



TREATY
COMMISSION

ANNUAL REPORT

2001

 THE YEAR IN REVIEW

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Wilf Adam



Peter Lusztig



Kathleen Keating



Debra Hanuse



Miles Richardson

Urgent action is necessary to make the treaty process more effective.

LETTER FROM THE CHIEF COMMISSIONER

The Treaty Commission has taken the extraordinary step of including *A Review of the Treaty Process* as a distinct document within this, our eighth, annual report. The review, conducted over the past several months, confirms there is a solid foundation for treaty making in British Columbia. However, urgent action is necessary to make the treaty process more effective.

This review was an opportunity for the Treaty Commission to step back from the negotiations, look at treaty making and ask ourselves what has been accomplished, what has gone wrong and what needs fixing. The result is a plan that, if followed, will restore faith in the treaty process, bring a measure of certainty to land and resource use, and flow benefits to First Nations sooner.

There are a number of recommendations for change within these pages. Our message to the governments of Canada and British Columbia and First Nations is this: Act together on these recommendations to make the treaty process more effective.

In our last annual report we shone light on the two solitudes, highlighting the differences in vision that First Nations and the governments of Canada and British Columbia bring to the negotiating table. The gap, we explained, was huge and the challenge ahead was to bridge that gap; much of that work remains to be done. There are major unresolved issues that must be addressed if we are to make substantial progress.

However, we should not lose sight of how much has been accomplished, the lessons we have learned and the experience we have gained — all valuable experience the parties can now bring to the negotiations. Over the past year we did make progress, primarily through interim agreements, despite a federal election, a provincial election and the installation of a new government in Victoria. With strong leadership and political will much can be accomplished in the coming year. But it will take a new approach.

While comprehensive treaties are the goal, it will be important to establish building blocks and that is best done through incremental steps. The “big bang” theory of treaty making must be laid to rest. That is one of the important lessons of the last eight years.

I offer my thanks to the commissioners and staff for their dedication and hard work during a difficult year and for their participation in this review of treaty making. There is no other undertaking so important to the future of this province.

The Treaty Commission is required to submit annually to the Parliament of Canada, the Legislative Assembly of British Columbia and the First Nations Summit a report on the progress of negotiations and an evaluation of the process. Our annual financial information has been prepared to coincide with the release of *The Year in Review* and is submitted as a separate document.

Respectfully,



Miles G. Richardson
Chief Commissioner

REAPPOINTMENTS PROVIDE CONTINUITY, STABILITY

December 1990

BC Claims Task Force formed.

Over the past year, the parties to treaty negotiations have dealt with a federal election, a provincial election and a provincial government transition.

Alongside these changes, the Principals of the treaty process — Canada, BC and the First Nations Summit — made important reappointment decisions to maintain some degree of continuity and stability in the treaty process.

June 1991

BC Claims Task Force makes its report. The report recommends that a new relationship among First Nations, Canada and BC be established through political negotiations and makes recommendations for the achievement of that goal.

Chief Commissioner **Miles Richardson** was reappointed to a three-year term by agreement of Canada, BC and the First Nations Summit. Commissioner **Wilf Adam** returns for a fourth term and **Debra Hanuse** returns for a third term by resolution of the First Nations Summit. Government of Canada appointee

Peter Lusztig returns for a fourth term and **Kathleen Keating** continues a second term as the Government of BC appointee. The four part-time commissioners are appointed to two-year terms.

Miles Richardson was appointed chief commissioner in November 1998 and reappointed in August 2001. Prior to this appointment, Mr. Richardson served three years as the First Nations Summit appointee to the Treaty Commission. Mr. Richardson served on the First Nations Summit Task Group from 1991 to 1993 and the BC Claims Task Force, whose report and recommendations is the blueprint for the treaty negotiation process. He holds a Bachelor of Arts (1979) from the University of Victoria.

Wilf Adam was appointed to the Treaty Commission in April 1995 and re-elected in April 1997, April 1999 and March 2001. Former chief councillor of the Lake Babine Band and chair of the Burns Lake Native Development Corporation, Mr. Adam co-founded the Burns Lake Law Centre. Mr. Adam was born in Burns Lake and raised at Pendleton Bay. In 1985, he completed a course in business management at the College of New Caledonia in Prince George.

Debra Hanuse was appointed commissioner in November 1998 to serve the remainder of Miles Richardson's term. She was re-elected in April 1999 and March 2001. Raised in Alert Bay, Ms. Hanuse is a member of the 'Namgis Nation of the Winalagalis Treaty Group. She holds a Bachelor of Arts in Political Science from Simon Fraser University (1986), and a Bachelor of Laws from the University of British Columbia (1990). She was admitted to the Bar in 1991. For four years, she practised corporate, commercial and aboriginal law with the firm of Davis and Company. In 1995, Ms. Hanuse began her own practice where she was involved in treaty negotiations on behalf of First Nations.

Kathleen Keating was appointed to the Treaty Commission in April 1998 and reappointed in April 2000. Ms. Keating is a lawyer, writer, trainer and consultant in the areas of court process, plain language and the law. She is a member of the Council of the Commonwealth Lawyers Association and has served as a member of the Vancouver Police Board and the Public Library Board. She earned her Bachelor of Laws (1976) from the University of British Columbia.

Peter Lusztig was first appointed to the Treaty Commission in April 1995. He was reappointed in April 1997, April 1999 and March 2001. Former Professor of Finance at the University of British Columbia, Mr. Lusztig served as Dean of the Faculty of Commerce and Business Administration. In addition to his academic experience, Mr. Lusztig played an active role in public affairs as a member of one royal commission and one commission of inquiry and has served with numerous community and business boards. Mr. Lusztig earned his Bachelor of Commerce from the University of British Columbia (1954), his MBA from the University of Western Ontario (1955) and his PhD from Stanford University (1965).

September 21, 1992

BC Treaty Commission Agreement among First Nations Summit, Canada and BC.

