

OPENNESS PROTOCOL

Between the Squamish Nation, Canada and British Columbia

1.0 PURPOSE

1.1 The purpose of this Protocol is to guide the Parties on openness in the treaty negotiation process, recognizing the need for an effective negotiation environment.

1.2 It is intended that this Protocol will:

- (a) lead to a better public understanding and awareness of the subject matters considered in the negotiations,
- (b) provide a variety of opportunities for local communities, both aboriginal and non-aboriginal, and the general public to be informed as the negotiations proceed, and
- (c) increase public confidence in the negotiation process and promote support for the approval and implementation of agreements.

1.3 Each Party is responsible for informing and consulting with their communities in the treaty making process.

1.4 This Protocol is not intended to diminish the ability of any Party to consult with its advisory committees as necessary to advance the treaty negotiation process.

1.5 The Squamish Nation, Canada and British Columbia will be the only Parties negotiating the Squamish Nation Treaty.

2.0 DEFINITION

2.1 In this Protocol, the term "Record" means any thing on which documentary material or information is recorded or stored including by graphic, electronic, mechanical or other means (but does not include a computer program or any other mechanism that produces records), and that is provided by one or more parties to the other parties as part of this treaty negotiation process.

3.0 NEGOTIATION SESSIONS

3.1 The Chief Negotiators will determine by mutual agreement whether a treaty negotiation session will be open to observation. A treaty negotiation session will not be open to observation unless the Chief

Negotiators so agree. In making the determination whether a negotiation session is open, the Chief Negotiators will consider whether observation could reasonably be expected to:

- (a) result in disclosure of Records or information that was produced or provided in confidence ,
- (b) prejudice positions, interests or negotiation strategies of any Party or the successful and timely conclusion of the current or future stages of negotiations of fair and lasting agreements,
- (c) allow a comprehensive exploration of interests and issues of a sensitive nature,
- (d) encourage public support for, or enhance progress in, the negotiations, or
- (e) result in disclosure of Records or information that could reasonably be expected to be harmful to or interfere with the conduct of the negotiations.

3.2 Observation of a treaty negotiation session 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.

3.3 Observation of a treaty negotiation session will be achieved by opening sessions to the general public, representation from advisory committees, broadcast by local television or radio, or any combination of the foregoing, or including representation from the print media.

3.4 The Chief Negotiators will endeavour to agree, three weeks prior to regularly scheduled treaty negotiating sessions, where possible, whether that session will be open, either in whole or in part, in accordance with paragraphs 3.1 and 3.2

4.0 ACCESS TO RECORDS

4.1 Where one Party produces a Record and provides it to another Party, the Chief Negotiator for the Party producing the Record will decide whether the Record may be made public and advise the other Parties accordingly.

4.2 Where two or more Parties produce a Record, the Chief Negotiators for those Parties will determine by mutual agreement whether it may be made public. In making this determination, the Chief Negotiators will consider whether granting access to the Record could reasonably be expected to:

- (a) result in disclosure of Records or information that was produced or provided in confidence ,

- (b) prejudice positions, interests or negotiation strategies of any Party or the successful and timely conclusion of the current or future stages of negotiations of fair and lasting agreements,
- (c) not accurately reflect the intentions or interests of any Party,
- (d) encourage public support for, or enhance progress in, the negotiations, or
- (e) result in disclosure of Records or information that could reasonably be expected to be harmful to or interfere with the conduct of the negotiations.

4.3 Inclusion of the words "In Confidence", "Confidential" or similar words on or in respect of a Record will constitute advice to any Party receiving the Record that it is to be kept confidential.

4.4 Access to Records and information is subject to the application of federal and provincial freedom of information and privacy laws. 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.

5.0 PUBLIC INFORMATION

5.1 The parties agree that public information activities will be undertaken in communities within Squamish Nation traditional territories and may include public information forums, workshops, media interviews and briefings, meetings with third Parties and community groups, open houses and the production and distribution of materials.

5.2 A Party may engage in multilateral or independent public information initiatives during the treaty negotiation process.

5.3 The Chief Negotiators may establish a Side Table to periodically develop a draft information plan for consideration by the Chief Negotiators or the Main Table.

INFORMATION SHARING

5.4 Recognizing that sharing information is important to the conduct and progress of treaty negotiations, the Chief Negotiator for Canada and the Chief Negotiator for British Columbia will consult with their respective federal and provincial departments or ministries in an effort to promote information sharing with the Squamish Nation on the substantive subject matters which the Parties intend to address during their negotiations. Information may be provided to the Squamish Nation directly by the particular department or ministry or through their Chief Negotiator.

6.0 REPRESENTATION OF NON-PARTY INTERESTS

6.1 The Parties acknowledge that British Columbia will include one representative (the "TAC Representative") of the Lower Mainland Treaty Advisory Committee ("TAC") as a member of the Provincial negotiation team.

6.2 The TAC Representative will follow the directions and instructions of the Chief Negotiator for British Columbia and comply with the provisions of this Protocol.

6.3 Except as permitted under paragraphs 6.4 and 6.5, the TAC Representative will not share Records or information from discussions or Records of the Parties with TAC or any other person.

6.4 The TAC Representative may share with TAC all information and Records that have been determined to be public by the Chief Negotiators pursuant to paragraphs 3.0 and 4.0.

6.5 The TAC Representative may not share with TAC information or Records that have been determined to be confidential by the Chief Negotiators pursuant to paragraphs 3.0 and 4.0 unless:

- (a) the Chief Negotiators agree that the information or Record may be shared,
- (b) the Chief Negotiator for British Columbia instructs the TAC Representative that the information or Record may be shared, and
- (c) the members of TAC and the councils of the local governments represented on TAC have agreed in advance that they will not share the information or Record with any person and that discussions of the information or Record will be in camera.

7.0 AMENDMENTS

7.1 This Protocol may be amended by agreement in writing of the Chief Negotiators.

8.0 EFFECTIVE DATE

8.1 This Protocol will be included as a Schedule to the Framework Agreement. However, the parties agree that the provisions of this Protocol will apply to the negotiation process from the date of the signing of this Protocol by the Chief Negotiators.

IN WITNESS WHEREOF the Chief Negotiators for the Squamish Nation, Canada and British Columbia have each signed this Openness Protocol as of the 27th day of October, 1995.

CHIEF JOE MATHIAS,
Chief Negotiator for the Squamish Nation

ROBIN DODSON,
Chief Negotiator for Canada

LINDA JOLSON,
Chief Negotiator for British Columbia