposed EU wild fur importation ban.

By 1992 core funding for ISI and ATFC ended and, for ISI as an ongoing organization, its mandate had come to an end. However, with government support for specific projects related to countering the anti-fur protests, the individual aboriginal representatives, who were members of ISI, were able to travel either individually or with other delegations to engage in direct discussions with European parliamentarians, Commission officials and government representatives in the member states. This enabled particular Aboriginal

concerns to be brought to the European's attention and to express those concerns in their own terms. The ongoing cooperative approach with other fur trade strategies enabled the Aboriginal groups to agree with, and to espouse, the state of the art improvements and activities of the Canadian approach to trap research, trapper education and international humane trapping standards. (See section re ITC above).

During the period (1989 - 1991) that the EU Commission was engaging in the various administrative activities necessary to draft and put forward a regulation which it considered would address the European Parliament's request to introduce a ban on the use of leghold traps both in the EU Member States and in wild fur producing countries, Canadian authorities had tried unsuccessfully to bring EU officials to Canada to observe trapping, Aboriginal communities and trap research, first hand.

In February, 1991 a group of EU parliamentarians and officials accepted an invitation from ISI to come to Canada to explore the Canadian government and Aboriginal viewpoints regarding the proposed fur import ban Regulation. During their trip to Canada, ISI worked with the Government of Canada and the province of Manitoba to arrange for the EU delegation to meet with some Canadian members of parliament, government officials, representatives of animal welfare groups, representatives of groups opposing the fur trade, fur trade representatives, to travel on a trapline, to visit an Aboriginal community (Leaf Rapids, Manitoba), to observe an Aboriginal pipe ceremony and to visit the Fur Institute's Trap Research and Development facility in Vegreville, Alberta.

By the end of their two week trip to Canada, the EU delegation had seen for themselves what Canada had been doing over many years to improve the animal welfare aspects related to trapping, the laws in place to strictly regulate the activity and the disastrous effect a wild fur ban could have on the economy; especially to Aboriginal trappers and their families. While the delegation had power only to recommend small, potential amendments to the draft EU Regulation (i.e. one year postponement of implementation date from 1994 to 1995 plus one year) they agreed to strongly support Canada's intention to seek the one year extension to its implementation date. Back in Brussels, the head of the EU delegation to Canada, who initially held anti-fur views, made good on their promised support in a report to parliament and the media. She received very sharp criticism from anti-fur groups for her new found position and was accused of having been tricked and brainwashed by Canadian Aboriginal groups and the Canadian Government. This was clearly an example of the positive and effective contribution which empowered aboriginal groups could have when working in partnership with governments.

In November 1991, the Regulation was passed by the Council of the European Communities, with implementation of the import ban to begin in January 1995. It contained the OR clause in reference to traps meeting internationally agreed humane trapping standards. It also included Article 3.2 which provided for an extension of one year to January 1996 if wild fur producer countries could demonstrate that "sufficient progress is being made in developing humane methods of trapping in their territory".

In 1994 the Canadian government, on behalf of the provinces, territories, as well as Aboriginal and non Aboriginal trappers, presented a detailed Report to the EU Commission which set out the progress made in the use of improved humane trapping methods. This Report was in response to Article 3.2 of EU Regulation 3254/91 which, as mentioned above, would grant an extension to January 1996 before the prohibition of wild fur products would come into effect. The one year delay in implementation of the import ban was granted to the extreme displeasure of the anti-fur / animal rights groups.

The Agreement on International Humane Trapping Standards (AIHTS)

On the basis that they claimed to be interested in improving the welfare of animals that were, and continue to be trapped worldwide for various reasons, several European animal welfare groups had been invited, in 1989 and 1990 to participate in the ISO process of drafting international humane trapping standards (see section re ISO above). They declined, essentially on the grounds that no trap could ever be considered humane and therefore a 'humane' standard was an impossibility..

However, when these groups realized that the Commission had included an option in its Regulation 3254/91 that would permit the importation of wild fur products into the EU based on the use of traps that met internationally agreed humane trapping standards, they increasingly involved themselves in the ISO process. Regrettably, their purpose was clearly to prevent an ISO international standard for humane traps from becoming a reality. In 1994, taking advantage of the consensus decision-making process and ISO's voting system, they were successful in having the term 'humane' removed from the title of the trap standard. According to an EU Commission official, removal of the term 'humane' nullified the use of the ISO trap standard, and traps that met it, as a means to comply with the OR option in Regulation 3254/91, leaving wild fur producing countries with only the one option to get an exemption from the import ban - abolish use of all leghold traps.

