

Agence Mamu Innu Kaikusseht

Terms of Reference



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I. Foreword

According to the Canadian Intellectual Property Office (CIPO), a trademark includes a word (or words), a drawing or a combination thereof characterizing the products or services of a person or organization and setting them apart from others on the market.

A certification mark is a trademark belonging to a person or organization that issues licences to others for the marketing of products or services that meet a defined standard.

KESHKEN is a certification mark that will be filed by the Agence Mamu Innu Kaikusseht (AMIK) with the CIPO to designate food products from Canadian First Nations based on the standards outlined in these Terms of Reference.

KESHKEN guarantees the authenticity and quality of products from Canadian First Nations and their compliance with the values of the Indigenous communities that take part in their preparation. In addition, *ThisFish*, an identification and traceability system, enables KESHKEN member companies to display the utmost transparency toward consumers regarding the activities of Canadian First Nations and their environmental impacts.

The owner of the KESHKEN certification mark is AMIK, which sets standards and grants right of use to the companies that comply with the Terms of Reference.

The companies using the KESHKEN certification mark agree to comply with all requirements and control points outlined in these Terms of Reference.

Any modification to the KESHKEN standards must be accepted by AMIK, as their agent.

The plan in the KESHKEN Terms of Reference comprises **the goals and values** of the certification mark, **the requirements** to be certified, **the control points, the control structure** and, finally, **the principles governing application of the certification mark** by the user companies. In the last section of the document, **a lexicon** containing legal and operational definitions related to these Terms of Reference is presented for a clear interpretation of the terms involving KESHKEN certified companies and AMIK.

II. KESHKEN: background, values and goals

In the last two decades, access by Indigenous communities to commercial fisheries and their participation in resource management have laid the foundations for significant economic, social and community development of Canadian First Nations. Formal recognition of fishing rights following the *Sparrow* ruling of 1990 led to the emergence of a fisheries sector and then to indigenous processing and distribution activities governed by rules specific to each community. However, the common principles underlying fisheries management by Indigenous communities include: 1) involvement of communities in the management of fisheries resources; 2) possession of communal fishing licences under the Aboriginal Communal Fishing Licences Regulations; 3) possession of the means of fishing, processing and marketing (boats, plants, a logistical platform) by an Indigenous community or group of communities; and 4) the very significant social impact of the economic development arising from Aboriginal fisheries on the people of the communities. Making use of indigenous identity in the marketing of marine products developed by companies belonging to First Nations can enhance further development of the sector.

The KESHKEN certification mark is an intellectual property tool aimed at consumer promotion of seafood products prepared and/or distributed by Indigenous companies in Québec and Canada. It provides a **guarantee of authenticity and quality** of seafood products, with their harvesting meeting the **values** of First Nations Communities in Canada.¹

A. The KESHKEN guarantee of authenticity

KESHKEN is based on the guarantee of authenticity that it offers the consumer. This authenticity revolves around the Indigenous identity of the companies involved in the fishing and/or processing and/or distribution of KESHKEN-certified products. The certification mark, through *ThisFish*, provides the consumer with additional information: the name of the community involved in the product, its location and a brief description of the social and economic issues related to fisheries development in the community.

¹ The First Nations communities that are partners in KESHKEN include, but are not limited to, the Innu communities of *Ekuanitshit* and *Pakua Shipi* for the *Chlamys islandica* scallop (as of December 1, 2012).

B. A quality approach

KESHKEN guarantees the freshness of its products as well as strict compliance with the cold chain by the companies allowed to use the brand.

C. Canadian First Nations values

Canadian First Nations values expressed in the KESHKEN certification mark largely involve the companies' commitment to adding economic value to First Nations products through the brand and their social responsibility toward the communities. These values lay the foundations of the commitment of Indigenous communities and of the KESHKEN partner companies. Moreover, we favour transparency toward consumers through the *ThisFish* product traceability and identification system.

III. Outline of KESHKEN requirements

The requirements presented in this section are formulated to outline the standards for products bearing the KESHKEN certification mark so as to set them apart from other products on the market. The points in these standards are defined on the basis of a positive logic, and the means of controlling them are set out in Section V for each point. The scope of the KESHKEN standards extends from fishing (or aquaculture) to the marketing of products intended for consumers when this activity is conducted by a Canadian First Nations company. The requirements plan is similar to the control points plan and includes the following subsections: A) Authenticity; B) Quality; C) Values; and D) Traceability and transparency.

A. KESHKEN guarantees the authenticity of products from Canadian First Nations

1. KESHKEN designates products developed by Canadian First Nations companies.
2. Canadian First Nations member companies must be involved in two of the three following development stages:
 - a) the fishing stage;
 - b) the processing stage;
 - c) the marketing stage.
3. Canadian First Nations member companies eligible for use of the KESHKEN certification mark belong to:
 - a) a Canadian Indigenous community; or
 - b) a grouping of Canadian Indigenous communities; or
 - c) one or more members of a Canadian Indigenous community or communities.

