



GUIDE TO FIRST NATIONS RATIFICATION

BC TREATY
COMMISSION



Ratification Guide 2025

BC TREATY
COMMISSION



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INTRODUCTION

ABOUT THIS GUIDE

This is a comprehensive guide to support First Nations in British Columbia in their ratification of agreements negotiated within the context of the BC treaty negotiations process (treaties, agreements and/or other constructive arrangements). Individual agreements will contain unique provisions related to matters such as voter eligibility, approval thresholds, and other processes, and it is therefore important to read this guide in consultation with the specific agreement.

- » This Guide to First Nations Ratification was developed by the British Columbia Treaty Commission (BC Treaty Commission or Treaty Commission), in collaboration with independent consultants Ashley Wright and Coral Mackay. Consultant kwuntiltunaat Kim Baird supported the development of section 5 (Eligibility and Enrolment).
- » This guide does not provide legal advice on the ratification process.
- » This is a practical and flexible tool, to be adapted to meet the unique needs of First Nations across BC with diverse circumstances, priorities, and forms of governance.
- » Many of the concepts and approaches contained in this guide can also be applied to other First Nations community approval processes.

The BC Treaty Commission also thanks and acknowledges the Modern Treaty Nations in British Columbia for their treaty making leadership. Their generous sharing of knowledge, experiences, and expertise has evolved treaty making and agreements that reflect true reconciliation and a renewed relationship between First Nations and the Crown.

We hope this guide will be a useful resource in supporting the ratification of agreements intended to advance self-determination and community development as First Nations continue to build their nations and assert their inherent rights through treaties and other agreements.

The Treaty Commission intends to regularly update this guide, and we welcome feedback, as well as recommendations for additional tools and resources. Feedback can be sent to communications@bctreaty.ca.

For resources in addition to those listed in this guide, please visit www.bctreaty.ca.

WELCOME

- » Self-govern using structures and models designed by the First Nation and its citizens
- » Create more flexibility and control over the administration of programs and services
- » Determine its membership
- » Access new and increased funding for a variety of initiatives and governance activities
- » Build authority and jurisdiction over lands and resources
- » Enhance capacity-building opportunities
- » Generate economic development opportunities
- » Implement enforcement of the First Nation's laws

A ratification process usually follows many years of intense negotiations by First Nations representatives who received a mandate from their members to achieve an agreement. Teams will often have spent many years communicating with, informing and reporting back to members on the progress of negotiations. Upon completing their mandate, the negotiation team and, importantly, leadership, should stand together to communicate the terms of the negotiated agreement and seek support and approval through a favourable ratification vote. The process is time-consuming and crucial to allow citizens to make informed decisions in voting for an agreement. Ratification of these agreements is the next step in a larger nation-building process. Through the ratification process, citizens of a First Nation consider how the terms of an agreement and the tools available under it will support their continued path to self-government.

Successful ratification of a constitution and treaty can provide the opportunity for a First Nation to:

The made-in-BC treaty negotiations process — including ratification — sets the tone for the relationship between the First Nation, the Government of British Columbia (BC, British Columbia, or the Province) and the Federal Government (Canada) (collectively “the Parties”) moving forward and is as important to the relationship as the treaty itself. Treaty negotiations provide a path forward by establishing this new relationship based on mutual respect, recognition, and trust.



ADDITIONAL RESOURCES AND TOOLS

Throughout this guide and on the BC Treaty Commission website, draft documents and template materials are provided as additional resources to support First Nations and the Parties in their journey through the ratification process. These additional resources are crafted to establish a foundation for key administrative tasks such as enrolment, genealogical work, and other administrative activities. The templates are meant to assist with communications and documentation requirements. The Treaty Commission encourages First Nations to adapt these forms according to their specific needs, integrating community input and cultural and/or community considerations where applicable.

HOW MANY MODERN TREATIES HAVE BEEN NEGOTIATED THROUGH THE BC TREATY NEGOTIATIONS PROCESS?