THE THREE FACES OF THE TREATY COMMISSION

First and foremost, the Treaty Commission works with the parties to keep negotiations moving forward. The Treaty Commission is also responsible for allocating negotiation support funding to First Nations and providing public information and education. The three faces of the Treaty Commission — facilitation, funding and public information — together promote constructive and effective negotiations.

The Treaty Commission does not negotiate treaties — that is done by each First Nation, Canada and BC.

Facilitation

The Treaty Commission's primary role, to facilitate treaty negotiations, encompasses these tasks:

- accepting First Nations into the treaty process and assessing when parties are ready to negotiate;
- developing policies and procedures for the six-stage treaty process;
- monitoring and reporting on the progress of negotiations and encouraging timely negotiations by helping the parties to establish meeting schedules and by monitoring deadlines;
- offering advice; chairing meetings, where requested; and assisting the parties in developing solutions and in resolving disputes.

Funding

The Treaty Commission allocates negotiation support funding to First Nations so that they can prepare for and carry out negotiations on a more even footing with the governments of Canada and BC. For every \$100 of negotiation support funding, \$80 is a loan from Canada, \$12 is a contribution from Canada and \$8 is a contribution from BC. The Treaty Commission's funding duties include:

- receiving and considering funding requests from First Nations;
- approving the budgets filed by First Nations in support of their workplans;
- allocating funds to First Nations in accordance with funding criteria agreed to by the Principals;
- reviewing annual audit reports and other accounting reports from First Nations that receive negotiation support funding; and

- obtaining evidence of community approval for a funding request.

Since opening its doors in May 1993 the Treaty Commission has allocated approximately \$186 million in negotiation support funding to First Nations, \$149 million as loans and \$37 million as contributions. Total funding available to First Nations for 2001/2002 is approximately \$41 million — the same as in 2000/2001.

Public Information and Education

Public information and education links the process of treaty making with the larger issue of long-term relationship building. As the independent “voice” of the treaty process, the Treaty Commission has an important role to play in providing timely, accurate and understandable information on historic and contemporary issues related to treaty making. To reach audiences across British Columbia, the Treaty Commission uses a variety of communications tools, for example, web site, annual report, newsletter, special publications, speeches, television documentaries and educational videos, and travelling touch-screen displays.

The Treaty Commission also develops resources and makes presentations to public schools and advanced education institutions. The governments of Canada and BC also share a major responsibility for public information. As well, the three parties in each set of negotiations — Canada, BC and First Nations — provide specific information on their negotiation tables.

Operational Budget

In addition to four part-time commissioners and the full-time chief commissioner, the Treaty Commission employs a staff of 13. The Treaty Commission's annual operating budget is \$1.86 million – unchanged during the past seven years despite the growing intensity of negotiations and increasing responsibilities. Canada funds 60 per cent of the Treaty Commission's operating costs, and BC 40 per cent. The Treaty Commission's total operating costs from 1993 to March 31, 2002 are \$16,440,679.

April 1993
First treaty commissioners appointed.

May 1993
First Nations Summit Consent Resolution establishing BC Treaty Commission.

May 1993
BC Treaty Commission Act passed by the BC Legislature.

SIX-STAGE TREATY PROCESS

December 1993

Treaty Commission begins receiving Statements of Intent: 29 Statements of Intent to negotiate treaties received from First Nations.

June 1994

Treaty Commission releases its first Annual Report: 41 Statements of Intent to negotiate treaties received from First Nations.

June 1995

Treaty Commission releases its second Annual Report: 43 Statements of Intent to negotiate treaties received from First Nations; 36 First Nations in Stage 2; 7 First Nations in Stage 3

The six-stage treaty process is set out in the BC Claims Task Force Report of 1991 and incorporated in the tripartite British Columbia Treaty Commission Agreement of 1992. The process is voluntary and open to all First Nations in British Columbia.

Stage 1 – Statement of intent to negotiate

A First Nation files with the Treaty Commission a statement of intent (SOI) to negotiate a treaty with Canada and BC. The SOI must identify the First Nation's governing body for treaty purposes and the people that body represents and show that the governing body has a mandate from those people to enter the process. The SOI must describe the geographic area of the First Nation's distinct traditional territory and identify any overlaps with other First Nations.

Stage 2 – Readiness to negotiate

The Treaty Commission must convene an initial meeting of the three parties within 45 days of receiving a statement of intent. For most First Nations, this will be the first occasion on which they sit down at a treaty table with representatives of Canada and BC. This meeting allows the Treaty Commission and the parties to exchange information, consider the criteria for determining the parties' readiness to negotiate and generally identify issues of concern. The meeting usually takes place in the traditional territory of the First Nation.

The three parties must demonstrate that they have a commitment to negotiate, a qualified negotiator, sufficient resources, a mandate and a process to develop that mandate and ratification procedures. The First Nation must have begun addressing any overlaps. The governments of Canada and BC must have a formal means of consulting with third parties, including local governments and interest groups. When the three parties have everything in place, the Treaty Commission will declare the table ready to begin negotiating a framework agreement.

Stage 3 – Negotiation of a framework agreement

The framework agreement is, in effect, the "table of contents" of a comprehensive treaty. The three parties agree on the subjects to be negotiated and an

estimated time frame for stage four agreement-in-principle negotiations. Canada and BC engage in public consultation at the regional and local levels through regional advisory committees and sometimes through local advisory committees. Municipal governments participate in the negotiations through provincial treaty advisory committees. The parties at each negotiating table must establish a public information program that will continue throughout the negotiations.

At the provincial level, BC and Canada consult with the 31-member Treaty Negotiation Advisory Committee which represents such interests as business, labour, environment, fish and wildlife.

Stage 4 – Negotiation of an agreement in principle

This is where substantive treaty negotiations begin. The three parties examine in detail the elements outlined in their framework agreement. The goal is to reach agreement on each of the topics that will form the basis of the treaty. These agreements will identify and define a range of rights and obligations, including: existing and future interests in land, sea and resources; structures and authorities of government; relationship of laws; regulatory processes; amending processes; dispute resolution; financial component; fiscal relations and so on. The agreement in principle also lays the groundwork for implementation of the treaty.