4. The seafood products marketed at the launch of the KESHKEN certification mark include *Chlamys islandica* scallops fished by members of the *Ekuanistshit* and *Pakua Shipi* Innu communities.²

B. KESHKEN quality requirements

5. KESHKEN products meets quality requirements in terms of:
 - a) product freshness;
 - b) compliance with the cold chain at all stages of product development.
6. KESHKEN member companies agree to keep registers of compliance of product batches with the quality requirements set out in these Terms of Reference.
7. KESHKEN member companies agree to take product batches that are non-compliant with KESHKEN quality requirements and remove them from the market.

C. KESHKEN guarantees compliance with the values of Canadian First Nations

8. Member companies of KESHKEN certification agree to comply with the Terms of Reference and to market marine products eligible for KESHKEN certification under the name and logo of the certification mark.
9. KESHKEN emphasizes the social responsibility of member companies toward Indigenous communities with regard to:
 - a) job access for Indigenous people at companies using the certification brand;
 - b) the importance of economic benefits for the community or communities concerned;
 - c) promotion of the identity of the community or communities concerned through use of the brand through the *ThisFish* identification and traceability system.

² The KESHKEN certification mark aims to broaden its scope in the medium and long terms. Following the launch of KESHKEN with the *Chlamys islandica* scallop, the list of products and communities in Point 3 of the requirements in the terms of reference will be reviewed annually and may potentially include items from among all Canadian First Nations food products. Control of the requirements for products other than *Chlamys islandica* will be covered in further sections to be added as the brand develops.

D. KESHKEN traceability and transparency requirements

10. Identification and monitoring of product batches are conducted by KESHKEN certification member companies from the fishing boat right up to the marketplace.
11. Information on the authenticity and quality of KESHKEN products is provided to consumers through the *ThisFish* consumer product identification system. This information includes:
 - a) the product name;
 - b) the scientific name of the species;
 - c) the name of the fishing boat;
 - d) the fishing zone;
 - e) the fishing date (solely for refrigerated batches);
 - f) identification of the fishing gear;
 - g) if relevant, identification of the product processing stages;
 - h) the name(s) of the KESHKEN certification member company or companies taking part in preparation of the product;
 - i) the name(s) of the Canadian First Nations community or communities involved in preparing the product, and mention of the economic and social benefits from the activities of First Nations companies for the communities concerned;
 - j) the main stages in product preparation conducted by members of Canadian First Nations communities;
 - k) the state of product compliance with KESHKEN quality requirements;
 - l) a summary of the resource assessment in the fishing zone conducted by Fisheries and Oceans Canada;
 - m) the KESHKEN certification mark logo.

IV. Control structure

The KESHKEN control structure sets out the controls conducted by the operators responsible for compliance with the KESHKEN Terms of Reference. These operators are the certified companies and AMIK. This section outlines the roles and obligations of each party regarding KESHKEN certification.

A. Self-regulation

Self-regulation is the portion of control conducted by each KESHKEN member company. It consists of keeping registers that verify compliance of operations with the Terms of Reference and of implementing corrective measures by operations to meet this goal, where applicable.

B. Internal control

Internal control is conducted by AMIK. It consist of a periodic audit of the self-regulation registers and a notice sent to the company concerned in case of a failure of compliance, including failure to update documents. This notice is not enforceable in the attribution of certification to KESHKEN member companies. It is accompanied by advice to the company so as to establish product compliance and by AMIK monitoring of corrective measures. In some cases, mentioned explicitly in Section V, AMIK is in charge of checking on the keeping, updating and sending of records by organizations other than KESHKEN member companies.

V. Control of KESHKEN requirements for *Chlamys islandica*

This section mentions, for each requirement of KESHKEN standards (see Section III), the points for establishing control through a certifying body mandated by AMIK. Control points are outlined by content, type of control (self-regulation,³ internal control⁴) and support (documentary and/or visual control). Unless indicated otherwise, the frequency of controls is deemed to be annual by default. “Register” is understood to mean the self-regulatory registers kept by companies.

A. Control of authenticity

Control of authenticity of Canadian First Nations seafood products must include:

1. Identification of the audited company in the KESHKEN register of companies updated annually by AMIK.
2. Documentary control with information on:
 - a) which area(s) of business (fishing, processing or marketing) is (are) covered by KESHKEN certification at the audited company;
 - b) the company name identifying the persons and/or communities who own the audited company;
 - c) identification of the product eligible for KESHKEN certification produced at the audited company.
3. A visual control attesting to the company’s area(s) of business and to the product(s) prepared through a visit conducted by the certifying body during an operating period.

³ Control conducted by the certified company. This consists essentially of keeping registers in accordance with the Terms of Reference.