There are seven First Nations implementing modern treaties that were negotiated through the BC treaty negotiations framework:

- » Tsawwassen First Nation
- » The five First Nations of the Maa-nulth Treaty¹:
 - » **tukʷaaʔath** (Toquaht Nation)
 - » Huu-ay-aht First Nations
 - » Ka:’yu:’k’t’h’/Che:k’tles7et’h First Nations
 - » Uchucklesaht Tribe
 - » **Yuuʔuʔiʔʔath** (Ucluelet First Nation)
- » Tla’amin Nation

In addition, the Nisga’a Treaty was negotiated prior to the made-in-BC negotiations process, but its inclusion brings the count to eight constitutionally-entrenched modern treaties in BC.

At the time of writing, 3 additional treaty agreements are being brought forward to voters for ratification.

THE UN DECLARATION IN INTERNATIONAL, FEDERAL, AND PROVINCIAL LEGISLATION

THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

Internationally, the *United Nations Declaration on the Rights of Indigenous Peoples* (the UN Declaration) serves as an acknowledgement of Indigenous Peoples’ rights, including the right to self-determination. The UN Declaration highlights the necessity of respecting Indigenous Peoples’ decision-making processes in matters that affect their rights and interests.

THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT

Federally, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIPA) affirms the UN Declaration as a “universal international human rights instrument with application in Canadian law.” It affirms and upholds the rights of Indigenous Peoples and calls for the development of an action plan, which was released on June 21, 2023. There are 181 measures within the plan that will help the Federal Government implement UNDRIPA.

¹ Note: Maa-nulth is structured as five independent governments and is counted as such by the Treaty Commission.

THE DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT

Provincially, the *Declaration on the Rights of Indigenous Peoples Act* (DRIPA) reinforces the principles that are enshrined in the UN Declaration within British Columbia's legislative framework. DRIPA affirms the importance of upholding Indigenous Peoples' rights, including the right to self-determination and the requirement of free, prior, and informed consent in relation to decisions impacting their lands, resources, citizens, and governance. The provincial DRIPA Action Plan was released on March 30, 2022, and guides the province's implementation of DRIPA.

IMPLEMENTING THE UN DECLARATION

Within the context of treaty negotiations and ratification processes, recognizing and following the principles outlined in the UN Declaration, DRIPA and UNDRIPA is fundamental. These mechanisms provide a framework that fosters respectful, transparent, and meaningful engagement between Indigenous Peoples and governing authorities, leading to the establishment of treaties that reflect informed consent and the interests of First Nations communities.



THE NEW TREATY LANDSCAPE

In recent years, through the advocacy of First Nations and the collective work of Modern Treaty Nations, the treaty model has evolved. There have been a number of positive changes in the treaty landscape which more closely meet the expectations of First Nations negotiating within the BC treaty framework. These changes are reflective of a continued and evolving journey towards reconciliation through modern day treaties, agreements, and constructive arrangements.

Until recently, modern treaties assumed a rights modification model, which meant that a First Nation's rights would be modified to match the rights negotiated in the treaty. This is no longer the case. In fact, the Crown (the Provincial and/or Federal Governments) now operates from a position of "recognition and predictability," meaning that in any agreement, a First Nation's rights are recognized and affirmed.

Recently initialled treaties also include language stating that they are to be interpreted in accordance with honour of the Crown and the UN Declaration.

KITSUMKALUM HONOUR OF THE CROWN AND UNDRIP

9. The *United Nations Declaration on the Rights of Indigenous Peoples* is an authoritative source for the interpretation of this Agreement, and, accordingly, informs the Parties in their implementation of this Agreement.

Treaties do not extinguish existing rights, nor do they require that rights be surrendered or modified.

Treaties are living agreements (they are no longer considered full and final).