Stage 5 – Negotiation to finalize a treaty

The treaty formalizes the new relationship among the parties and embodies the agreements reached in the agreement in principle. Technical and legal issues are resolved at this stage. A treaty is a unique constitutional instrument to be signed and formally ratified at the conclusion of Stage 5.

Stage 6 – Implementation of the treaty

Long-term implementation plans need to be tailored to specific agreements. The plans to implement the treaty are put into effect or phased in as agreed. With time, all aspects of the treaty will be realized and with continuing goodwill, commitment and effort by all parties, the new relationship will come to maturity.

PROGRESS REPORT

There are 49 First Nations participating in 40 sets of negotiations in the BC treaty process.

There are 42 First Nations in Stage 4 agreement-in-principle negotiations and one First Nation in Stage 5 negotiations to finalize a treaty. Several First Nations are negotiating together.

2 First Nations in Stage 2

- Council of the Haida Nation
- Hupacasath First Nation

4 First Nations in Stage 3

- Cheslatta Carrier Nation
- Musqueam Nation
- Squamish Nation
- Quatsino First Nation (member, Winalagalis Treaty Group)

42 First Nations in Stage 4

- Ditidaht First Nation, and Pacheedaht Band
- Cariboo Tribal Council
- Carrier Sekani Tribal Council
- Esketemc First Nation
- Gitanyow Hereditary Chiefs
- Gitxsan Hereditary Chiefs
- Haisla Nation
- Heiltsuk Nation
- Homalco Indian Band
- Hul'qumi'num Treaty Group
- Kaska Nation
- Katzie Indian Band
- Klahoose Indian Band
- Ktunaxa/Kinbasket Treaty Council
- Laich-Kwil-Tach K'omoks Tlowitsis Council of Chiefs
- Lake Babine Nation
- Lheidli T'enneh Band
- Nazko Indian Band

Northern Regional Negotiations

- Carcross / Tagish First Nation
- Champagne and Aishihik First Nations
- Taku River Tlingit First Nation
- Teslin Tlingit Council
- Nuu-chah-nulth Tribal Council
- Oweekeno Nation
- Sliammon Indian Band
- Snuneymuxw First Nation
- Sto:Lo Nation
- Te'Mexw Treaty Association
- Tsawwassen First Nation
- Tsay Keh Dene Band
- Tsimshian Nation
- Tseil-Waututh Nation
- Westbank First Nation
- Wet'suwet'en Nation

Winalagalis Treaty Group

- Kwakiutl Nation
- 'Namgis Nation
- Da'naxda'xw Awaetlatla Nation
- Gwa'Sala-'Nakwaxda'xw Nation
- Tlatlasikwala Nation
- Yale First Nation
- Yekooche Nation

1 First Nation in Stage 5

- Sechelt Indian Band

STATUS OF EACH NEGOTIATION TABLE

December 1995

BC Treaty Commission Act passed by federal Parliament.

Cariboo Tribal Council (CTC)

There are no significant developments to report from agreement-in-principle negotiations at the CTC table, but progress has been made in interim agreement negotiations. In fall 2000, CTC signed agreements with the Ministry of Forests and the Ministry of Environment, Lands and Parks to participate in discussions on forestry and land use within CTC's traditional territory. CTC also has an economic development study underway and is continuing to build intergovernmental relations with the regional district and local governments. Also known as the Northern Secwepemc te Qelmuw, the Cariboo Tribal Council comprises four member communities: Williams Lake Band, Soda Creek Band (Xatsu'Il First Nation), Canoe Creek Band and Canim Lake Band (Tsqescen). The council represents approximately 1,800 people.

March 1, 1996

BC Treaty Commission Act proclaimed by Canada, BC and First Nations Summit resolution.

Carrier Sekani Tribal Council (CSTC)

Agreement-in-principle negotiations at the CSTC table did not make significant progress during 2000/2001. However, in April 2001, the provincial government signed a "bridging agreement" — the blueprint for a more formal agreement — to provide funding for forestry training, development of a forest tenure proposal and business plan development. The agreement also commits the parties to examine timber availability options. CSTC, the largest First Nation in the Prince George area, represents seven communities: Burns Lake Band, Nadleh Whut'en Band, Nak'azdli Band, Saik'uz (Stoney Creek) First Nation, Stellat'en First Nation, Takla Lake First Nation, and Tl'azt'en Nation. The combined membership of the council is approximately 5,000.

Cheslatta Carrier Nation

Parties at the Cheslatta table have not engaged in tripartite negotiations since April 1997. Cheslatta Carrier has been occupied with negotiations outside the treaty process, including negotiation of a joint venture between Cheslatta Forest Products, Carrier Lumber Ltd. and Ootsa Resources. Cheslatta Carrier's traditional territory spans the Ootsa and Eutsuk lakes and surrounding areas. The First Nation has a membership of approximately 220.

Council of the Haida Nation

While tripartite negotiations have not begun with the Council of the Haida Nation, important progress has been made in land use planning. In April 2001, the Council of the Haida Nation joined seven other coastal First Nations to sign the Turning Point Protocol Agreement, which commits First Nations and the provincial government to cooperate on land use planning and implementation of interim agreements for the north and central coast. Interim agreements developed from the protocol may include training programs, economic development projects, forestry joint ventures and tourism initiatives. A separate agreement for land use planning in Haida Gwaii commits the Council of the Haida Nation and BC to establish a cooperative forest council; explore options for timber transfer and access; develop joint ventures between Haida and existing forest companies; and develop sustainable ecosystem planning. Located on Haida Gwaii, also known as the Queen Charlotte Islands, the council has 3,575 members.

