

Openness Protocol Agreement

For Stage 3 of Treaty Negotiations

Among Kwakiutl Laich-Kwil-Tach Nations Council of Chiefs, Canada and British Columbia

THIS AGREEMENT dated July 22, 1997, is entered into by the **Kwakiutl Laich-Kwil-Tach Council of Chiefs, Canada and British Columbia** (collectively referred to as the "**Parties**").

The following arrangements with respect to Openness matters affecting the conduct of framework negotiations (Stage 3) are agreed by the Parties.

Purposes

This protocol shall apply to the treaty process between the Kwakiutl Laich-Kwil-Tach Council of Chiefs, 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.

In acknowledging the need to have an open effective treaty process, the desire to provide accurate information to the public access throughout the treaty process, the Parties agree to provide greater access through:

- (i) Access to the documents;
- (ii) Consultation with advisory committees established by each of the Parties;
- (iii) Public information: and
- (iv) Access to negotiation meeting

as specified for in this Protocol.

1. Attendance at Public Information / Education Community Meetings and Forums

1.1 The chief negotiator for the Parties will be responsible for ensuring that an effective and regular public information education process is established.

1.2 A tri-partite information / education work plan for all stages of the negotiation process will be developed and will include dates, times, and location of community meetings and forums.

1.3 Notices of these meeting and forums will be issued to the local media two weeks prior to a meeting or forum whenever practical.

1.4 All community meetings and forums will be open to members of the general public.

1.5 The Parties will update the general public at these meetings and forums on the progress of the negotiations and any other information that the Parties consider to be relevant.

1.6 Members of the general public in attendance at the community meetings and forums will be encouraged to express their views and ask questions.

1.7 Nothing in the section shall be construed to prevent the Parties from pursuing bilateral or independent public information / education activities.

2. Attendance at Main Table Sessions

2.1 The chief negotiators of the Parties each retain the exclusive prerogative of determining the composition of their respective negotiation teams at the main table sessions.

2.2 All members of the three negotiating teams will be subject to all rules of confidentiality which may be agreed to by Canada, British Columbia, and the Kwakiutl Laich-Kwil-Tach Council of Chiefs for the full duration of negotiations.

2.3 All the main table sessions will be assumed to be open to members of the general public, subject to space available, unless openness would harm the process or progress of the negotiations as specified in sections (2.4) to (2.8).

2.4 In setting the agenda for each main table session, the chief negotiators will negotiate whether the type of session, or particular agenda items contemplated, does not lend itself to an open attendance by members of the general public.

2.5 In making a determination about whether or not a main table session is to be open to the general public, the chief negotiators will assess whether attendance by individuals other than members of the negotiating teams would:

(a) interfere with the effectiveness of the process;

(b) increase the effectiveness of the session; and / or

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

2.6 If the chief negotiators determine that a particular main table session, or parts of the main table session, does not lend itself to open attendance by the general public, reasons will be communicated to the public.

2.7 Notices of all open main table sessions will be issued to the local media at least two weeks prior to a main table session whenever practical.

2.8 The chief negotiators of the Parties will be responsible for the overall conduct of the negotiations, and members of the public in attendance at the main table sessions will participate as observers only. The chair will be responsible for ensuring that observers are not disruptive to the negotiations.

3. Public Record of Main Table Sessions

3.1 A record of decisions will be kept of the proceedings of main table sessions and will be released after approval by the Parties.

3.2 The record of decisions will include the time and location of a main table session, the agenda for the session, a description of actions taken or to be taken of matters discussed, an attendance list, and the names and phone numbers of contact persons for each of the Parties.

3.3 Recording, videotaping and photographing of open main table sessions will be allowed upon approval of the Parties. Any recordings or video taping of the sessions however, will be used for historical purposes only and will have no status as admissions of fact or records of agreement in any proceedings.

3.4 Records of decisions by main table sessions, as described in section 3.2 may be made available by various means to ensure as wide a distribution as possible, and to provide the opportunity for the public to view them and make copies.

4. Documents Used in the Negotiations

4.1 The release of documents is acknowledged to be subject to the provincial Freedom of Information and Protection of Privacy Act and federal Access to Information, and Privacy Act. If a chief negotiator is aware of a written request for information relating to the negotiations, notice of the request will be given to the other Parties.

4.2 The chief negotiator for a party introducing a document to the table will decide whether the document is to be made public, or confidential.

4.3 Where two or more of the Parties jointly produce a document, the document will be assumed to be available to the public unless the Parties expressly determine and agree that the release of a particular document is not to be released, the Parties will agree on a time frame during which the document will be kept confidential.

4.4 Correspondence among the Parties to the treaty table relating to negotiations are to be treated as confidential and be released only when the Parties agree to make any specific document more widely available.

4.5 The following documents, once they have been initialed by chief negotiations, will be make available to the public:

- (a) the framework agreement;
- (b) sub-agreements;
- (c) the agreement in principle;
- (d) the final agreement.

4.6 Prior to initialing by the chief negotiators agreements and documents as listed in 4.5 will be made available:

(a) by the provincial and federal chief negotiators to:

- the local consultation body for the area (the "Regional Advisory Committee");
- the local government consultation body for the area ("Treaty Advisory Committee");
- the province wide consultation body ("Treaty Negotiation Advisory Committee");
- and

(b) by the Kwakiutl Laich-Kwil-Tach Council of Chiefs:

- all its members and First Nation members.

5. Media Relations

5.1 Media coverage of open main table sessions will be allowed. Following main table meetings and approval by the Parties, records of decisions will be made available.

5.2 Chief negotiations of the Parties, or their delegates, will actively seek invitations to make

presentations or participate in discussion panels through the broadcasting and / or print media.

6. Consultation with "Third Parties"

6.1 The Parties will share information with each other and with the general public, concerning their respective consultation processes, and will make allowances to enable consultation to occur.

6.2 The Parties will undertake joint consultation whenever possible.

6.3 In accordance with their respective accountability mechanisms, provincial and federal negotiators will ensure that they report back regularly to their advisory committees. As part of this reporting, provincial and federal negotiators will explain how the advice provided had been taken into account during the negotiations and integrated into statements of interest or positions taken in the negotiations.

6.4 Each party retains the right to consult with its respective advisory committees.

7. Consultation with Local Government Treaty Advisory Committee

7.1 Members of the local government Treaty Advisory Committee will be subject to the rules of confidentiality agreed to by Canada, British Columbia, and Kwakiutl Laich-Kwil-Tach Council and Chiefs and to the Terms of Reference for the North Island Local Government Treaty Advisory Committee and to this openness protocol for the full duration of the negotiations.

8. Amendments

8.1 This document may be amended by agreement in writing by the chief negotiators.

On behalf of the **Kwakiutl Laich-Kwil-Tach Council of Chiefs**
Thomas Smith, Chief Negotiator

On behalf of the **Government of Canada**
Ted Hughes, Chief Federal Negotiator

On behalf of the **Province of British Columbia**
Cristina Scattolin, Chief Negotiator

Date: July 22, 1997.