

Protocol Regarding the Openness of the Tsay Keh Dene Treaty Process

THIS OPENNESS PROTOCOL, dated September 28, 1995 is entered into by the Tsay Keh Dene Band and, Canada and British Columbia (the parties).

1. Purposes

1.1 This protocol shall apply to the Treaty Negotiations Process between the Parties and is intended to provide reasonable public access throughout the treaty negotiations process while recognizing the need to conduct effective negotiations.

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

1.2.1. Access to the Main Table;

1.2.2 Access to documents;

1.2.3 Consultation; and

1.2.4 Public information,

as specifically provided in this Protocol.

2. Access to the Main Table

2.1 The Parties agree that the public access to Main table Meetings 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.

2.2 The Chief Negotiators will determine whether other sessions are to be open to the public by considering whether attendance at the session by individuals other than the negotiating team members would:

2.2.1 increase the effectiveness of the session;

2.2.2 reasonably be expected to prejudice the positions or strategies of the negotiating parties; or

2.2.3 harm the conduct of negotiations.

2.3 The access referred to in clause 2.2 and 2.2 is to be achieved by opening these sessions to the general public, representation from advisory committees, broadcast by television or radio, representation from the print media, or any combination of the above.

2.4 pursuant to subsections 2.1 and 2.2 of this Protocol. the Chief Negotiators will agree prior to a Main Table Meeting whether that session will be open, either in whole or in part. Where the Parties agree that a Main Table Meeting will be open, the Chief Negotiators will provide at least two weeks public notice.

2.5 The Chief Negotiators will be responsible for the overall conduct of the negotiations, and persons other than members of the Parties' negotiation teams in attendance at the Main Table Meetings will participate as observers only.

2.6 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).

2.7 The TAC and its members shall be subject to all rules of information sharing as set out in this Protocol. In addition, the TAC shall only:

2.7.1 Receive information which, pursuant to subsections 3.1 and 3.3 of this Protocol is available only to the Parties, when such information directly affects local government interests; and

2.7.2 Receive information not available for public distribution as described in sub-section 2.7.1 if each member agrees on behalf of their local government that they:

2.7.2.1 Will confine discussion of this information to "in camera" sessions of their local government; and

2.7.2.2 Will not disclose this information to anyone else.

2.8 The Provincial Chief Negotiator will establish terms of reference with TAC, consistent with this Protocol, in a letter of agreement to TAC, with copies to the other Parties.

3. Access to Documents

3.1 The Parties agree that documents will be a valuable on a timely basis to the public provided that:

3.1.1 The Party producing the document has not identified the document as confidential; or

3.1.2 The Party producing the document does not consider that disclosure would prejudice the position or strategy of that Party; or

3.1.3 the Parties agree that a document is at a stage in the drafting process where it accurately reflects the intention and interests of the Parties.

3.2 The Parties specifically agree that, in accordance with 3.1, the following documents will be made public in their final form.

3.2.1 Main Table Meeting agendas;

3.2.2 Records of decisions and commitments by each Party at main Table Meetings;

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

3.2.4 All joint reports filed with the British Columbia Treaty Commission;

3.2.5 Statements outlining interests tabled by a Party at a Main Table Meeting;

3.2.6 Discussion papers clarifying interests tabled by a Party at a Main Table Meeting; and

3.2.7 The Framework Agreement, Sub-agreements, the Agreement-in-Principle, and the Final Agreement, once agreed to by the Chief Negotiators and prior to installing.

3.3 In accordance with 3.1, the following documents will be available to the Parties only;

3.4 Release of documents to the public is acknowledged to be subject to the Freedom of Information and Privacy Act of the Province of British Columbia and the Access to Information Act and Privacy Act of Canada, in accordance with their terms.

4. Consultation

4.1 Subject to the terms of this Protocol, each party retains the right to consult with its advisory

committees.

4.2 The Parties agree that to assist such advisory committees in providing advice on the items under negotiation each of the Parties may, subject to the terms of this Protocol:

4.2.1 Provide information to its advisory committees on the substance of issues being negotiated and documents available to the public under 3.1 and 3.2; and

4.2.2 Provide periodic briefings to advisory committees established by the other Parties.

5. Public Information

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

5.2 The Parties agree that public information initiatives may be undertaken in communities within Tsay Keh Dene traditional territory using such approaches as the Parties agree are appropriate given the physical and demographic circumstances within the traditional territory. Such approaches may include meetings in communities and the production and distribution of public information materials.

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

Agreed by each Party.

Tsay Keh Dene Band per: _____

Canada per: _____

British Columbia per: _____