⁴ Control conducted by parties outside the certified company. This may be a member of AMIK or a person mandated by AMIK.

B. KENSHEN quality control

Control of quality requirements for KENSHEN marine products must include:

4. Documentary control of the keeping of registers attesting to the freshness of products and continuity of the cold chain. For each product batch attributed by day of fishing, these registers contain:
 - a) the landing date;
 - b) the date the products are received at the processing facility;
 - c) indication of the places where product batches are stored and handled;
 - d) temperature of the places where product batches are stored and handled.
5. Visual control of the storage of marine products aboard fishing boats. If this involves scallops in their shells, they must be cooled by seawater every 30 minutes. If this involves scallops with their shells removed, they must be stored in the hold in ice-cooled containers when the outside temperature exceeds 20 degrees Celsius.
6. Visual control of all places where product lots are stored and handled to verify the presence of an operating thermometer indicating the temperature of each place.
7. Documentary control of the register of compliance of batches with KESHKEN quality requirements. When applicable, these registers must include identification of the batches taken off the market, mentioning the cause and the date of removal.

C. Control of compliance with Canadian First Nations values

Control of operations guaranteeing compliance with Canadian First Nations values must include:

8. Documentary control of the solemn commitment of companies to comply with the KESHKEN Terms of Reference. Under the aegis of AMIK, member companies must renew their commitment annually.
9. Documentary control attesting to the social responsibility of KESHKEN companies toward the First Nations communities concerned. This includes:
 - a) identification of the number of employees who are members of Canadian First Nations communities in relation to total employment at the audited company. The level of employees who are Canadian First Nations members must equal or exceed 50% of the human resources employed by the company for a full year preceding the audit.
 - b) identification of the amount (in Canadian dollars) paid directly by KESHKEN member companies to the Canadian First Nations communities concerned during the year preceding the audit. The amount provided must equal or exceed 10% of the profits earned by the audited company over a one-year period.

D. Control of KESHKEN traceability and transparency

Control of operations guaranteeing the traceability and transparency of KESHKEN products must include:

10. Documentary controls of the identification and monitoring registers of product batches in accordance with KESHKEN certification. These registers include:
 - a) identification of the species;
 - b) identification of the name of the processed product, if applicable;
 - c) the name of the KESHKEN certification member companies in charge of operations at the preparation stages of the products concerned by KESHKEN certification;
 - d) the batch identification code issued by *ThisFish*.

11. Visual control of the referencing of KESHKEN-certified product samples through the *ThisFish* identification code. Internet-based referencing must include:

- a) the product name;
- b) the scientific name of the species;
- c) the name of the fishing boat;
- d) the fishing zone;
- e) the fishing date (solely for refrigerated batches);
- f) identification of the fishing gear;
- g) if relevant, identification of the stages in processing of the product;
- h) the name(s) of the KESHKEN certification member company or companies participating in preparation of the product;
- i) the name(s) of the Canadian First Nations community or communities participating in preparation of the product, and an indication of the economic and social benefits of the activities of First Nations companies for the communities concerned;
- j) the main steps in preparation of the product conducted by members of Canadian First Nations communities;
- k) the state of compliance of the product with KESHEN quality requirements;
- l) a summary of the resource assessment in the fishing zone conducted by Fisheries and Oceans Canada;
- m) the logo of the KESHEN certification mark.

VI. Updates of KESHKEN certification

The Terms of Reference of the KESHKEN certification mark are meant to evolve over time, based on operators' constraints and market opportunities. In addition to an intellectual property and marketing tool, the quality approach to which KESHKEN member companies are committed is capable of improvement year after year based on the brand's goals.

As the owner of the KESHKEN brand, AMIK is responsible for changes made to the Terms of Reference regarding certification requirements and control points. In such cases, AMIK must notify the companies concerned in writing so that they can update practices and control tools.

VII. Lexicon

AMIK: Agence Mamu Innu Kaikusseht

Canadian Intellectual Property Office (CIPO):

<http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/home>

Corporate social responsibility: Set of means instituted by KESHKEN certification member companies regarding the economic and social benefits from the activities of First Nations companies for the communities concerned.

Documentary control: Control of all documents attesting to the company's compliance with the requirements of the Terms of Reference, in addition to visual control.

Fisheries and Oceans Canada: Federal government department.

<http://www.dfo-mpo.gc.ca/index-eng.htm>

Internal control: Control conducted by a party outside the certified company. This may be AMIK or a person mandated by AMIK.

Register: Set of documents required for establishing documentary control.

Self-regulation: Control conducted by certified companies. This consists of keeping registers in accordance with the Terms of Reference.

Terms of Reference: List of requirements outlining standards for practices by the companies using the KESHKEN certification mark.

ThisFish: System of traceability and identification of marine products for consumers using a code that provides for tracing of the source of marine products and the activities required for their preparation. <http://thisfish.info>