

TSAWWASSEN FIRST NATION FRAMEWORK AGREEMENT

This Agreement is dated the 2nd day of August, 1997.

BETWEEN:

THE TSAWWASSEN FIRST NATION as represented by the Chief and Council ("Tsawwassen First Nation")

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. Tsawwassen First Nation asserts that it has unextinguished aboriginal title, and aboriginal rights, including ownership and jurisdiction over, in and under its traditional territory.
- B. Tsawwassen First Nation asserts that it enters these treaty negotiations with the intention of retaining, subject to the treaty, any aboriginal rights, title, and interest it asserts with respect to its traditional territory.
- C. British Columbia enters these treaty negotiations to negotiate a future relationship among the Parties and without making any admissions regarding jurisdiction, aboriginal title, rights, interests, or the inherent right to self-government.
- D. Tsawwassen First Nation has never signed a treaty or comprehensive land claims agreement with Canada, British Columbia or the British Crown.
- E. The *Constitution Act, 1982*, recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada.
- F. Canada recognizes the inherent right of self-government as an existing aboriginal right under

section 35 of the *Constitution Act, 1982*.

- G. The Parties enter into these negotiations for the purpose of providing clarity and certainty regarding ownership, jurisdiction, rights and use of lands and resources.
- H. The Parties are committed to negotiating a treaty within the British Columbia Treaty Commission Process and have met the British Columbia Treaty Commission requirements to commence framework negotiations.
- I. The Parties are committed to negotiating in good faith with mutual respect and sincerity to realize a fair and just treaty.

1. DEFINITIONS

1.1 "Agreement-in-Principle" means the agreement signed by the Parties at the end of Stage Four of the British Columbia Treaty Commission Process.

1.2 "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 British Columbia Treaty Commission Agreement dated September 21, 1992 which was signed by Canada, British Columbia, and the First Nations Summit.

1.3 "Chief Negotiator" means the negotiator appointed by each Party to represent it at the treaty negotiations contemplated by the BCTC Process, or his/her designate.

1.4 "Final Agreement" means the treaty signed and ratified by the Parties at the end of Stage 5 of the BCTC Process.

1.5 "Main Table" means the tripartite meeting at which negotiations are conducted by the Chief Negotiators of the Parties.

1.6 "Overlap" means a geographic area within the Traditional Territory in which another First Nation has asserted an interest.

1.7 "Sub-Agreement" means an agreement by the Chief Negotiators on one or more substantive issues as set out in section 5.

1.8 "Task Force Report" means the Report of the British Columbia Claims Task Force dated June 28, 1991.

1.9 "Traditional Territory" means that geographic area identified by the Tsawwassen First Nation on the map attached to the Tsawwassen First Nation's Statement of Intent filed

with the British Columbia Treaty Commission.

2. PURPOSE

2.1 The purpose of this Agreement is to guide the conduct of treaty negotiations among the Parties. This Agreement sets out a process for negotiations; identifies the scope of negotiations; and establishes a list of issues and a timetable for the Agreement-in-Principle negotiations.

3. SCHEDULE AND TIMING

3.1 The Parties will negotiate with the intention of concluding Agreement-in-Principle negotiations on the substantive issues as set out in section 5 within 48 months from the date of signing this Agreement.

4. PARTIES TO THE AGREEMENT-IN-PRINCIPLE

4.1 The only parties to the negotiations, the Agreement-in-Principle and the Final Agreement will be the Tsawwassen First Nation, Canada and British Columbia.

5. SUBSTANTIVE ISSUES FOR NEGOTIATION

5.1 The Parties acknowledge, in accordance with Recommendation No. 2 of the Task Force Report that each of the Parties is at liberty to introduce any issue at the negotiation table.

5.2 The following is a list of the substantive issues that the Parties intend to address during Agreement-in-Principle negotiations. It is not intended to be exhaustive and substantive issues may be amended or added or deleted by written agreement of the Chief Negotiators.

List of substantive issues:

- Access
- Amendment
- Certainty
- Culture, artifacts and heritage
- Dispute resolution
- Economic development
- Eligibility
- Enrolment
- Environmental management
- Financial component

- Fisheries
- Forestry
- Governance
 - structure of government
 - law-making and other authorities
 - application of laws
 - programs and services
 - fiscal arrangements
- Implementation
- Intergovernmental relations
- Land
 - quantum
 - selection
 - management
- Resource management
- Resource revenue
- Ratification
- Subsurface
- Wildlife
- Water

5.3 The inclusion of a substantive issue in this section does not commit any of the Parties to conclude an agreement on that issue.

5.4 Substantive issues requiring negotiations or discussions on a regional or provincial basis will be identified and where the Chief Negotiators agree may be negotiated accordingly.

5.5 The issue of constitutional protection of matters negotiated will be addressed prior to the conclusion of the Agreement-in-Principle.

5.6 During Agreement-in-Principle negotiations the Parties will discuss the full range of Tsawwassen First Nation interests, as identified by Tsawwassen First Nation, in each of the substantive issues as appropriate.

