

Yekoochet'en, Canada, British Columbia

Protocol Regarding the Openness of the Yekoochet'en Treaty Process

THIS OPENNESS PROTOCOL, dated September 27, 1995 is entered into by the Yekoochet'en First Nation, Canada and British Columbia (the "Parties")

1. PURPOSES

1.1 This Protocol shall apply to the treaty negotiations process among the Parties and is intended to provide public access throughout all stages of this process while recognizing the need to conduct effective negotiations.

In acknowledging the need to have an open and effective process, the desire to provide accurate information to the public and to consult with third parties throughout the process, the Parties agree to provide greater access through:

Access to the Main Table,

Access to documents,

Consultation, and

Public Information.

as specifically provided for in this Protocol..

2. ACCESS TO THE TREATY TABLE

2.1 The Parties agree that public access to treaty negotiations will generally occur in Main Table meetings devoted to a general exchange of information or clarification of positions on issues, interests and policies, or the discussion of matters of a procedural nature.

2.2 In deciding whether the public will have access to a negotiation session, the Chief Negotiators will consider 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 Interfere with the effectiveness of the process;

2.2.3 Reasonably be expected to prejudice the positions or strategies of the negotiating parties; or

2.2.4 Harm the conduct of negotiations.

2.3 The access referred to in subsections 2.1 and 2.2 of this Protocol is to be achieved by opening these sessions to the general public, or representation from advisory committees, or broadcast by local television or radio or any combination of the above, or including representation from the print media.

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

2.5 The Parties acknowledge that British Columbia will include as a member of its negotiating committee a representative of local government from the Treaty Advisory Committee (TAC).

2.6 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:

2.6.1 Receive information, in accordance with subsection 3.3 of this Protocol, which is available only to the Parties and which directly affects local governments' interests; and

2.6.2 Receive information not available for public distribution as described in subsection 2.6.1 if each member agrees on behalf of their local government that they:

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

2.6.2.2 Will not disclose this information to anyone else.

2.7 The provincial Chief Negotiator will establish terms of reference for the 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 at a minimum the following documents will be made public in their final form on a timely basis:

3.1.1 Main Table meeting agendas;

3.1.2 Records of decisions and commitments given by each Party at a Main Table meeting;

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

3.1.4 Statements defining interests tabled by a Party at a Main Table Meeting;

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

3.1.6 All joint reports tabled with the British Columbia Treaty Commission.

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

3.2.1 A Framework Agreement;

3.2.2 Sub-agreements;

3.2.3 An Agreement-In-Principle; and

3.2.4 A Final Agreement.

3.3 The Parties agree that other documents including working or draft proposals, position papers and draft documents prior to agreement on their contents having been finalized by the Parties will be made public unless:

3.3.1 The Party producing the document has identified the document as confidential; or

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

3.3.3 A document is at a stage in the drafting process where it does not accurately reflect their intention or interests.

3.4 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.

4. CONSULTATION

4.1 The Parties will share information with each other and with the general public concerning their

respective consultation processes and will arrange negotiation timetables that allow consultation to occur.

4.2 The Parties will undertake joint consultation whenever it is mutually deemed advisable.

4.3 The Parties retain the right to consult with their respective advisory committees.

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

4.4.1 Will need to provide information to its advisory committee on the substance of issues being negotiated;

4.4.2 May provide to its advisory committee documents available to the public under subsections 3.1, 3.2 and 3.3; and

4.4.3 May provide periodic briefings to advisory committees established by other Parties.

5. PUBLIC INFORMATION AND REPORTING

5.1 The Chief Negotiators for the Parties will be responsible for ensuring that an effective and ongoing public information process is established.

5.2 The Parties agree to establish a Public Information Working Group comprised of representatives of the respective parties and any other persons the Parties may agree upon. Every six (6) months the Public Information Working Group will develop a draft information plan which will include objectives and activities for the next six (6) months. The draft plan is subject to approval by a Main Table Meeting.

5.3 The Parties agree public information activities will be undertaken in communities within and adjacent to the Yekooche traditional territories using several approaches, which could include:

5.3.1 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.

5.3.2 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.

5.3.3 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.

5.3.4 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, municipal governments, unions, business groups and other similar organizations and agencies.

5.3.5 Open Houses: These events will provide the Parties with an opportunity to inform and to meet with members of the public and to discuss issues under negotiation.

5.3.6 Dissemination of public information materials: These materials will be produced and distributed by the Parties by means which may include libraries, resource centres, and electronic bulletin boards.

5.4 Nothing in this subsection is intended to prevent the Parties from participating in bilateral or independent public information activities. In the event such activities are planned, the Parties involved will ensure that the Public Information Working Group is given advance notice.

Agreed by each Party.

Yekoochet'en _____

Canada _____

British Columbia _____