

The Openness Protocol of the Tsimshian Treaty Process

November 29, 1995

1. Purposes

1.1

This Protocol shall apply to the Treaty Process among the Tsimshian Nation, 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 consult with third parties throughout the 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 Main Table Meetings.

2. Access to documents

2.1

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. Lists of Undertakings given by each Party at Main Table Meetings;
- iii. Periodic reports reviewing the progress of negotiations prepared by the Parties;
- iv. All status of negotiations reports filed with British Columbia Treaty Commission;
- v. Statements defining interests tabled by a Party at a Main Table Meeting.

2.2

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

- i. Framework Agreement
- ii. Sub-agreements
- iii. Agreement-in-Principle
- iv. 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:

- 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.

2.4

Nothing in paragraphs 2.1, 2.2 and 2.3 is intended to diminish the ability of a Party to consult with its respective caucus or advisory committee, with respect to documents the Party has provided.

2.5

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.

2.6

The Parties will determine which documents are to be made public in accordance with Section 2 of this Protocol, and identify those documents in the List of Undertakings prepared by the Parties at the end of each Main Table session.

3 Consultation

3.1

Each Party retains the right to consult with its respective advisory committee.

3.2

The Parties agree that to assist the advisory committees in providing advice on the items under negotiation:

- i. Each of the Parties will need to provide to its advisory committee on the substance of issues being
- ii. Each of the Parties may provide to its advisory committee, documents available to the public under 2.1, 2.2 and 2.3: and
- iii. Each of the Parties may provide periodic briefings to advisory committees established by other Parties.

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 months, develop a draft information plan which will include the objectives and the public information activities for the next four months. this plan is subject to approval by a Main Table Meeting.

4.2

The Parties agree public information will be undertaken in communities within Tsimshian territories using several approaches. which could include:

- i. *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.
- ii. *Open Workshops:* these events will focus on key issues. They will involve the Parties and will be open to the public and provide an opportunity for discussion.
- iii. *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.
- iv. *Meetings with Third Parties and other community groups:* these meetings will involve the three Chief Negotiators for the parties or their designates. they may include groups such as the Chamber of Commerce, aboriginal organizations and groups, municipal governments, unions, business groups and other similar organizations and agencies.
- v. *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.
- vi. *Public Information Materials:* these materials will be produced and distributed by the Parties.

5. Access to the Negotiation Table

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 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:

- i. increase 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.

5.3

The access referred to in clauses 5.1 and 5.2 is to be achieved by opening these sessions to the general public, or representation from advisory committees, or the media or any combination of the above.

5.4

The Chief Negotiators will agree, 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.

5.5

The Parties agree that British Columbia will include as a member of the provincial negotiating team a representative of local government from the Treaty Advisory Committee (TAC). The role of the TAC representative will be subject to rules of information sharing as agreed to by the parties.

6. Amendment

6.1

This Protocol may be amended at any time by the agreement of the Chief Negotiators in writing.

Signed on behalf of the Tsimshian:

Chief Negotiator

Signed on behalf of Canada:

Tom Molley
Chief Negotiator

Signed on behalf of British Columbia:

Mark Stevenson
Chief Negotiator