

Gitanyow Framework Agreement

This Agreement is dated February 22, 1996.

BETWEEN:

THE GITANYOW HEREDITARY CHIEFS

AND:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the Minister of Indian Affairs and Northern Development ("Canada")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA as represented by the Minister of Aboriginal Affairs ("British Columbia")

(collectively the "Parties")

WHEREAS:

- A. The Gitanyow assert that they are the only original peoples within the Territory and that they have aboriginal rights, ownership, jurisdiction and the right to govern themselves within the Territory.
- B. The Constitution Act, 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada, and treaty rights include rights that now exist by way of land claims agreements or that may be so acquired.
- C. The Gitanyow, Canada and British Columbia are committed to negotiating a treaty in accordance with the British Columbia Treaty Commission process ("BCTC Process").
- D. By negotiating a treaty, the Parties seek to achieve certainty with respect to the relationship between the Gitanyow, Canada and British Columbia, including authority and jurisdiction of their respective governments, as well as ownership and use of land and resources within the Territory.
- E. The Parties acknowledge the importance of providing public access to the treaty process while recognizing the need to conduct effective negotiations; and consequently the Parties have provided for public access to the process in an agreement, referred to as the "Protocol Regarding the Openness of the Gitanyow Treaty Process."

1. Definitions

1.1 "Agreement-in-Principle" means the agreement approved as evidenced by signature of the Parties at the end of Stage 4 of the BCTC Process, and it is comprised of various sub-agreements and other provisions as agreed; the Agreement-in-Principle is not intended to constitute a treaty or land claims agreement within the meaning of Sections 25 and 35 of the Constitution Act, 1982.

1.2 "BCTC Agreement" means the agreement between the First Nations Summit, Her Majesty the Queen in Right of Canada and Her Majesty the Queen in Right of British Columbia, dated September 21, 1992.

1.3 "BCTC Process" means the six stage negotiation process described in the Report of the British Columbia Claims Task Force dated June 28, 1991, and referred to in the BCTC Agreement.

1.4 "Chief Negotiator" means the negotiator appointed by each of the Parties for the treaty negotiations contemplated by the BCTC Process.

1.5 "Final Agreement" means the agreement ratified as evidenced by signature of the Parties at the end of Stage 5 of the BCTC Process.

Subject to Section 5.4, the Final Agreement is intended to be a treaty and is intended to constitute a land claims agreement within the meaning of Sections 25 and 35 of the Constitution Act, 1982

1.6 "Houses" are the main social, political and governing units of the Gitanyow and include: Gwass Hlaam, Malii, Haizimsque, WiiLitsxw/TxaWoxw, GamLaxyeltw/Sindihl, LuuHon, Gwinuu, and WiiTaxhayetsxw/Sidook.

1.7 "Overlap" means a geographic area within the Territory which is claimed by a First Nation, as defined in the BCTC Agreement, other than the Gitanyow.

1.8 "Sub-Agreement" means an agreement initialled by the Chief Negotiators on a substantive issue listed in Section 5.1.1 of this agreement.

1.9 "Territory" means that geographic area identified by the Gitanyow as their territory on the map attached to the Gitanyow Statement of Intent filed with the British Columbia Treaty Commission.

2. Purpose

2.1 The purpose of the Agreement is to guide the conduct of negotiations among the Parties and to set forth the substantive issues, process and timing to complete the Agreement-in- Principle stage of the BCTC Process.

3. Scheduling and Timing

3.1 The Parties will negotiate with the intention of concluding an Agreement-in-Principle within 24 months of the signing of this Agreement.

4. Parties to the Agreement-In-Principle

4.1 The Parties to the Agreement-in-Principle will be the Gitanyow, Canada and British Columbia.

5. Substantive Issues for Negotiation

5.1 The Parties are committed to negotiate the following substantive issues and implementation issues with the intention of concluding an Agreement-in-Principle.

5.1.1 The following list of substantive issues is not exhaustive and may be amended by agreement in writing of the Chief Negotiators.

a. Context

b. Gitanyow Governance

- 1) House (Wilp) structure & authority (Dax gyet), including health, education and economic development
- 2) Inter-governmental relations

c. Lands and Resources

- 1) First Nations' rights on non-settlement lands
- 2) Public rights, including right of the Crown, on settlement lands
- 3) Land selection and tenure

d. Financial Arrangements

- 1) Financial settlement component
- 2) Revenue sharing

e. Eligibility and Enrolment

f. Ratification

g. Certainty

5.2 The Parties intend to develop an implementation plan which includes but is not limited to:

- Implementation funding
- Timing

5.3 The negotiation of a substantive issue listed in Section 5.1.1 does not commit any of the Parties to conclude an agreement on that issue, or any component of that issue.

5.4 Notwithstanding Section 1.5, the issue of whether Gitanyow governance will receive constitutional protection, including governance provisions as referred to in Section 5.1.1, will be addressed prior to concluding an Agreement-in-Principle.