There are several changes to the negotiation and implementation of treaties, including:

- » Periodic Renewal
- » Orderly Process
- » New rights language
- » Rights Recognition
- » Expanding the duty to consult
- » Broadening shared decision-making
- » Bringing the ratification threshold in line with other voting thresholds
- » Loan forgiveness
- » Section 87 tax exemption remains
- » Provincial sales tax exemptions remain
- » Enhanced fiscal approach
 - » Moratorium on Own Source Revenue
 - » Core governance funding
 - » Government start-up costs
- » Enforcement of First Nations law

PERIODIC RENEWAL

Periodic Renewal allows for the Parties to address needed changes to a treaty **on a recurring basis**, including areas which Parties may wish to renegotiate or expand on. Each treaty contains provisions on how and when periodic renewal will occur. In several existing modern treaties, the first periodic renewal is set to be no later than 10 years after the treaty's effective date. Periodic renewal also includes what is often referred to in simpler terms as a “*Me Too*” clause, which means that a Modern Treaty Nation can have beneficial clauses from future treaties automatically added to its agreement.

Periodic Renewal also allows for changes to a treaty due to new developments in law, including common law, federal and provincial legislation, or federal or provincial policy innovations in other treaties and land claims agreements; unforeseen circumstances, such as changes to the environment (e.g., loss of habitat, declining fish stocks); and with the aim of generally improving the treaty and the relationship between the Parties. This allows for treaties to evolve and respond to the needs of an ever-changing world, hence why they are “Living Agreements.”

Through Orderly Process (another mechanism to amend a treaty), if a new Aboriginal right is established, recognized, or affirmed through the courts, a treaty can be amended to include the new legal right.

RIGHTS RECOGNITION

Aboriginal rights, including aboriginal title and the inherent right to self-government, are recognized, affirmed, and will be exercised as agreed to in a treaty. The agreement will clearly state that existing rights are not extinguished, surrendered, nor modified.

The negotiation of treaties, agreements, and other constructive arrangements is predicated on the recognition and continuation of a First Nation's aboriginal rights (including aboriginal title), as recognized in the *Constitution Act, 1982*. Those rights are in no way abrogated or derogated by the implementation of a treaty.

There is no extinguishment. There is no modification.

KITSELAS RECOGNITION AND PREDICTABILITY

44. Canada and British Columbia recognize that Kitselas has aboriginal rights within Kitselas's traditional territory, as recognized and affirmed by Section 35 of the *Constitution Act, 1982*.
45. For greater certainty, the aboriginal rights of Kitselas include aboriginal title and the inherent right of self-government, as recognized and affirmed by Section 35 of the *Constitution Act, 1982*.

Modern treaties now include language that clarifies situations where the rights of other First Nations are affirmed through the courts or other negotiations. In instances where another First Nation had previously unrecognized aboriginal rights established, recognized, or affirmed, this would enable a Modern Treaty Nation to enter into negotiations with the Crown with the goal of including these novel rights in its treaty.

RATIFICATION THRESHOLD

For decades, First Nations have fought hard to change the requirement of a “double majority” ratification threshold. The fact that the ratification threshold was based on a majority of all voters on the final list of eligible voters (LEV), **whether or not they participated in the vote**, has been seen to be both unreasonable and unfair. With recent changes, the ratification threshold is now seen not only as much more achievable, but also much fairer and more consistent with the processes of other jurisdictions. It is also considered more appropriate as modern treaties make it clear that there is no surrender or extinguishment of rights.

Previously, ratification required that:

- » 50 per cent plus one of all eligible and enrolled members on the final LEV had to participate in the voting process, **and**
- » 50 per cent plus one of **all eligible voters** on the final LEV had to vote in favour.

This meant that a vote on a treaty could not be successful if this threshold was not met. Moreover, someone on the LEV who did not vote was considered a “no” vote, another unfair condition. Given the fact that Canada and BC do not have these types of voting thresholds in their elections, this threshold was unjust to First Nations and made achieving a favourable ratification vote onerous.

The ratification thresholds found in recently initialled treaties require that:

- » 50 per cent plus one of the eligible voters on the final LEV must vote
- » 50 per cent plus one of the **voters who cast their vote** must vote in favour of ratifying the treaty.