Dididaht First Nation/Pacheedaht Band

Agreement-in-principle negotiations have not made progress at the Ditidaht/Pacheedaht table since Canada and BC tabled their joint settlement offer in October 1999. The offer included 1,802 hectares of land and \$17 million. However, in February 2001, three interim agreements were signed with Dididaht/Pacheedaht: funding for forestry training and business development, resource planning and governance skill development. Negotiating at a common table since August 1997, Ditidaht/Pacheedaht has a combined membership of 740. The First Nations' traditional territory spans the southwest corner of Vancouver Island.

Esketemc First Nation

Negotiations at the Esketemc table continue to focus on forestry and governance issues, including a protocol with the Ministry of Forests. In early 2001, Esketemc signed the "Community-Based Justice Initiative for Fish and Wildlife Offences" with the Ministry of Environment, Lands and Parks, the

June 1996

Treaty Commission releases its third Annual Report: 47 Statements of Intent to negotiate treaties received from First Nations: 14 First Nations in Stage 2; 22 First Nations in Stage 3; 11 First Nations in Stage 4.

Department of Fisheries and Oceans, RCMP and the Ministry of Attorney General. Signatories to the agreement will cooperate to develop alternative, community-based enforcement options for the people of the Esketemc First Nation. Esketemc First Nation has approximately 640 members with traditional territory spanning the Alkali Lake area southwest of Williams Lake.

Gitanyow Hereditary Chiefs

During 2000 and 2001, tripartite negotiations at the Gitanyow table focused on fisheries and wildlife for a future agreement in principle. In November 2000, Gitanyow endorsed a wildlife stewardship project, which will provide training for a hunter designation program and enable Gitanyow to deliver information to the provincial wildlife branch. In May 2001, Gitanyow, Canada and BC signed a Memorandum of Understanding (MOU) enabling Gitanyow to begin rehabilitating the Kitwanga River. As part of the agreement, Gitanyow members will be trained to administer rehabilitation programs, including watershed reconstruction and fish sampling. Gitanyow's traditional territory spans the middle reaches of the Nass River. The First Nation has approximately 600 members.

Gitxsan Hereditary Chiefs

In March 2001, BC lifted its formal suspension of negotiations with Gitxsan, and the parties are now preparing to resume negotiations. BC's decision comes after Gitxsan indicated its desire to resume tripartite negotiations in October 2000. The BC government suspended negotiations with Gitxsan in February 1996 due to recommencement of the *Delgamuukw* appeal in the Supreme Court of Canada. The *Delgamuukw* decision, handed down by the Supreme Court in 1997, confirmed the existence of aboriginal title in British Columbia and recognized this title as being a right to the land itself — not just the right to hunt, fish and gather. Gitxsan has 5,065 members with traditional territory around the upper reaches of the Skeena and Nass rivers.

Haisla Nation

Little progress was made in agreement-in-principle negotiations at the Haisla table this year, but there are developments to report in interim agreements. In April 2001, Haisla Nation joined seven other First Nations to endorse the Turning Point Protocol Agreement, which commits First Nations and the provincial government to cooperate on land use planning and implementation of interim agreements for the north and central coast. Interim agreements developed from the protocol may include training programs, economic development projects, forestry joint ventures and tourism initiatives. Haisla also signed an interim agreement with Canada and BC in March that will promote economic development and joint venture opportunities within the forest industry. Haisla Nation has 1,450 members, with traditional territory around the Kitimat area and the north coast.

Heiltsuk Nation

Heiltsuk Nation has taken time out from tripartite negotiations for the next few months to review its mandate to negotiate an agreement in principle. Prior to this, Heiltsuk joined seven other First Nations to endorse the Turning Point Protocol Agreement, which commits First Nations and the provincial government to cooperate on land use planning and implementation of interim agreements for the north and central coast. As part of the Turning Point agreement, Heiltsuk committed to the Central Coast land use plan, which protects 600,000 hectares of land ranging from Knight Inlet to Princess Royal Island — home of the Kermode "spirit" bear. Heiltsuk also received funding for forestry business development. Located on the central coast, Heiltsuk has approximately 2,000 members.

Homalco Indian Band

Over 2000/2001, Homalco Indian Band focused its negotiation efforts on governance issues. Specifically, Homalco wants to start building self-governance capacity in preparation for implementing a treaty. Homalco comprises 400 people with traditional territory ranging from Campbell River and Bute Inlet watershed to Chilko Lake.

June 1997

Treaty Commission releases its fourth Annual Report: 50 Statements of Intent to negotiate treaties received from First Nations; 11 First Nations in Stage 2; 12 First Nations in Stage 3; and 27 First Nations in Stage 4.

December 11, 1997

Supreme Court of Canada decision in the *Delgamuukw* case confirms aboriginal title exists in British Columbia, that it's a right to the land itself — not just the right to hunt, fish and gather — and when dealing with Crown land, the government must consult with and may have to compensate First Nations whose rights are affected.

April 1998

At the urging of the Treaty Commission, the Principals begin a series of meetings to address major issues required to reinvigorate the treaty negotiation process in the wake of *Delgamuukw* case. Principals agree that tripartite negotiations within the BC treaty process will continue while the review is underway.

June 1998

Treaty Commission releases its fifth Annual Report: 51 Statements of Intent to negotiate treaties received from First Nations; 3 First Nations in Stage 2; 12 First Nations in Stage 3; and 36 First Nations in Stage 4.

Hul'qumi'num Treaty Group

Hul'qumi'num resumed tripartite negotiations in July after a one-year hiatus. During this past year, Hul'qumi'num focused on internal restructuring and interim agreements, including an historic land protection measure signed by Cowichan Tribes, Hul'qumi'num Treaty Group, Canada and BC. The agreement sets aside 1,700 hectares of Crown land between Duncan and Lake Cowichan known as Hw'te shutsun or the Hill 60 sacred site. The Hill 60 site will be held for two years, with renewal clauses, and may be incorporated into a comprehensive treaty. Cowichan Tribes – a member of Hul'qumi'num Treaty Group – also endorsed a forestry-related agreement, which includes an invitation to submit an application for a community forest pilot project. Hul'qumi'num comprises 5,255 people and six communities: Chemainus, Cowichan Tribes, Halalt, Lake Cowichan, Lyackson and Penelakut. The First Nation's traditional territory encompasses the area around Duncan, north to Ladysmith, east to the Gulf Islands and west to Cowichan Lake.

