

# OPENNESS PROTOCOL

## LAKE BABINE NATION TREATY PROCESS

**THE PROTOCOL REGARDING THE OPENNESS OF THE LAKE BABINE NATION TREATY PROCESS** is entered into by the Lake Babine Nation, Canada, British Columbia (the "Parties") this 17<sup>th</sup> day of April, 1996.

**WHEREAS** the Parties are involved in treaty negotiations pursuant to the British Columbia Treaty Process.

**AND WHEREAS** this Openness Protocol shall apply to the Parties and is intended to provide public access throughout all stages of the treaty negotiation process;

**AND WHEREAS** the Parties recognize the need to balance an open negotiating process which enjoys public confidence with the need of a practical and effective negotiating environment;

**AND WHEREAS** the Parties recognize the need to facilitate negotiations that are effective, fair and equitable;

**AND WHEREAS** the Parties are committed to interest-based treaty negotiations wherein we all seek mutually acceptable solutions to difficult issues;

**THEREFORE THE PARTIES AGREE AS FOLLOWS:**

### 1. Purposes

1.1 This Protocol shall apply to the Treaty Process between the Lake Babine Nation and British Columbia and Canada (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 and effective treaty process, the desire to provide accurate information to the public and to consult with third parties throughout the process, the Parties agree to inform the public through:

1.1.1 Access to the documents;

1.1.2 Consultation with advisory committees established by each of the Parties; 1.1.3 Public education; and

#### 1.1.4 Attendance at Main Table Meetings (Observer Status).

as specifically provided for in this Protocol.

## **2. Access to Documents**

2.1 The Parties agree that at a minimum, the following documents will be made available to the public;

2.1.1 Main Table Meeting Agendas; 2.1.2 Lists of Undertakings given by each Party at Main Table Meetings;

2.1.3 Periodic reports reviewing the progress of negotiations prepared by the Parties;

2.1.4 All joint reports filed with the British Columbia Treaty Commission, subject to clause 2.3;

2.1.5 Statements defining interests tabled by a Party at a Main Table Meeting, subject to clause 2.3; and

2.1.6 Discussion papers tabled by a Party at a Main Table Meeting, subject to clause 2.3.

2.2 The Parties will also make available to the public, Agreements which have been substantially agreed to by the Parties and prior to initialling, including:

2.2.1 Framework Agreement

2.2.2 Sub-Agreements

2.2.3 Agreement-in-Principle

2.2.4 Final Agreement

2.3 The Parties agree that documents not outlined in 2.1 and 2.2 will also be available to the public unless:

2.3.1 the Party producing the document has identified the document as confidential; or

2.3.2 the Party producing the document considers that disclosure would prejudice the position or strategy of that Party; or

2.3.3 a document is in a preliminary stage and has yet to accurately reflect the intention

and interests of the Parties.

2.4 Nothing in Clauses 2.1, 2.2, and 2.3 is intended to diminish the ability of a Party to consult with its respective advisory committees with respect to documents the Party has produced.

2.5 Release 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**

3.1 Each Party retains the right to consult with its respective advisor(s).

3.2 The Parties agree that to assist the advisor(s) in providing advice on the items under negotiation:

3.2.1 Each of the Parties will need to provide information to its advisor(s) on the substance of issues being negotiated.

3.2.2 Each of the Parties may provide to its advisor(s) documents available to the public under Clauses 2.1, 2.2 and 2.3; and

3.2.3 Each of the Parties may provide periodic briefings to advisor(s) established by other Parties.

3.3 The Parties may undertake bilateral or tripartite treaty consultations.

3.4 These consultation sessions referred to in 3.3 are intended to be used for the treaty process only.

### **4. Public Information**

4.1 The Parties agree that Public information activities will be planned and implemented by a Public Information Working Group comprised of members of the Parties, including such other persons as the Parties may agree upon. The Working Group will, every four or six months, develop a draft Public Information plan which will include the objectives and the public information activities for the next four or six months. This plan is subject to approval by a Main Table Meeting.