KITSUMKALUM RATIFICATION REQUIREMENTS

Ratification of this Agreement by Kitsumkalum requires:

- (a) that individuals who may be eligible to vote have a reasonable opportunity to review this Agreement;
- (b) a vote, by way of a secret ballot;
- (c) that at least 50 percent plus one of the Eligible Voters on the Final Treaty Voters List cast their vote; and
- (d) that at least 50 percent plus one of those voters who cast their vote, must vote in favour of entering into this Agreement;
- (e) ratification of the Kitsumkalum Constitution through the process set out in this Agreement; and
- (f) that this Agreement be signed by an authorized representative of Kitsumkalum.

ELIGIBILITY AND ENROLMENT (E&E) CRITERIA

First Nations must have the autonomy to collectively determine who their citizens are without having it be pre-determined or dictated by the Crown through tools such as the *Indian Act*.

The approach to Eligibility and Enrolment has changed to allow for the E&E criteria to be embedded within a First Nation's constitution immediately following the effective date of a treaty. Should a First Nation decide in the future that it needs to either narrow or broaden its criteria, it can be changed through a constitutional amendment and vote by the First Nation's citizens (instead of being required to negotiate these amendments with BC and Canada).

LOAN FORGIVENESS

In 2018, the Government of Canada announced that it would forgive treaty loans for First Nations involved in treaty negotiations. These loans were accrued by First Nations due to the previous Negotiation Support Funding (NSF) structure, under which 80 per cent of NSF was a repayable loan, and 20 per cent was contribution funding. Since 2018, NSF has been 100 per cent contribution funding. The total amount of loans accrued by First Nations from 1993 to mid-2018 was approximately \$550 million (excluding interest).

SECTION 87 TAX EXEMPTION

After years of negotiations, First Nations have successfully pushed for the continuation of the tax exemption under section 87 (s.87) of the *Indian Act* post-effective date of their treaties. This marked a significant victory for those First Nations who are currently negotiating and Modern Treaty Nations. This change will benefit all First Nations in the negotiations process.

The Provincial Government also announced the continuation of BC sales tax exemptions for Modern Treaty Nations in 2023, aligning its tax policies with those of Canada.

Previously, Modern Treaty Nations had to phase out their s.87 exemption and sales tax exemptions as a condition of modern treaty implementation.

The key elements of these changes include:

- » All status Indians will retain their s.87 tax exemption for as long as it is provided for in the *Indian Act*.
- » The s.87 exemption can continue to be used on any reserve in Canada.
- » The s.87 exemption can also be used on parts of Treaty Settlement Lands that were former Indian Reserves.

- » Modern Treaty Nation members will continue to be exempt from BC sales taxes on portions of Treaty Settlement Lands that were Indian Reserve lands, and on the current or former Indian Reserve lands of other First Nations.
- » Each Modern Treaty Nation will have direct tax authority that can be exercised at the discretion of the Modern Treaty Nation.

ENHANCED FISCAL APPROACH

There are several enhancements to the fiscal relationship that have been improved in recent treaty negotiations.

Recognizing the large amount of work that First Nations need to undertake to prepare for the effective date of a treaty and self-government, in the past, the Parties have agreed upon enhanced levels of funding for the period between a treaty's ratification and its effective date, known as the start-up phase. During this phase, the First Nation prepares the administration, government, and citizens for the effective date of the treaty. This includes key foundational initiatives, such as:

- » Creating laws, policies, and institutions of government.
- » Training staff and leadership.
- » Communicating with citizens and other agencies.

Own Source Revenue (OSR) refers to income that First Nations generate independently from government funding, typically through economic development and taxation. In the past, the Federal Government could claw back a certain amount of funds from First Nations in situations where federal funding had been dispensed and where First Nations had generated moderate OSR. There is currently a moratorium on these OSR claw-backs, which has helped First Nations challenge socio-economic disparities within their communities, and ensured that Modern Treaty Nations and Self-governing Indigenous governments have the means to achieve financial sustainability, autonomy, and economic prosperity.