Hupacasath First Nation

Hupacasath First Nation entered the treaty process on November 23, 2000 when the Treaty Commission officially received its statement of intent. The parties held their initial meeting on March 5, 2001. Hupacasath is a member of the Nuuchahnulth Tribal Council, and previously had been negotiating as part of the tribal council. Located in Port Alberni, Hupacasath has 215 members.

Kaska Nation

Kaska Nation made progress in interim agreement negotiations this year. In December 2000, Kaska signed an agreement with Canada and BC, which provides funding for Kaska to develop joint ventures with local forestry companies and to explore training and job shadowing opportunities. In addition, Kaska will work with the Ministry of Forests on forest management and planning in Kaska's traditional territory. Kaska also has a land use study and a guide outfitter business feasibility study underway. Kaska Nation

includes Kaska Dena Council, Liard First Nation and Ross River Dena Council – with a combined membership of approximately 3,000. The First Nation's traditional territory ranges from north central BC to the Yukon and Northwest Territories.

Katzie Indian Band

Katzie Indian Band signed a framework agreement on March 12, 2001, which moved negotiations to stage four. Tripartite negotiations and working groups are underway at this table to discuss fish, land management and intergovernmental relations. In addition, Katzie signed a governance development agreement with Canada and BC, which includes research, community consultation and job shadowing projects. Katzie First Nation comprises approximately 460 members, with traditional territory including Pitt Lake, Pitt River, Surrey, Langley, New Westminster and Vancouver.

Klahoose Indian Band

Negotiations at the Klahoose table focused primarily on interim agreement negotiations during 2000 and 2001. In March 2001, Canada, BC and Klahoose signed an agreement committing the parties to pursue community-based forest management for Cortes Island. Klahoose is now considering how to proceed with negotiations. Klahoose has 285 members located north of Sechelt on the south coast.

Ktunaxa/Kinbasket Treaty Council (KKTC)

KKTC negotiations are moving forward on wildlife, culture and heritage and other issues. KKTC has approximately 1,100 members and includes Columbia Lake Band, Lower Kootenay Band, Shuswap Indian Band, St. Mary's Indian Band and Tobacco Plains Band. The territory of the Ktunaxa people extends from Columbia River south to Missoula, Montana, west to Bonner's Ferry, Idaho, north to the Upper Arrow Lakes area of British Columbia and east to the Rocky Mountains.

Lake Babine Nation

In April 2001, Lake Babine signed a framework agreement moving the First Nation into stage four negotiations. At the same time, Lake Babine is focusing on community consultation. Located near Burns Lake, Lake Babine has 1,860 members.

Laich-Kwil-Tach K'omoks Tlowitsis Council of Chiefs

This spring the council of chiefs submitted an amended statement of intent to the Treaty Commission, reflecting the withdrawal of Mamalilikulla-Qwe-Qwa'Sot'Em from the council. In addition to a lands study signed March 2001, the council has working groups underway to address fish, lands and governance issues. The council of chiefs includes five communities with a combined membership of approximately 2,000: K'omoks, Kwiakah, Tlowitsis, Wei Wai Kai and Wei Wai Kum. The First Nation is located in the Campbell River-Courtenay-Comox region.

Lheidli T'enneh Band

Negotiations at the Lheidli T'enneh table made progress during the latter part of 2000. A joint settlement offer was tabled to the First Nation in August 2000, including 2,903 hectares of land and \$7.5 million. Two interim agreements signed in December 2000 will enable Lheidli T'enneh to provide forestry and business training through a band-owned education institute and participate in establishing a wildlife advisory committee. Located in the Prince George area, with traditional territory stretching to the Alberta border, Lheidli T'enneh has approximately 260 members.

Musqueam Nation

The Musqueam Nation's focus this year has been on non-treaty issues. However, Musqueam is working on finalizing its framework agreement so that formal negotiations may resume, as well as discussing possible interim measures agreements. Compensation issues continue to stall negotiations at this table. Musqueam Nation comprises 1,000 people, with traditional territory spanning the Greater Vancouver area.

Nazko Indian Band

Key issues at the Nazko negotiation table include forestry, access and environmental assessment/management issues. Nazko's traditional territory is northwest of Quesnel and southwest of Prince George. The First Nation has approximately 280 members.

Northern Regional Negotiation Table (NRN)

In 1999, Canada and BC outlined their preliminary positions on land, cash and other provisions that may be included in a comprehensive treaty. A response by NRN is anticipated. In the meantime, NRN is considering options for interim agreements. NRN member Champagne/Aishihik First Nations is not actively participating in negotiations at this time. NRN comprises four First Nations with traditional territories spanning the BC-Yukon border: Champagne and Aishihik First Nations, Teslin Tlingit Council, Taku River Tlingit First Nation and Carcross/Tagish First Nation. These four First Nations represent approximately 2,000 people.

Nuu-chah-nulth Tribal Council

In March 2000, Nuuchahnulth, Canada and BC initialled an agreement in principle, which was based on the largest land and cash offer yet tabled under the BC treaty process. When Nuuchahnulth took the agreement back to its communities for ratification, six of 12 member First Nations deemed the agreement insufficient to meet their needs. The agreement included 550 square kilometres of land, \$243 million, a share in the commercial fishery and forestry and a Meares Island Trust to be jointly managed by Nuuchahnulth and the governments of Canada and BC. Also outlined in the agreement was a central Nuuchahnulth government and elimination of income tax exemptions after 12 years. Nuuchahnulth is now considering how to proceed with negotiations in light of the failure to ratify the agreement. Nuuchahnulth Tribal Council comprises 12 communities and 6,500 people, making it one of the largest First Nations in the province. Nuuchahnulth's traditional territory ranges from Barkley Sound to Kyuquot Sound, including Tofino and Clayoquot Sound.

