

Westbank First Nation Openness Protocol

February 3rd, 1997

Whereas the Parties recognize the need to consult with third parties and to provide information to the public if treaties are to be lasting and beneficial agreements for the Parties, and;

Whereas the Parties wish to enter into a Protocol agreement with respect to the manner in which third parties shall be consulted and the public informed in the Treaty making process;

Whereas this Agreement replaces the Openness Protocol Agreement dated June 13, 1995;

Therefore the Parties agree as follows:

1. PURPOSE

1.1 This Protocol shall apply to the Treaty Process between the Westbank First Nation, Canada, and British Columbia and is intended to allow public access to the Treaty Process while recognizing the need to conduct effective negotiations and reach agreements.

2. ACCESS TO AGREEMENT

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 Agendas;
- ii. Periodic reports reviewing the progress of negotiations jointly prepared by the Parties;
- iii. All reports filed with the British Columbia Treaty Commission.

2.2 The Parties will also, where the Chief Negotiators agree, make available to the public documents which have been substantially agreed to by the Parties and prior to initialing, including:

- i. The Framework Agreement;
- ii. Sub-Agreement;
- iii. The Agreement-in-Principle;

iv. The Final Agreement.

2.3 The Parties agree that other documents will also be available to the public unless:

- i. The Parties producing the document has identified the document as confidential; or
- ii. The Party producing the document considers the disclosures would prejudice the position or strategy of that Party; or
- iii. a document is not at a state 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 committees, with respect to drafts of the documents the Party has produced and drafts of the Agreements referred to in paragraph 2.2.

2.5 Documents referred to in this Agreement shall not be released by the federal and Provincial governments except pursuant to the Provincial Freedom of Information and Protection of Privacy Act, the Federal Access to Information Act, and Privacy Act and this Agreement. Documents referred to in this Agreement shall not be released by Westbank First nation except in accordance with any policy or rule of Westbank First Nation and this Agreement.

3. CONSULTATION

3.1 Each Party retains the rights to consult with its respective advisory committees in accordance with this Agreement.

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 information to its advisory committees on the substance of issues being negotiated.
- ii. Each of the Parties may provide to its advisory committees any documents tabled by any Party at the Main Table or exchanged by the Chief Negotiators unless the Parties specifically agree not to distribute a document.
- iii. Each of the Parties may, upon request, provide periodic briefings to advisory committees established by the 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 comprising members of the Parties, including such other persons as the Parties may agree upon. The Working Group will develop a draft information plan which will include the objectives and the public information activities to be carried out. 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 Westbank First Nation's Traditional 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 will include groups such as the Chamber of Commerce, 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 negotiations.

vi. **Public Information materials:** these materials will be produced and distributed by the Parties.

vii. **First Nation Communities:** these meetings will involve the three Negotiators for the Parties or their designates and will be open to members of a First Nation and other persons who are a part of a First Nation community. These meetings will focus on key issues and provide an opportunity for discussion. Other resource people may be invited.

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

5. ACCESS TO THE NEGOTIATION TABLE

5.1. The Parties agree that public access to the 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. Working groups shall not be open to the public unless otherwise agreed to by the Parties

5.2. 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 is responsible for ensuring that observers are not disruptive to the negotiations and may decide to continue a meeting in camera if a productive negotiating environment cannot be maintained.

5.3. The Parties 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.

5.4. The Chief Negotiators will agree, three weeks prior to a negotiating session, where possible, whether that session will be open or closed, either in whole or in part, in accordance with clauses 5.1, 5.1 and 5.3. In the event that the Chief Negotiators cannot agree, the session will be closed.

5.5. The access referred to in clauses 5.1, 5.2, and 5.3 is to be achieved by opening these sessions to the general public, representation from advisory committees, broadcast by local television or radio, representation from the print media, or any combination of the above.

5.6. The Openness Protocol governing the table will apply to each member of the Parties' negotiating team. The Parties will also agree on the rules of information sharing that will apply to British Columbia's Treaty Advisory Committee prior to the commencement of framework negotiations.

6. REVIEW OF OPENNESS PROTOCOL AGREEMENT

6.1 This Agreement will be reviewed by the Parties to completion of the Framework Agreement and from time to time thereafter as agreed.

6.2 This Agreement may be amended by agreement of the Parties.