Even more significantly, Self-governing Indigenous governments have negotiated with the Federal Government to ensure there is sufficient funding for First Nations to operate and sustain their own governments. Self-governing Indigenous governments began to implement the jointly developed federal *Collaborative Self-Government Fiscal Policy* (2019), by negotiating a significant increase in funding for what is referred to as “core governance.” The goal of the policy is to strengthen the government-to-government partnership and better support self-government arrangements by providing sufficient, predictable and sustained funding so that Self-governing Indigenous governments have the means and fiscal capacity to govern effectively. Negotiations to address all other aspects of funding identified in the policy remain ongoing.

ENFORCEMENT

Enforcement has been a central focus for negotiating First Nations, including policing and policy work, justice tribunals, relationships with the courts, and capacity-building with respect to a Modern Treaty Nation's ability to enforce laws upon effective date. Without enforcement, self-government is an empty promise.

Negotiating tables have been working diligently with Canada, the Province, and enforcement agencies to develop information-sharing protocols; review and consider alternative justice options; and understand budget implications for adjudication, prosecution, and enforcing the laws of Modern Treaty Nations.

The key elements of the language developed thus far involve enabling language for the creation of a First Nations court, a commitment to adequate and effective policing, and the designation of Modern Treaty Nation law enforcement officers as peace officers.



JOURNEY TO RATIFICATION

The journey to a modern treaty provides First Nations with the ability to build capacity, pave a new path for self-determination and self-government, and enhance relationships with the provincial, federal, and local governments.

This journey supports First Nations development in the following areas:



INCREASED COLLABORATION

Building trust and fostering collaboration between First Nations, the Provincial Government, and the Federal Government is essential for advancing treaty negotiations. This includes meaningful engagement, transparent communication, and good faith negotiations.



EMPOWERMENT AND CAPACITY-BUILDING

Investing in capacity-building initiatives that strengthen the governance and socio-economic wellbeing of First Nations is critical for ensuring meaningful participation in the treaty process. Many First Nations grow their capacity during negotiations by taking on projects that prepare them for self-government (e.g., through Treaty Related Measures), and indeed by taking part in the negotiation process itself.



RECOGNITION AND CONSTITUTIONAL PROTECTION OF INDIGENOUS RIGHTS

Recognizing and upholding the inherent rights of Indigenous Peoples, including the right to self-government, is fundamental to achieving positive treaty outcomes.



NATION BUILDING

Treaty negotiations provide an opportunity for First Nations to plan and prepare for self-government with a significantly increased land base. This work can strengthen their governance structures and revitalize their cultural identities.

Ratification of a treaty involves more than just the outcome of the vote. The process of ratification (which builds on the engagement with citizens that happens throughout the negotiation and ratification processes) involves a community journey that includes creating a forward-looking process, building community around shared values, and developing a system of accountable and transparent governance.

A First Nation is given a mandate by its community to negotiate a treaty with Canada and British Columbia, leading the way towards a new relationship rooted in reconciliation through negotiations, and a prosperous vision for generations to come. Significant time and resources are put into the negotiations themselves, into the development of stronger relationships between the Parties, and into the work involved in preparing the First Nation for self-governance. Completing this mandate requires leadership to stand behind the agreement that has been negotiated and brought to the community for a ratification vote. Support from leadership is essential – without it, ratification stands little chance of success.



We have had **community members** examine and play leadership roles in the **development** of every piece of **legislation**; we have **community votes** on our most **major decisions** that will impact our people; and we have a functioning legislature and advisory process that incorporates more opinions and perspectives into the decision process than we have ever had. There is no doubt that **we are stronger** now because we took the time to **engage with everyone** – that has allowed us to move forward and to rebuild our community based on our community's values and priorities.

— **kwuntiltunaat Kim Baird**
Tsawwassen First Nation

EARLY AND ACTIVE ENGAGEMENT

COMMUNICATE EARLY AND OFTEN

The ratification of the First Nation's treaty (and its constitution) requires active community engagement and participation throughout the negotiations process. Meaningful engagement is the basis of free, prior, and informed consent, and can increase the likelihood of a successful vote.