With the loss of the ISO international trapping standard as the 'humane' trap option, a new initiative was needed if wild fur producing countries could not prohibit the use of all leghold traps, but wanted to maintain trade after EU Regulation 3254/91 came into effect in January 1996. The EU Commission's Trade Directorate, fearful that Canada would have no choice but to take the issue to the WTO or to establish retaliatory embargoes against EU products also wanted to find a means to develop an international humane trapping standard. Subsequently, it was agreed, in 1995, to establish a Working Group of scientific and technical experts from Canada, the EU Commission, Russia and the USA with a mandate to produce, if possible, an international (three countries and the EU) humane trapping standard as an alternative to the ISO process. This initiative provided a rationale for the Commission to seek and obtain a further extension for implementing Regulation 3254/91.

During this period the Working Group worked without direct outside input from fur trade or animal welfare groups and produced its final Report in June 1996. But due to significant disagreement related to trap performance requirements suggested by the EU

experts, consensus could not be reached, thus leaving an agreed international humane trapping standard unfinished. However, some important guidelines were established and the Working Group agreed that an international trap standard should pertain to traps used to capture animals for whatever reason, not exclusively for the fur trade.

This left only one alternative and that was to attempt drafting an international agreement on humane trapping standards through negotiations strictly between the EU and major wild fur producing countries. Using the Working Group of Experts' Report as a guideline, government representatives from Canada, the EU, Russia and USA subsequently developed the Agreement on International Humane Trapping Standards. During these negotiations the provinces and territories, Aboriginal groups, other trapper organizations and animal welfare groups provided comments indirectly to the deliberations. The AIHTS was signed in December 1997 and includes realistic trap performance standards related to animal welfare, requirements for trap certification, trapper education, a phase out of the use of conventional steel-jawed leghold traps, time frames for testing traps against the standards and an implementation date of 2007. Most importantly, the AIHTS states that as long as it is in place, and implemented by the signatory Parties, the EU wild fur import ban will not be imposed. It also lists six more species found in EU countries thereby forcing the EU to actually address the animal welfare aspects of traps used there by having to certify them as meeting the AIHTS requirements.

During the two years of the Working Group of Experts discussions and the AIHTS negotiations, anti-fur and animal rights groups doubled their efforts to prevent the EU from accepting the AIHTS and signing it into law. Millions of dollars were raised and spent by them on full page newspaper advertisements and billboards throughout EU cities. Press conferences were held and the TV stations were inundated with video footage of animals struggling in leghold traps. They demanded that Regulation 3254/91 be imposed immediately and encouraged EU Member State ministers to vote against the AIHTS because it would, in their view, "institutionalize cruelty".

Acceptance and implementation of the AIHTS became the major goal of wild fur producing countries. It was the technical response to technical problems concerning improvements in animal welfare related to trapping. However, the promotion of Aboriginal people and their appealing emotional arguments neutralized or counter-balanced the emotional appeal of the anti-trapping groups. This was crucial to the ultimate signing of the AIHTS by the Europeans.

As participants in the overall cooperative fur industry strategies, Aboriginal groups, empowered with assistance from the federal government, played a key role throughout the two years and were persistent in expressing their support for the AIHTS rather than accept exemptions from the import ban being offered by the EU.

Prior to signing the AIHTS, the Netherlands made overtures that they would independently impose the EU Regulation. In 1996, as a counter to this, a group of Aboriginal war veterans from Saskatchewan, accompanied by Mr. Goulet that province's

Minister of Indian affairs, himself an Aboriginal, traveled to Holland with a simple and effective question for the Dutch people: “Why are you trying to kill our way of life when we fought, and died, liberating you from the Nazis to restore your way of life”

A Press Release of June 1997 from the Congress of Aboriginal People stated: “Canada’s Indigenous peoples respect the right of European Parliamentarians to make decisions, but we also expect them to take full responsibility for the financial consequences of their decisions. Voting down the AIHTS will result in a significant loss of real income and a way of life that cannot be replaced for the thousands of Aboriginal trappers”. It goes on: “Make no mistake about it. Voting this AIHTS down will directly lead to economic devastation in Indigenous communities and Europeans will have to accept responsibility for replacing this annual income and for dealing with the inevitable social breakdown” And further: “Europeans should not be fooled by the false credentials of overzealous ‘johnny-come-lately’ animal rights groups. We have tens of thousands of years of proven experience in managing our wildlife and we have yet to lose a species in our industry. Those are incontestable facts”.

Lobbying by Aboriginal people encouraged EU Member States’ governments to vote at the European Council in favour of the AIHTS as something that would, by keeping markets open, encourage Aboriginal people to continue to trap and live off the land because it continued to produce an income as well as food.