6. Negotiation Process

6.1 The Chief Negotiators will be responsible for the conduct and coordination of the negotiations.

6.2 Negotiations will be conducted at a main negotiation table (the "Main Table"). The Main Table will be responsible for:

- a. managing the negotiation process including the development of workplans and the setting of priorities;
- b. negotiating and concluding an Agreement-in-Principle and a Final Agreement;
- c. implementing and managing the "Protocol Regarding the Openness of Gitanyow Treaty Process";
- d. implementing detailed procedures, consistent with this Agreement, to guide the Parties during Agreement-in-Principle negotiations as outlined in a document entitled "Gitanyow Stage IV Procedures Agreement."
- e. establishing working groups, side tables and other processes, as agreed; and
- f. implementing dispute resolution mechanisms, as agreed.

6.3 The Parties:

- a. acknowledge that some issues listed in Section 5.1 will require resolution on a regional basis;
- b. acknowledge that some issue listed in Section 5.1 may have province-wide application to all treaties to be negotiated in the Province of British Columbia;
- c. will determine what issues in Section 5.1 may be best dealt with on a regional basis or on a provincial basis; and
- d. will develop a process for dealing with those issues on a regional or provincial basis as agreed

6.4 The Parties will record the results of each negotiation of a substantive issue in a sub-agreement. The Chief Negotiators and a representative from each House will signify their agreement on a substantive issue by initialling a sub-agreement.

6.5 Once they have initialled all of the sub-agreements, the Chief Negotiators will negotiate an Agreement-in-Principle by consolidating the sub-agreements and adding necessary provisions as agreed.

6.6 The Chief Negotiators and a representative from each House will signify their agreement on an Agreement-in-Principle by initialling it, and they will recommend the completed Agreement- in-Principle to their respective Party for approval.

6.7 Any Chief Negotiator may request that any initialled sub- agreement or Agreement-in-Principle be reconsidered and amended.

6.8 The Parties will approve the Agreement-in-Principle by signing it.

6.9 After the signing of the Agreement-in-Principle, the Parties will negotiate with the intention of concluding a Final Agreement based on the Agreement-in-Principle.

7. Overlapping Claims

7.1 The Gitanyow shall resolve overlap claims, if any, with other First Nations and provide regular reports on the status of any overlap claims to the Main Table.

8. Negotiation Funding

8.1 The Parties will be responsible for obtaining funding for their participation in the negotiation process.

9. Government Programs

9.1 During the negotiation process, the Gitanyow will continue to enjoy the same rights and benefits as any citizen of Canada and will have access to the various programs and services of Canada and British Columbia in effect from time to time, including those directed to Aboriginal People and their organizations in accordance with the criteria established from time to time for the application of those programs and services.

10. Interpretation

10.1 Nothing in this Agreement is intended to define, create, recognize, deny or amend any of the rights of the Parties.

10.2 This Agreement is not intended to be a treaty or a land claims agreement within the meaning of Sections 25 and 35 of the Constitution Act, 1982.

10.3 This Agreement and the negotiations leading up to or carried out pursuant to this Agreement are without prejudice to any legal positions that have been or may be taken by any of the Parties in any court proceeding, process or otherwise, and shall not be construed as an admission of fact or liability in any such proceeding or process.

11. Amendments

11.1 The Chief Negotiators may, by agreement in writing, amend the list of substantive issues for negotiation as set out in Section 5.1, and any protocol or procedural agreements referred to in this Agreement.

11.2 This Agreement may only be amended by agreement of the Parties in writing.

12. Approval of this Agreement

12.1 The Chief Negotiators and a representative from each House, by initialling this Agreement, will signify their intention to recommend it to the Parties for their approval.

12.2 The Parties will approve this Agreement by signing it.

12.3 The Chief Negotiator for the Gitanyow and a chief from each House is authorized to sign this Agreement on behalf of the Gitanyow.

12.4 The Minister of Indian Affairs and Northern Development is authorized to sign this Agreement on behalf of Canada.

12.5 The Minister of Aboriginal Affairs is authorized to sign this Agreement on behalf of British Columbia.

13. Suspension of Negotiations

13.1 Any of the Parties may suspend the negotiations contemplated by this Agreement by providing written notice, which also sets out the reasons for suspension, to the other Parties and to the British Columbia Treaty Commission.

Signed on Behalf of the Gitanyow Houses by its duly authorized representatives:

Morris Derrick or Timmy Martin

WiiLitsxw/TxaWoxw Hereditary Chief

Able Campbell
GwassHlaam Hereditary Chief

Gordon Johnson
Malii Hereditary Chief

Ken Russel
Haizimsque Hereditary Chief

Glen Williams
Chief Negotiator

Solomon Marsden or Robert W. Good
GamLaxyeltw/Sindihi Hereditary Chief

Guy Morgan
LuuHon Hereditary Chief

Godfrey Good
Gwinuu Hereditary Chief

Barney Good or Laurence Williams
WiiTaxhayetsxw/Sidook Hereditary Chief

Signed on Behalf of her Majesty The Queen in Right of Canada:

The Honourable Ron Irwin
Minister of Indian Affairs and Northern Development

Signed on Behalf of Her Majesty The Queen in Right of British Columbia:

The Honourable John Cashore
Minister of Aboriginal Affairs

This document was reviewed for accuracy by the North West Coast Team in January 1997.