An informed vote is the ultimate goal. A successful vote is not limited to a “yes” result. Success is also measured by meaningful community engagement, high voter turnout, and citizens feeling clear and informed on the contents of the treaty.


CHANGES TAKES COURAGE

As a First Nation prepares for self-government, it is increasingly important to communicate what is to come and how the First Nation is preparing for change. By engaging early and often, the First Nation will begin to establish and maintain a level of trust and transparency with its members. Once trust is established, the First Nation's treaty team (a wider body including members of the negotiation team, engagement team, enrolment committee, ratification committee, administration, and others who support the ratification process) can begin to break down and discuss not only the content of the treaty itself, but also any myths, misunderstandings, and fears about the treaty process or self-government in general.

Meaningful engagement leading up to the ratification vote is important as it ensures that the entire community is actively involved and has a voice in shaping their future governance and relationships. It provides citizens with opportunities to ask questions, inform themselves about the agreement, and engage in discussions with the negotiation team, leadership, and administrative staff, as well as with family and peers. A high level of engagement helps to build trust as it enables meaningful dialogue and consensus-building around critical decisions that impact present and future generations.

Engagement provides an opportunity for community members to share their perspectives, concerns, and aspirations for the future. In addition, engagement fosters a sense of ownership of the treaty and commitment among citizens. Ultimately, engagement is foundational to promoting unity and empowerment.





*Ratification goes right to the heart of a **fair and balanced agreement**. This is the instrument for First Nation citizens, through their leaders, to ensure the **agreement is fair and pursuant to their interests**. Some of us may like what others have done, or not, but in terms of ratification, that is irrelevant. It is up to the citizens to say “yea” or “nay” to their own agreement. The standard of free, fair, and informed consent, adopted by the UN, sets a high bar for ratification and fairness of these treaties.*

- Miles Richardson
Haida Nation

MILESTONES FOR TREATY

The following are key mandates and approval milestones of the treaty negotiations journey. Each step requires different levels of engagement, outreach, and education.

Approval to begin negotiations

A First Nation's membership (including representatives of hereditary leadership and governing bodies) determines the mandate, appoints a negotiation team, and establishes a process to address overlapping and shared territories.

Framework Agreement

The Parties will determine the topics and scope of what is to be negotiated.

Agreement in Principle (AIP) negotiations

An Agreement in Principle marks a significant milestone in the negotiation process. A foundational agreement is reached by the Parties outlining the key elements of the treaty. This is not a binding agreement.

If the Agreement in Principle (AIP) is successfully approved

Once the First Nation successfully approves the AIP, negotiations move on to Stage 5.

In recent years, detailed AIPs have not been pursued by some First Nations, and other techniques, such as Transition Memorandums of Understanding (MOU), have been developed to indicate the Parties' readiness to move to an advanced stage of negotiations.

Negotiations to finalize the treaty

Parties work to conclude negotiations and the First Nation begins to prepare for the ratification of its treaty.

Work on a First Nation's constitution occurs during this phase.

Chief Negotiators handshake or Chief Negotiators Letter of Understanding

Negotiators agree that negotiations are "substantially complete" and seek approval from their governments.

Initialling of the treaty

Once the treaty language is substantially complete, the Chief Negotiators from the First Nation, Canada and BC initial the treaty.

First Nations Ratification

The First Nation votes on the constitution and treaty.

The vote on the First Nation's Constitution must be held prior to or on the same day of the treaty ratification vote.

The constitution must be successfully ratified before the treaty effective date.

Some First Nations have conducted votes on their constitution and treaty on the same day and others have held the constitution vote a few weeks or months in advance of the treaty ratification vote.

Ratification by British Columbia and Canada

Once the First Nation has successfully ratified its treaty, British Columbia, followed by Canada, proceed to ratify the treaty within their systems.

Pre-Implementation (estimated between 2 and 4 years)

The start-up phase/preparation for implementation (funded largely by Canada, with additional funds available from BC). The First Nation prepares its government and administration for the effective date; develops laws and policies; structures the government organization; addresses capacity gaps; and informs and engages with citizens in the process.

