

OPENNESS PROTOCOL

THIS OPENNESS PROTOCOL is entered into by the Nazko Indian Band, Canada and British Columbia (the "Parties").

1.0 PURPOSES

1.1 This Protocol shall govern the six stage treaty negotiation process carried out by the Parties under the British Columbia Treaty Commission process and is intended to provide public access throughout all stages of this process while recognizing the need to conduct effective negotiations.

1.2 In acknowledging the need for an open and effective process, a desire to provide accurate information to the public and to consult with third parties throughout the process, the Parties agree to provide an open treaty negotiation process through:

1.2.1 access to the negotiations;

1.2.2 access to documents;

1.2.3 consultation; and

1.2.4 public information,

as specifically provided for in this Protocol.

2.0 ACCESS TO THE NEGOTIATIONS

2.1 "Main Table" for the purposes of this Protocol means a tripartite meeting convened as such by the Chief Negotiators for the purpose of making decisions that further the treaty negotiation process.

2.2 "Side Table" for the purposes of this Protocol means a tripartite meeting convened by negotiators who have been delegated by their respective Chief Negotiators to negotiate recommendations for consideration at Main Table meetings.

2.3 The Parties agree that public access to Main Table and Side Table meetings will generally occur in those 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.

2.4 The Chief Negotiators will determine whether other Main Table and Side Table meetings are to be open to the public by considering whether their attendance at the meeting would:

2.4.1 increase the effectiveness of the meeting; or

2.4.2 interfere with the effectiveness of the treaty negotiation process; or

2.4.3 reasonably be expected to prejudice the positions or strategies of the Parties; or

2.4.4 harm the conduct of negotiations.

2.5 Access to Main Table and Side Table meetings may be achieved by opening these meetings to the public, or advisory committee members, or the media, or other means, or any combination of the above, as agreed by the Chief Negotiators.

2.6 The Chief Negotiators will agree prior to a Main Table or Side Table meeting whether that meeting will be open, either in whole or in part. Where the Chief Negotiators agree that a Main Table or Side Table will be open, they will attempt to provide at least two weeks notice to the public.

3.0 ACCESS TO DOCUMENTS

3.1 "Documents" for the purposes of this section means: discussion papers, reports or any other document exchanged among the Parties, or any other document directly related to the treaty negotiations, and includes extracts from documents, whether prepared by one Party or more than one Party.

3.2 The Parties agree that at a minimum the following Documents will be made public in their final form on a timely basis:

3.2.1 Main Table meeting agendas;

3.2.2 Records of Decisions and Commitments made by the Parties at a Main Table meeting;

3.2.3 periodic reports reviewing the progress of the negotiations that have been jointly prepared by the Parties;

3.2.4 all joint reports sent to the British Columbia Treaty Commission.

3.3 The Parties will also make available to the public the following documents prior to initialling, provided that the Chief Negotiators have agreed in a Record of Decisions and Commitments that the documents represent substantive agreement between the Chief Negotiators:

3.3.1 a Framework Agreement;

3.3.2 Sub-agreements;

3.3.3 an Agreement-in-Principle;

3.3.4 a Final Agreement;

3.3.5 an Implementation Plan for the Final Agreement.

3.4 The Parties agree that Documents not described in sub-sections 3.2 or 3.3, including statements defining interests or discussion papers tabled by a Party at a Main Table or Side Table meeting, may be made public unless any Party or Parties producing the Document:

3.4.1 have identified the Document as confidential; or

3.4.2 consider that disclosure would prejudice their position or strategy; or

3.4.3 consider that disclosure would result in the disclosure of the contents of other Documents or information which were produced or provided in confidence; or

3.4.4 the document is at a stage in the drafting process where it does not accurately reflect the intentions or interests of the Party or Parties.

3.5 The Parties acknowledge that the provincial Freedom of Information and Protection of Privacy Act, and the federal Access to Information Act and Privacy Act will apply.

4.0 TAC AND TAC REPRESENTATIVE

4.1 The Parties acknowledge that British Columbia will include as a member of the provincial negotiation team a representative of local governments (the "TAC Representative") from the Cariboo Treaty Advisory Committee.

4.2 The TAC Representative will participate in the negotiations in accordance with the objectives, responsibilities, meeting procedures, reporting relationships, and rules of confidentiality attached as Schedule A.

5.0 CONSULTATION

5.1 The Parties will advise each other of and inform the public about their respective consultation processes.

5.2 The Parties will arrange negotiation timetables that will allow effective consultation to occur.

5.3 The Parties will undertake joint consultation whenever it is mutually beneficial.

5.4 Each Party retains the right to consult with its respective advisory committees.

5.5 The Parties agree that to assist advisory committees in providing advice on matters under negotiation, a Party may provide its advisory committees with:

5.5.1 briefings on the substance of issues being negotiated;

5.5.2 documents that may be made available to the public under section 3.0;

5.5.3 periodic briefings by other Parties.