August 4, 1998

The Nisga'a Nation, Canada and BC sign first modern treaty in BC, negotiated outside of the BC treaty process.

March 1999

BC Supreme Court decision in the Luuxhon case confirms that when the governments of Canada and BC enter into treaty negotiations they are obliged to conduct those negotiations in good faith.

April 16, 1999

Sechelt Indian Band, Canada and BC sign first agreement in principle under the BC treaty process.

June 1999

Treaty Commission releases its sixth Annual Report: 51 Statements of Intent to negotiate treaties received from First Nations; 1 First Nation in Stage 2; 12 First Nations in Stage 3; 37 First Nations in Stage 4; and 1 First Nation in Stage 5.

April 13, 2000

The Nisga'a treaty becomes law.

June 2000

Treaty Commission releases its seventh Annual Report: 51 Statements of Intent to negotiate treaties received from First Nations; 1 First Nation in Stage Two; 11 First Nations in Stage 3; 38 First Nations in Stage 4; and 1 First Nation in Stage 5.

Oweekeno Nation

This past year, Oweekeno stepped back from tripartite negotiations to build community resources and strengthen governance. The Oweekeno table has been inactive since 1999, but is expected to resume negotiations later this year. Oweekeno has approximately 210 members with traditional territory around the central coast, south of Bella Coola.

Sechelt Indian Band

Sechelt Indian Band, the first signatory to an agreement in principle under the BC treaty process, spent this past year in internal consultations to decide if the agreement in principle can form the basis for future negotiations. Specifically, Sechelt is concerned with the amount of land included in the agreement, as well as certainty, taxation, cash, resource sharing and aboriginal rights issues. Tripartite negotiations have not resumed at this table since October 2000, but several meetings were convened to discuss opportunities to build on the agreement in principle. Sechelt has been exercising self government since 1986 when it endorsed the first self-governance agreement in Canada — *the Sechelt Indian Band Self-Government Act*. Located on the south coast, Sechelt has approximately 1,025 members.

Sliammon Indian Band

In February 2001, Sliammon initialled an agreement in principle (AiP) with the governments of Canada and BC, including \$24.4 million, 5,000 hectares of land, self-governance provisions and a 12-year elimination period for income tax exemptions. Subsequently, the Ministry of Forests issued two timber licences within potential treaty settlement lands. Sliammon notified the provincial government that they would not move ahead with a ratification vote until the licences were removed. On August 27, the *Timber Sale Replacement (Sliammon First Nation) Act* passed, effectively cancelling the timber licences. Sliammon will take the initialled AiP back to its community for ratification. Prior to the AiP, Sliammon signed a tourism training agreement and four land and resource development agreements. Sliammon's traditional territory spans the Powell

River area, Gulf Islands, Courtenay and Desolation Sound. Sliammon has approximately 855 members.

Snuneymuxw First Nation

The Snuneymuxw table continues to deal with the challenge of negotiating a treaty in an urban setting with limited available Crown land. In February 2001, the parties to the Snuneymuxw table released a draft agreement in principle for consultation purposes. Local government, in particular the City of Nanaimo and Gabriola residents, strongly opposed private property being included in the draft agreement. Responding to local concerns, the BC government did not table an anticipated land and cash offer. The Treaty Commission issued a detailed report to the Principals in July 2001 outlining events at the table and indicating that progress on Snuneymuxw is critical to demonstrate trust. Negotiations are expected to proceed now that the new provincial government has announced it will reconsider the issue of private land. Snuneymuxw also signed several interim agreements during 2000 and 2001 including repatriation of Snuneymuxw human remains held in the Royal British Columbia Museum, forestry training, tourism training and regional planning. Snuneymuxw's traditional territory ranges from the east coast of Vancouver Island — including Gabriola Island, Mudge Island, and other adjacent islands — to the Nanaimo River watershed. Snuneymuxw has approximately 1,250 members.

Squamish Nation

Over the past year, Squamish Nation focused on negotiations outside the treaty process. In March 2001, Squamish and Lil'wat Nation signed a protocol agreement committing the parties to identify issues of mutual concern within their traditional territories, explore economic opportunities and consider shared jurisdiction and co-management. Squamish Nation's traditional territory ranges from the Lower Mainland to Howe Sound and the Squamish Valley watershed. The First Nation has approximately 3,000 members.

Sto:Lo Nation

Agreement-in-principle negotiations at the Sto:Lo table are moving slowly, but interim agreement negotiations are progressing. In particular, Sto:Lo wants a more meaningful role in forestry in their traditional territory, a share in the commercial fishery, access to crown land for gravel extraction and funding for language development. Sto:Lo's traditional territory includes the Fraser Valley, much of the Lower Mainland and the Harrison Lake watershed. Sto:Lo Nation comprises 17 communities, representing approximately 3,230 people.

Te'Mexw Treaty Association

Te'Mexw Treaty Association continues to deal with the challenge of addressing Douglas Treaty rights within a modern treaty process. The Douglas Treaties, signed in the 1850s by 14 Vancouver Island First Nations, included land, fishing and hunting provisions. Tripartite negotiations continued this year at the Te'Mexw table, culminating in Te'Mexw's comprehensive proposal to conclude an agreement in principle. In their general response to the March proposal, Canada and BC noted that they would continue discussion around topics defined in the proposal and develop a detailed response to specific items. Te'Mexw encompasses five communities with a combined membership of 1,180. The First Nation's traditional territory spans the southern end of Vancouver Island.

Tsawwassen First Nation (TFN)

The TFN table continues to face the challenge of negotiating a treaty in an urban area with limited available Crown land. In July 1999, TFN made a proposal to Canada and BC, which called for \$37.5 million and 1,400 hectares of land. In January 2001, BC tabled a counter-proposal to TFN that included 397 hectares of land and \$10 million. Canada endorsed the counter-proposal in April. TFN will be engaged in substantive negotiations throughout the fall. While agreement-in-principle negotiations continue, TFN is moving forward with interim agreements. In March, TFN released a cultural heritage study, which documents more than 1,100

cultural heritage sites, many of which are within Tsawwassen's reserve land. TFN has two additional interim agreements — a community planning study and an economic development study. TFN's traditional territory spans the Fraser River Delta to Point Roberts and Saltspring Island and extends to Pitt Lake. The First Nation has approximately 270 members.