3 ESTABLISH ARRANGEMENTS TO STRENGTHEN THE ACTIVE PARTICIPATION OF INDIGENOUS PEOPLE

Implementation of Agreement on International Humane Trapping Standards

Preamble

Aboriginal groups witnessed how the animal rights / anti-fur organizations focused their anti sealing campaigns on a world wide urban public which resulted in a partial import ban on harp and hooded seal products imported to the EU, and ultimately to a loss of markets for all seal products. This devastated the livelihoods of Inuit seal hunters and their families. Aboriginal groups also came to understand that the government’s attempts to prevent the EU ban using scientific and technical arguments in response to evocative images of a man clubbing a ‘baby’ seal were ineffective. Consequently, when the anti-fur organizations moved their protests against all other fur products, Aboriginal groups, empowered with assistance from the government, joined in the development of a cooperative strategy with governments and other fur industry sectors to counter the emotional campaigns. These efforts are outlined in the foregoing which led to the development and ratification of the Agreement on International Humane Trapping Standards (AIHTS), the elements of which must be implemented over specified timelines and fully by 2007. As long as the AIHTS remains in place the importation of wild fur into the EU will continue undiminished.

Aboriginal communities and trappers have a responsibility now in carrying out and

maintaining their role in implementing the AIHTS. To ensure that this can be effected, the government assisted in establishing arrangements aimed at strengthening the active participation of Aboriginal people that will help maintain their traditional activities related to sustainable fur harvesting practices.

Initial Development of Responsibilities for Implementing AIHTS

During final stages of the negotiations for the AIHTS, in March 1996, government assisted representatives of several Aboriginal groups to attend a meeting in Quebec, with government and fur industry representatives, where plenary sessions were convened to explain the implications of the then proposed AIHTS, and to discuss preliminary strategies for implementing it. Governments and non Aboriginal trapper groups, as well as Aboriginal representatives held separate workshops to develop, and subsequently share their interpretations of, and requirements for implementing elements of the AIHTS, by their respective jurisdictions. Following the Quebec meeting, other smaller meetings continued which ensured that Aboriginal groups maintained their input toward the outcome of the AIHTS as it related to preserving their traditional fur harvesting activities.

Managing the Implementation of the AIHTS

The AIHTS sets out elements designed to manage the implementation of the mandatory Agreement. In Canada, except for trapping on certain Aboriginal Reserves and land claim settlement areas, it is the provinces and territories which are responsible for regulating the sustainable use of wild life. However, in order for Aboriginal trappers to export fur derived from animals trapped on their areas, they must have a license, and it is this element that brings these trappers under the trap certification requirements of the AIHTS. Consequently, the provinces and territories, as well as any Aboriginal organization which has regulatory responsibilities for wild life management, are considered to be the “competent authorities” outlined in the AIHTS; and therefore responsible for implementing it. The Fur Institute of Canada has the responsibility of administering the implementation of the AIHTS on behalf of the competent authorities and the Institute has established an Aboriginal Communications Committee consisting only of individuals who represent various Aboriginal groups.

The AIHTS also sets out arrangements for monitoring its implementation and this is done through a Joint Management Committee made up of representatives of the signatory countries. The Federal, Provincial and Territorial governments have recognized that meetings of the JMC would have to involve Aboriginal representation.

Implementation of the AIHTS in Aboriginal Communities

While the major Aboriginal organizations had been involved in the various processes and lobbying activities leading to the development and signing of the AIHTS, Aboriginal

trappers in remote communities had few opportunities to learn first hand about it and its implications for their way of life.

To address this situation, the Aboriginal Communications Committee of the Fur Institute, with support from the federal government, developed a program to provide timely information to Aboriginal communities across Canada about the AIHTS. The program also outlined the actions Aboriginal trappers would have to take as part of the AIHTS requirements, including the use of new trapping methods, in order to ensure that the wild furs they harvested would continue to be exported to the EU as an important source of income for them.

A total of 1,271 trappers and other Aboriginal people from some 400 different communities across all regions of Canada attended the information sessions hosted by representatives of the Fur Institute's Aboriginal Communications Committee. Such meetings also facilitated communications between Aboriginal trappers and specific provincial / territorial wildlife officials regarding potential regulatory changes as they relate to implementation of the AIHTS. The meetings also provided an opportunity to assess the fears and concerns of Aboriginal trappers related to the activities of animal rights / anti-fur groups which such trappers would hear about through occasional TV and radio news reports.

Recognizing the important contribution the community meetings made toward imparting information crucial to the continued empowerment of Aboriginal trappers to safeguard their traditional way of life against threats from animal rights groups, a second initiative was established. Again, with government support, the Institute's Aboriginal Communications Committee developed a program directed specifically at training Aboriginal trapper instructors. With the aid of brochures, manuals and videos translated into specific Aboriginal languages, such instructors are able to provide information related to the AIHTS, demonstrate new traps and trapping techniques that meet the AIHTS requirements and impart factual information about the activities of animal rights groups. The training program for establishing Aboriginal trapper education instructors has begun and to date 70 Aboriginal trappers from 69 different Aboriginal communities have attended the workshops. It is anticipated that these trapper instructor training sessions will continue, and this ultimately will establish an ongoing contingent of Aboriginal instructors. They will be able to reach many more of the some 35,000 Aboriginal trappers across Canada, and to interest young Aboriginals to continue in the pursuit of sustainable use activities. Such activities will maintain a traditional way of life that respects Mother Earth and the gifts she provides for food and other resources.