6.0 PUBLIC INFORMATION

6.1 The Chief Negotiators will be responsible for ensuring that an effective and ongoing public information process is established which may include such activities as public information forums, workshops, media interviews and briefings, meetings with third parties and community groups, open houses and information materials.

6.2 The Parties will develop public information workplans for each stage of the negotiations. The workplan will take into account the respective resources of the Parties and will include dates, times and locations.

6.3 The local media will be provided, where possible, with at least two weeks notice of any public information activities.

6.4 At these activities the Parties will update the public on the progress of negotiations and provide any other information that the Parties consider to be relevant.

6.5 The Parties may pursue bilateral or independent public information activities. Any Party planning such activities will give the other Parties advance notice.

7.0 AMENDMENT

7.1 The Chief Negotiators will review this Protocol at the start of each stage of the treaty negotiation process and consider the advisability of making amendments.

7.2 The Parties may amend this Protocol at any time by written agreement between the Chief Negotiators.

Schedule A

Treaty Advisory Committee (TAC) Participation in the Nazko Negotiations

Objectives:

The Objectives of the TAC are to identify local government interests and ensure they are considered in the treaty negotiation process. This includes general interests related to the social and economic fabric of the Cariboo-Chilcotin Region, and specific interests related to the authority delegated to local governments under the *Municipal Act*.

Responsibilities:

The TAC is responsible for identifying local government interests and ensuring they are accounted for in the negotiation process.

The TAC Chair is responsible for the operations of the TAC and is their signing authority. The TAC Chair is also responsible for ensuring that the Chief Provincial Negotiator, or designate, is invited to all meetings of the TAC and has a copy of the agenda at least one week in advance of meetings. The TAC Chair may limit a portion of a TAC meeting to TAC members to discuss internal TAC issues.

The TAC Representative is responsible for reporting to and seeking direction from the TAC, and representing local government interests. This includes:

- being sufficiently informed about issues under negotiation in order to effectively participate;
- providing direct advice to the Chief Provincial Negotiator; and
- participating in negotiations under the direction of the Chief Provincial Negotiator.

Meeting Procedures:

The TAC Representative, or the alternate, may attend any meetings of the provincial negotiation team, the province's regional caucus or meetings of tripartite negotiation Working Groups. The TAC Representative, or the alternate, is expected to attend Main Table negotiations and Side Tables specifically established to discuss and resolve local government issues. The Chief Provincial Negotiator may also invite the alternate, in addition to the TAC Representative, to attend any of the aforementioned meetings, including, with the permission of Canada and the First Nation, tripartite negotiating meetings.

Reporting Relationships:

The Chief Provincial Negotiator has the ultimate responsibility for the conduct of negotiations. The TAC Representative has the same privileges, responsibilities and obligations as other members of the provincial negotiation team. As such, the TAC Representative's primary responsibility in the conduct of negotiations is to the Chief Provincial Negotiator.

Rules of Confidentiality:

Release of documents to the public is governed by the three parties (Canada, British Columbia, Nazko) participating in the negotiation, the provincial *Freedom of Information and Protection of Privacy Act*, and the federal *Access to Information Act and Privacy Act*. The TAC, TAC Representative and the alternate are subject to the Openness Protocol agreed to by the parties with respect to all confidential information.

The Chief Provincial Negotiator will brief the TAC Representative on the topic and subject matter of any confidential document, or prior to any meeting at which the Chief Provincial Negotiator believes confidential information may be discussed. The TAC Representative will have an opportunity to determine whether or not to receive the confidential information or to attend the meeting. If the TAC Representative chooses to receive the confidential information, the TAC Representative will be bound by the confidentiality of the information.

The TAC Representative will brief the TAC on the topic and subject matter of any confidential information received. The TAC will have an opportunity to determine whether or not it chooses to receive the confidential information. If the TAC chooses to receive confidential information, TAC members and the local governments they represent will treat the information "in-camera" and not release the information to the public unless the information is made public by decision of the Main Table, and until otherwise released by the Chief Provincial Negotiator.

The TAC Representative, the alternate, or TAC members will step down from their respective positions if they breach the confidentiality of a document or discussions.

This Protocol signed the 14th day of June, 1996 in the Province of British Columbia.

SIGNED on behalf of the NAZKO INDIAN BAND by:

Mr. Stanley Boyd
Chief Negotiator

SIGNED on behalf of HER MAJESTY THE QUEEN IN RIGHT OF CANADA by:

Mr. Eric Denhoff
Chief Federal Negotiator

SIGNED on behalf of HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA by:
Mr. Gordon Douglas
A/Chief Provincial Negotiator