Tsay Keh Dene Band

Canada and BC tabled a joint offer to Tsay Keh Dene on March 8, 2001 including \$5 million, 11,975 hectares of land and self-governance provisions. On April 10, 2001 Tsay Keh Dene rejected the land and cash component of the offer, but agreed to continue negotiations on other components included in the offer. Northeast of Prince George, Tsay Keh's traditional territory spans north to Mount Trace, west to South Pass Peak, south to the Nation River, and east to Mount Laurier. The First Nation has approximately 300 members.

Tsimshian Nation

Over the past year, negotiations with Tsimshian Nation focused mainly on land use planning, fish and forestry issues. The culmination of these efforts is Tsimshian's endorsement of a protocol agreement on land use planning and interim measures, guided by an earlier tripartite accord on land and resources. The accord commits the parties to cooperate in developing community-based land use plans and to negotiate interim agreements on forestry, aquaculture, eco-tourism and fisheries. Tsimshian Nation comprises seven communities, representing 7,000 people. Traditional territories for the First Nation span the northwest coast, including Prince Rupert and Terrace.

Tsleil-Waututh Nation

Land issues have dominated negotiations with Tsleil-Waututh Nation over the past year. The pace of negotiations has been slow as the parties attempt to reconcile their treaty visions. At the same time, Tsleil-Waututh signed a non-binding protocol agreement with the District of North Vancouver to protect archaeological resources in Cates Park. Tsleil-Waututh

February 2001

Sliammon Indian Band, Canada and BC initial an agreement in principle including 5,000 hectares of Crown land, \$24.4 million and self-governance provisions.

March 2001

Nuu-chah-nulth Tribal Council, Canada and BC initial an agreement in principle in the treaty process, including 550 square kilometres of land on the west coast of Vancouver Island, \$243 million and a Meares Island Trust to be jointly managed by Nuuchahnulth, and the provincial and federal governments.

is located in the North Vancouver area and has approximately 135 members.

March 2001

Canada, BC, Cowichan Tribes and Hul'qumi'num Treaty Group endorse an historic land protection agreement setting aside 1,700 hectares of Crown land known as the Hill 60 sacred site.

April 2001

Gitga'at First Nation, Haida Nation, Haisla Nation, Heiltsuk Nation, Kitasoo/Xaixais First Nation and Metlakatla First Nation endorse Turning Point Protocol Agreement on land use planning and interim measures. Agreement commits the parties to work together on central coast, Haida Gwaii and north coast land use plans and on implementing interim agreements. Interim agreements developed from the protocol may include training programs, economic development projects, forestry joint ventures and tourism initiatives.

Westbank First Nation

Westbank First Nation focused most of its efforts this year on a landmark self-government agreement, which is scheduled for ratification this September. Westbank began bilateral self-government negotiations with Canada in 1990 and signed a self-government agreement in principle in July 1998. Negotiations continue for an interim forestry agreement, as agreed upon in a letter of understanding signed by Westbank, Canada and BC in June 2000. The parties will be exploring other interim measures, including land protection, over the next few months. Located in the Kelowna area, Westbank has approximately 560 members.

Wet'suwet'en Nation

Following signing of the April 2000 political accord committing Canada, BC and Wet'suwet'en to work together on land, resource and economic development issues, negotiations have been progressing, but with no significant developments to report. Wet'suwet'en Nation and Gitxsan Hereditary Chiefs appealed the landmark *Delgamuukw* case to the Supreme Court of Canada. The *Delgamuukw* decision, handed down in 1997, confirmed the existence of aboriginal title in British Columbia and recognized this title as being a right to the land itself — not just the right to hunt, fish and gather. The Wet'suwet'en traditional territory spans the Bulkley River drainage area in northwest BC. The First Nation has approximately 2,200 members.

Winalagalis Treaty Group

Negotiations are continuing at the Winalagalis Treaty Group table with the primary focus on fish and land protection issues. Winalagalis comprises six First Nations — Kwakiutl Nation, 'Namgis Nation, Da'naxda'xw Awaetlatla Nation, Gwa'Sala-'Nakwaxda'xw Nation, Tlatlasikwala Nation and Quatsino First Nation — representing 3,150 people. The First Nation's traditional territory spans the north end of Vancouver Island and the Knight Inlet area.

Yale First Nation

Negotiations with Yale First Nation are moving at a slow pace. Yale's overlap with Sto:Lo needs to be addressed. Fisheries management and land protection continue to be important areas of focus at this table. Yale's traditional territory encompasses the area around Yale, which is north of Hope. Yale First Nation has approximately 135 members.

Yekooche Nation

Tripartite negotiations at the Yekooche table for 2000/2001 focused on interim agreements for governance, fish, forestry and capacity development. Yekooche continues to build internal capacity following the appointment of a new negotiating team and adoption of an electoral code in 1999. Located northwest of Fort St. James, Yekooche has 130 members.

First Nations withdrawing from the treaty process

When First Nations enter the treaty process, they do so at the direction of their membership. Participation is voluntary and First Nations may decide to leave at any time during negotiations. This year, three First Nations, at the direction of their memberships, decided to withdraw from the treaty process.

In-SHUCK-ch

In-SHUCK-ch/N'Quat'qua entered the treaty process in March 1995 when the Treaty Commission formally received its statement of intent. Following the joint land and cash offer made by Canada and BC in October 1999, In-SHUCK-ch/N'Quat'qua stopped treaty negotiations to consider how negotiations should proceed. Following this hiatus, N'Quat'qua withdrew from the In-SHUCK-ch/N'Quat'qua governing body, thereby invalidating the 1995 statement of intent.