4.2 The Parties agree that public information activities will be undertaken in communities within the area described by the Lake Babine Nation as its traditional territories in its Statement of Intent filed with the British Columbia Treaty Commission, using several approaches which could include:

4.2.1 Public Information forums: the events to be held may include events, sponsored by parties other than the Parties to this Protocol. Generally, they will involve the Chief

Negotiators for the Parties or their designates. Other resource people may be invited.

4.2.2 Open workshops: these events will focus on key issues. They will involve the Parties and will be open to the public to provide an opportunity for discussion.

4.2.3 Radio, television and newspaper interviews and briefings: these interviews and briefings will focus on the substance and the progress of negotiations and will involve the Parties.

4.2.4 Meetings with third parties and other community groups: these meetings will involve the three Chief Negotiators for the Parties or their designates. They will include groups such as the Chamber of Commerce, municipal governments, unions, business groups and other similar organizations and agencies.

4.2.5 Open houses: these events will provide the Parties with an opportunity to provide information and to meet with members of the public and to discuss issues under negotiation.

4.2.6 Public information materials: these materials will be produced and distributed by the Parties, in accordance with the terms of this Agreement.

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

## **5. Attendance at Main Table Meetings (Observer Status)**

5.1 The Parties agree that public access to Main Table Negotiations will generally occur in those sessions devoted to a general exchange of information on issues, interests and policies or the discussion of matters of a procedural nature.

5.2 The Parties will determine by consensus whether Main Table sessions other than those identified in 5.1 should or should not be open to the public by considering whether their attendance at the session would:

5.2.1 increase the effectiveness of the session for all Parties, or

5.2.2 interfere with the effectiveness of the process for all Parties, or

5.2.3 reasonably be expected to prejudice the negotiating positions or strategies of the Parties.

5.3 The access referred to in Clauses 5.1 and 5.2 is to be achieved by opening these sessions, when agreed to by all three Parties, to the general public, or to representation from advisory committees, or broadcast by local television or radio or any combination of the above, or including representation from the print media, subject to clauses 5.10.3, 5.10.4, 5.10.5.

5.4 The Chief Negotiators will agree by consensus, three weeks prior to a negotiating session where possible, whether that session will be open, either in whole or in part, in accordance with Clauses 5.1 and 5.2. Where the Parties agree that a Main Table negotiation will be open, the Chief Negotiators will make reasonable efforts to provide at least two weeks public notice.

5.5 The Parties acknowledge that British Columbia will include as a member of its negotiating team a representative of local government from the Treaty Advisory Committee (TAC). The role of the TAC, will be subject to the Openness Protocol and any decisions made by the Chief Negotiators regarding closure.

5.6 Members of the public are welcome to observe open Main Table negotiating sessions.

5.7 Any Party may caucus in private at any time.

5.8 Media coverage of Main Table sessions which are open to the public will be permitted.

5.9 The Parties may submit a joint summary to the local media following each Main Table session.

5.10 Audio recording, videotaping and photographing of open Main Table sessions will be allowed by agreement of the Parties. The Parties agree that any recording, videotaping and photographing of Main Table sessions will:

5.10.1 be for internal historical or informational purposes only;

5.10.2 be treated as confidential and all reasonable efforts will be made to keep the recordings secure;

5.10.3 not be used in any action or proceeding against any other Party;

5.10.4 have no status as admissions or records of agreement;

5.10.5 not affect the without prejudice nature of the negotiations; and

5.10.6 not occur when any Party requests the opportunity to make comments off the record.

## **6. REVIEW OF THE OPENNESS PROTOCOL**

6.1 This Openness Protocol will be reviewed prior to the conclusion of Framework negotiations and may be amended in writing by consensus of the Chief Negotiators.

**THIS OPENNESS PROTOCOL** is agreed to at Woyenne in the Province of British Columbia by:

Canada

the Province of British Columbia

Chief Emma Palmantier, Lake Babine Nation