6. NEGOTIATION PROCESS

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

6.2 Negotiations will be conducted at the Main Table. The Main Table will be responsible for:

6.2.1 managing the negotiation process including work planning and setting of priorities;

6.2.2 negotiating an Agreement-in-Principle, a Final Agreement and related agreements;

6.2.3 implementing and managing the Openness Protocol ("Openness Protocol") for Treaty Negotiations among Tsawwassen First Nation, British Columbia and Canada;

6.2.4 implementing the Procedures (the "Procedures") for Stage 4 of treaty negotiations among Tsawwassen First Nation, Canada and British Columbia;

6.2.5 implementing the Information Sharing Protocol (the "Information Sharing Protocol") for treaty negotiations among Tsawwassen First Nation, Canada and British Columbia;

6.2.6 establishing Working Groups, Side Tables and other processes as required;

6.2.7 implementing dispute resolution mechanisms as agreed.

6.3 The results of each negotiation of a substantive issue or issues will be recorded in a Sub-Agreement. The Chief Negotiators will signify their agreement on a substantive issue by initialling the Sub-Agreement.

6.4. Prior to the signing of the Agreement-in-Principle, the Sub-Agreements which have been initialled may, by agreement of the Chief Negotiators, be reconsidered or amended.

6.5. Once all Sub-Agreements have been initialled, the Chief Negotiators will take the necessary steps to complete a draft Agreement-in-Principle by consolidating all Sub-Agreements and such other provisions as may be required.

6.6. The Chief Negotiators will signify their agreement on the draft Agreement-in-Principle by initialling it, and they will recommend the initialled draft Agreement-in-Principle to their respective Parties for approval.

6.7. After the initialled Agreement-in-Principle has been signed by the Parties, the Parties will negotiate with the intention of concluding, on a timely basis, the Final Agreement and related agreements based on the Agreement-in-Principle.

7. TYPES OF MEETINGS

7.1. Main Table:

7.1.1. may establish Side Tables And Working Groups and their terms of

reference as required.

7.2. Side Tables:

7.2.1. may be established by the Main Table to address substantive issues or groups of issues to make recommendations to the Main Table.

7.3. Working Groups:

7.3.1. may be established by the Main Table or a Side Table to conduct research and analysis on specific issues, to develop options and make recommendations for the Main Table or Side Table.

8. OVERLAPS

8.1. In accordance with Recommendation No. 8 of the Task Force Report, Tsawwassen First Nation intends to resolve any issues resulting from Overlaps which affect the conclusion of the Final Agreement and will report to the Main Table regularly the status of the Overlap discussions.

8.2. Where Canada and British Columbia are engaged in negotiations under the BCTC Process with First Nations who have Overlaps with the Traditional Territory, Canada and British Columbia will regularly report to the Main Table on the status of those negotiations.

9. INTERIM MEASURES

9.1. The Parties have accepted all of the recommendations of the Task Force Report including the following recommendation concerning interim measures:

"16. The Parties negotiate interim measures agreements before or during the treaty negotiations when an interest is being affected which could undermine the process."

10. GOVERNMENT PROGRAMS

10.1. For greater certainty, this Agreement will not prevent Tsawwassen First Nation or the members of Tsawwassen First Nation from enjoying the same rights and benefits as any citizen of Canada or resident of British Columbia or accessing any of 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.

11. INTERPRETATION

11.1. Nothing in this Agreement is intended or is to be interpreted so as to define, create, recognize, deny, or amend any legally enforceable rights of the Parties.

11.2. Neither this Agreement nor any Agreement-in-Principle which may flow from it are intended to constitute a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

11.3. The Final Agreement once in effect 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*.

11.4. The treaty negotiations and all related documents, except for a Final Agreement that is in effect, are without prejudice to the positions of the Parties in any proceeding before a court or other forum and shall not be construed as admissions of fact or liability.

12. APPROVAL OF THIS AGREEMENT

12.1. The Chief Negotiators, by initialling this Agreement, will signify their intention to recommend it to the Parties for their approval.

12.2. The Parties will signify their approval of this Agreement by signing it.

12.3. The Chief of the Tsawwassen First Nation is authorized to sign this Agreement on behalf of the First Nation.

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. AMENDMENTS

13.1. Except as otherwise provided, this Agreement may only be amended by agreement of the Parties in writing.

14. DISPUTE RESOLUTION

14.1. The Parties are committed to resolving disputes which may arise in the course of negotiations by utilizing dispute resolution mechanisms to be agreed upon by the Chief Negotiators where appropriate. Any Chief Negotiator may ask the BCTC to assist in the resolution of disputes.

15. SUSPENSION OF NEGOTIATIONS

15.1. Prior to a Party suspending negotiations under section 15, the Parties shall in good faith make all reasonable efforts, where appropriate, to enter into appropriate methods of dispute resolution.

15.2. Should any of the Parties suspend the negotiations contemplated by this Agreement, the Party suspending will provide written notice setting out the reasons for the suspension and the date the suspension commences, to the other Parties and to the BCTC.

15.3. If a Party suspends negotiations under section 15.2, the Chief Negotiators and their advisors are committed to attending one meeting as soon as possible to explore the possibilities of resolving the issue or issues leading to the suspension in negotiations, as those issues relate to treaty negotiations. The assistance of the BCTC or, if the Chief Negotiators agree, an independent facilitator, may be requested for this meeting.

Signed on Behalf of the Tsawwassen First Nation:

Chief Sharon Bowcott

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

The Honourable Jane Stewart
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