With the assistance of the Treaty Commission, member nations Douglas, Samahquam and Skookumchuk continued to address their own governance challenges and revisited their mandate for treaty negotiations. However, the member nations were unable to resolve internal issues at this time. The Treaty Commission returned the In-SHUCK-ch/N'Quat'qua

Statement of Intent in August 2001 and advised the member nations that it is available to assist them in the event they wish to resume negotiations.

The three member nations – Douglas, Samahquam and Skookumchuk – comprise 720 members. In-SHUCK-ch's traditional territory surrounds the Lillooet area.

Ts'kw'aylaxw First Nation

Ts'kw'aylaxw First Nation entered the treaty process in May 1994 when the Treaty Commission formally received its statement of intent. The parties signed a framework agreement in October 1996.

As early as 1995, the parties began discussing the possibility of an interim agreement to protect Ts'kw'aylaxw interests in Pavilion Creek watershed — an area critical to a potential treaty. Ts'kw'aylaxw was concerned about logging plans for the watershed. No agreements were reached as a result of these discussions.

Ts'kw'aylaxw tabled a comprehensive proposal in November 1996. Early in 1999, the parties agreed to negotiate land, resources and cash. In May 2000, Canada and BC presented Ts'kw'aylaxw with a general outline of the land and cash components that might be included in a future treaty. Land and cash included in the proposal was much less than Ts'kw'aylaxw had hoped for and members began considering whether they should continue negotiating and accumulating further debt.

Ts'kw'aylaxw scheduled a community referendum July 2000 to test their mandate for negotiations. After more than six years of negotiations, the Ts'kw'aylaxw membership directed their chiefs and council to withdraw from treaty negotiations. Ts'kw'aylaxw was the first First Nation to withdraw so late in the six-stage process having reached substantive agreement-in-principle negotiations. In accordance with their members' decision, the Treaty Commission returned Ts'kw'aylaxw's Statement of Intent November 23, 2000.

Ts'kw'aylaxw First Nation is located in Pavilion between Lillooet and Cache Creek with a population of more than 400 people.

Xaxli'p First Nation

Xaxli'p First Nation entered the treaty process in December 1993 when the Treaty Commission officially received its statement of intent. The parties signed a framework agreement in November 1997.

For the next two years, Xaxli'p focused on internal research including substantial work on a traditional use study and an ecosystem-based plan for their territory. The First Nation resumed active negotiations in July 2000.

Following that meeting and through the fall and winter of 2000/2001, the parties at the Xaxli'p table worked towards interim agreements, including a water quality study and community forest pilot agreement. Notwithstanding what was achieved in this short time, the Xaxli'p membership decided at a community meeting in late March 2001 to withdraw from treaty negotiations.

Xaxli'p First Nation, also known as the Fountain Band and a member of the Stl'atl'imx Nation, is located in the Fountain Valley near Lillooet. Xaxli'p has approximately 700 members.

April 2001

As part of the Turning Point Agreement, a Central Coast Land Management Plan is endorsed by First Nations, forestry companies, community groups, environmentalists and truck loggers. Agreement protects 600,000 hectares of Crown land ranging from Knight Inlet to Princess Royal Island and defers logging on an additional 900,000 hectares of Crown land. Signatories make a commitment that future development must be eco-friendly and benefit local native and non-native communities.

September 2001

Treaty Commission releases its eighth Annual Report: 49 First Nations participating at 41 sets of negotiations; 2 First Nations in Stage 2; 4 First Nations in Stage 3; 42 First Nations in Stage 4; and 1 First Nation in Stage 5. Sixty interim agreements signed since February 2000 to provide immediate benefits to First Nations while negotiations continue.

RESOURCES

A Resource Guide is available from the Treaty Commission at www.bctreaty.net/files/resources.html. To obtain copies of BC Treaty Commission publications or to inquire about other treaty-related resources, please call 1 800 665 8330 or 604 482 9200 or e-mail info@bctreaty.net.

Official Documents

British Columbia Treaty Commission Agreement (September 21, 1992). Available on-line at www.bctreaty.net/files/bctcagreement.html.

The Report of the British Columbia Claims Task Force (June 28, 1991). Available on-line at www.aaf.gov.bc.ca/aaf/pubs/bcctf/toc.htm.

Publications

BC Treaty Commission newsletter *Update* and four brochures: *A lay person's guide to Delgamuukw, After Delgamuukw, Treaty Commission and Why Treaties?* Available on-line at www.bctreaty.net/files/publications.html. Hard copies also available.

Funding Fact Sheet. Available on-line at www.bctreaty.net/files/newsreleases.html. Hard copies also available.

Federal Treaty Negotiation Office newsletter *Treaty News*. Available at www.inac.gc.ca or by calling 1 800 665 9320 or 604 775 7114.

Ministry of the Attorney General and Ministry Responsible for Treaty Negotiations publications available at www.gov.bc.ca/aaf or by calling 1 800 880 1022.

Understanding the B. C. Treaty Process, 2nd edition. Available by calling the First Nations Summit at 604 990 9939.

Videos

What's the deal with Treaties? A BC Treaty Commission Production, 2000. Available on-line at www.bctreaty.net. Copies also available.

Making Treaties in BC, Motion Visual Productions, 1998. Available in limited quantities from the Treaty Commission.

Recommended reading

Prospering Together: The Economic Impact of Aboriginal Title Settlements in BC. Dr. Roslyn Kunin et al. Laurier Institution, 1998.

Speaking Truth to Power: A Treaty Forum. Joint publication by Law Commission of Canada and Treaty Commission, March 2001. Available on-line at www.lcc.gc.ca/en/ress/part/200103/contents.html. Hard copies also available.

Treaty Talks in British Columbia: Negotiating a mutually beneficial future. 2nd edition Chris McKee. UBC Press, 2000.

What's the deal with treaties? A lay person's guide to treaty making in British Columbia. A BC Treaty Commission publication, 2000. Available on-line at www.bctreaty.net/education/treatyhandbook.html. Hard copies also available.