

II. OPENNESS AGREEMENT

1. PURPOSE

This Agreement shall apply to the treaty process between the Hupacasath First Nation, Canada and British Columbia (the "Parties") and is intended to allow public access throughout the treaty process while recognizing the need to conduct effective negotiations.

2. ACCESS TO DOCUMENTS

(A) The Parties agree that at a minimum, the following documents will be made available to the public in their final form:

- (i) Main Table meeting agendas;
- (ii) All reports filed with the British Columbia Treaty Commission (BCTC); and
- (iii) Records of Decisions arising from 2(A)(i).

(B) The Parties will also make available to the public, draft agreements which generally have been agreed to by the Chief Negotiators (although not necessarily in their final form) and prior to initialing, including:

- (i) Framework Agreement;
- (ii) Chapters of the Agreement in Principle;
- (iii) Agreement in Principle;
- (iv) Final Agreement; and
- (v) Other Agreements.

(C) The Parties agree that documents not outlined in 2(A) and 2(B) will also be available to the public unless:

- (i) The Party producing the document has identified the document as confidential; or
- (ii) The Party producing the document considers that disclosure would prejudice the position or strategy of that Party; or

- (iii) A document is not at a stage in the drafting process where it accurately reflects the intention and interests of the Party or Parties.
- (D) Nothing in paragraphs 2(A), 2(B), and 2(C) is intended to diminish the ability of a Party to meet its consultation obligations with respect to documents the Party has produced.
- (E) Provision of documents to the public is governed by the provincial *Freedom of Information and Protection of Privacy Act*, and the federal *Access to Information Act and Privacy Act*.

3. CONSULTATION

- (A) Each Party retains the right to consult using its respective advisory process.
- (B) To facilitate the advisory process, the Parties will:
 - (i) Provide information on the substance of issues being negotiated,
 - (ii) Provide documents available to the public under 2(A), 2(B), and 2(C), and may
 - (iii) Brief the groups involved in the other Parties' advisory process, upon invitation by a Party.

4. PUBLIC INFORMATION

- (A) The Parties agree that it is important to provide information about negotiations to aboriginal and non-aboriginal communities in or near the Hupacasath First Nation's traditional territory. Approaches, other than open Main Table sessions, could include:
 - (i) **Public Information Forums**
The events may include those sponsored by parties other than the Parties to this Agreement. Generally, they will involve the Chief Negotiators or their designates. Other resource people may be invited.
 - (ii) **Open Houses and Workshops**
These events will involve the Parties and will be open to the public. They will focus on key issues and will provide information as well as opportunities for public discussion.
 - (iii) **Media Interviews and Briefings**

These interviews and briefings will focus on the substance and the progress of negotiations and will involve the Parties.

(iv) **Meetings with Third Parties and Other Community Groups**
These meetings will involve the three Chief Negotiators or their designates as well as groups such as local governments, unions, business groups, social agencies, community groups and similar organizations.

(v) **Public Information Materials**
These materials will be produced and distributed by the Parties.

(B) Nothing in this section is intended to prevent the Parties from participating in bilateral or independent public information activities.

5. ACCESS TO THE NEGOTIATION TABLE

(A) The Parties will determine whether sessions are to be open to the public by considering whether public attendance would:

(i) interfere with the effectiveness of the session; or

(ii) interfere with the effectiveness of the process; or

(iii) reasonably be expected to prejudice the positions or strategies of the negotiating Parties.

(B) Participation in negotiation sessions will be restricted to members of the negotiating teams. Other attendees will be observers unless the Chief Negotiators agree otherwise.

The Chair of each session is responsible for ensuring that observers are not disruptive to the negotiations and may decide to continue a meeting *in camera* if a productive negotiating environment cannot be maintained.

(C) The access referred to in clauses 5(A) and 5(B) may be achieved by opening negotiation sessions to the public and/or to coverage by the media.

(D) The Chief Negotiators will agree whether a session will be open or closed, either in whole or in part, in accordance with clauses 5(A) and 5(B).

(E) The Parties acknowledge that British Columbia may include as a member of its negotiating team, a representative of local government.