Most importantly, through ongoing trapper education workshops, Aboriginal trappers will be in an even better position to address future challenges from those who consider the notion of animal rights to be an overriding moral philosophy to the rights of those engaged in the sustainable use of renewable wild fur resources.

4 CONCLUSION

At the RIO Earth Summit in 1992, governments declared their support toward addressing thematic objectives set out in Agenda 21; particularly in Chapter 26. These included several elements related to “Establishing Processes to Empower Indigenous People” and “Establishing Arrangements to Strengthen the Active Participation of Indigenous People”. The foregoing Case Study illustrates how Canadian Aboriginal groups worked with governments and the fur industry and were thus empowered to act directly in defending and promoting sustainable fur harvesting practices as well as countering relentless anti-fur / anti-trapping campaigns generated by animal rights organizations.

The Study points out how Aboriginal people in the Arctic were devastated by the effects of a European Union import ban on harp and hooded seal products. The ban was established in 1983 as a result of annual, highly emotional animal rights campaigns directed at an urban public world wide. Government efforts, using scientific and technical arguments, in trying to offset the emotionally charged rhetoric were ineffective in preventing the ban and in 1987 the anti-fur groups set their targets toward banning the importation into the EU of all wild fur products. These renewed protests led to an EU wild fur import ban Regulation 3254/91 which if imposed would threaten Aboriginal culture of living off the land based on sustainable use principles.

By 1987 Canada was, and continues to be, a world leader in humane trap research, development of international and national humane trapping standards and sound wildlife management. Such technical activities, although crucial toward offsetting anti-fur groups’ accusations that the wild fur trade was cruel and it endangered wild furbearer populations, they were not enough by themselves to prevent the EU from potentially imposing its fur ban Regulation. While falsely portraying their interest only in preventing animal cruelty related to certain methods of trapping, the anti-fur agenda was to ban the use of fur based on moral grounds regardless of how humane trapping might be. With government support Aboriginal groups joined with governments and other fur industry sectors in the development of complementary strategies to counter the animal rights protests. It was the potential loss of traditional cultural rights and livelihoods espoused by Aboriginal people themselves that provided the moral equivalency to counter animal rights groups moral philosophy that tempered the actions of EU government officials. It was this element that was not illuminated by governments or sealing organizations during the anti seal hunt campaigns.

Empowerment of Aboriginal groups to espouse their message in their own way in tandem with the other elements of the government / fur industry strategies described in the Case Study led to the development and ratification of the Agreement on International Humane Trapping Standards. The AIHTS which sets out trap performance standards related to animal welfare, including for EU trapping methods, is mandatory. As long as it is in place wild fur will continue to be imported into the EU undiminished and Aboriginal fur harvesting practices will not be affected.

To further ensure the future of Aboriginal fur harvests, government has supported programs to provide information about the implications of the AIHTS to numerous Aboriginal trapping communities across Canada. As a second initiative an Aboriginal

trapper instructor training program has been established and through ongoing workshops in their communities, Aboriginal trappers will continue to be in a position to meet future challenges against their traditional rights to harvest wild fur under sustainable use principles.

Finally, by force of the overwhelming technical progress Canada had demonstrated toward improving animal welfare related to trapping, together with the Aboriginal philosophy which connects the concept of 'humaneness' with the notion of 'respect' for the animals provided as gifts by Mother Earth, the European Commission was subtly led into ending up where they said they wanted to be. With the moral arguments promoted by the animal rights groups successfully countered balanced by those put forward by Aboriginal delegations to the EU, the road was significantly opened to conclude the development of the AIHTS.

By signing the AIHTS, the EU was agreeing to a system which realistically addresses its own stated concern to improve animal welfare related to trapping, which the EU Regulation does not. The AIHTS provides criteria for measuring allowable 'humaneness' in traps, which the EU regulation does not. The EU stated concern for animal welfare is enhanced by the AIHTS listing of additional EU species. This will lead to improved welfare for those animals, considered 'pests' and which are trapped under animal control programs, but were not taken into account in the EU Regulation. By signing the AIHTS, the EU addresses animal welfare, maintains the import of wild fur into EU countries and virtually protects the EU from a WTO challenge, which the EU Regulation does not.

This was accomplished with a major contribution from the Aboriginal groups empowered with government support to engage in activities, on their own behalf to ensure their rights to engage in, and enhance, their traditional fur harvesting practices.

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