Effective Date Implementation of the Treaty

The Modern Treaty Nation now brings the tools in the treaty to life, controlling and making decisions regarding lands and resources, providing programs and services for citizens, and governing by its own laws.

The Modern Treaty Nation is now self-governing.



As a First Nation moves through the treaty negotiations process and prepares for ratification of its constitution and treaty, it is building human and institutional capacity.

The BC treaty process enables First Nations to prepare for self-government through various projects that assist with negotiations and preparations for a treaty's effective date.

CONFIRMING THE MANDATE OF THE NEGOTIATION TEAM

A treaty mandate provides direction from First Nation members for the First Nation to engage in treaty negotiations with Canada and BC. The treaty negotiations are guided by the mandate given by the First Nation's members and by the First Nation's vision, which has usually endured for generations.

The treaty mandate is confirmed and maintained through regular meetings with the First Nation's members. These meetings will keep members informed and up to date on negotiations, as well as provide an avenue for input on various aspects of negotiations, including a review of the mandate, which can be accomplished in several ways. For example, many First Nations review and sometimes renew their mandates at annual general assemblies or other treaty meetings. Changes in leadership may also be good opportunities to confirm the mandate.

It is important to note that community members have been a driving voice for changes throughout the treaty negotiations process, such as community efforts to draw attention to the impact of losing the section 87 tax exemption (see page 11).

KEY CONSIDERATIONS

- » Regular gatherings (quarterly or at minimum annually) are a good opportunity to engage citizens on the negotiations process, as well as update and confirm the mandate for treaty negotiations.
- » A First Nation's annual requests for and acceptance of negotiation funding constitute another form of mandate confirmation.
- » A good question to continually ask is "does this action support the First Nation's vision?"
- » Communicating consistently with Chief and Council and providing regular updates on negotiations is a good way to maintain support for negotiations from leadership.
- » Keep administrative staff informed and engaged as negotiations progress; include them in discussions and negotiations relevant to their program areas.

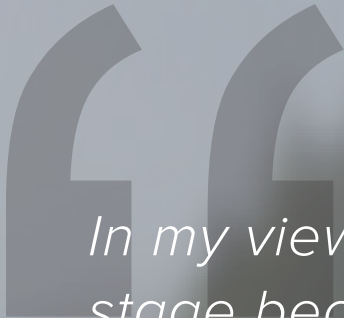
AGREEMENT IN PRINCIPLE (AIP)

An AIP is a formal but non-binding document that outlines the key elements of a treaty that have been substantially agreed upon by the negotiating Parties. It is a foundational step towards achieving a comprehensive treaty, yet is not the end of negotiations in any of its elements. The process leading to an AIP involves extensive negotiations and discussions between the Parties involved. These negotiations aim to address a wide range of complex issues, including land ownership, resource management, governance, financial arrangements, and cultural considerations. An AIP reflects the common understanding reached by the Parties on these critical elements, and serves as the basis for further substantive discussions which will occur in final stages of negotiations. The AIP does not represent the comprehensive treaty itself.

The BC treaty process is designed to support reconciliation. An AIP represents a critical step towards achieving reconciliation by laying the foundation for a modern treaty that will provide clarity, certainty, and recognition of the inherent right of self-determination. The AIP also signifies a mutual commitment by the Parties to continue working towards finalizing a treaty or other tripartite agreement.

Alternatively, Memorandums of Understanding (MOUs) serve a similar function as AIPs, setting out shared priorities for further negotiations and signalling the Parties' commitment to concluding negotiations of a treaty, agreement, or other constructive arrangement. MOUs have sometimes been preferred to AIPs because they are flexible and, in some circumstances, can be more quickly negotiated.





*In my view, the AIP is a difficult stage because it can create a stumbling block for Nations if they don't understand that the **AIP is not the treaty**, and that the **treaty is negotiated in Stage 5 with the final agreement**.*

— Tom Happynook
Huu-ay-aht First Nations

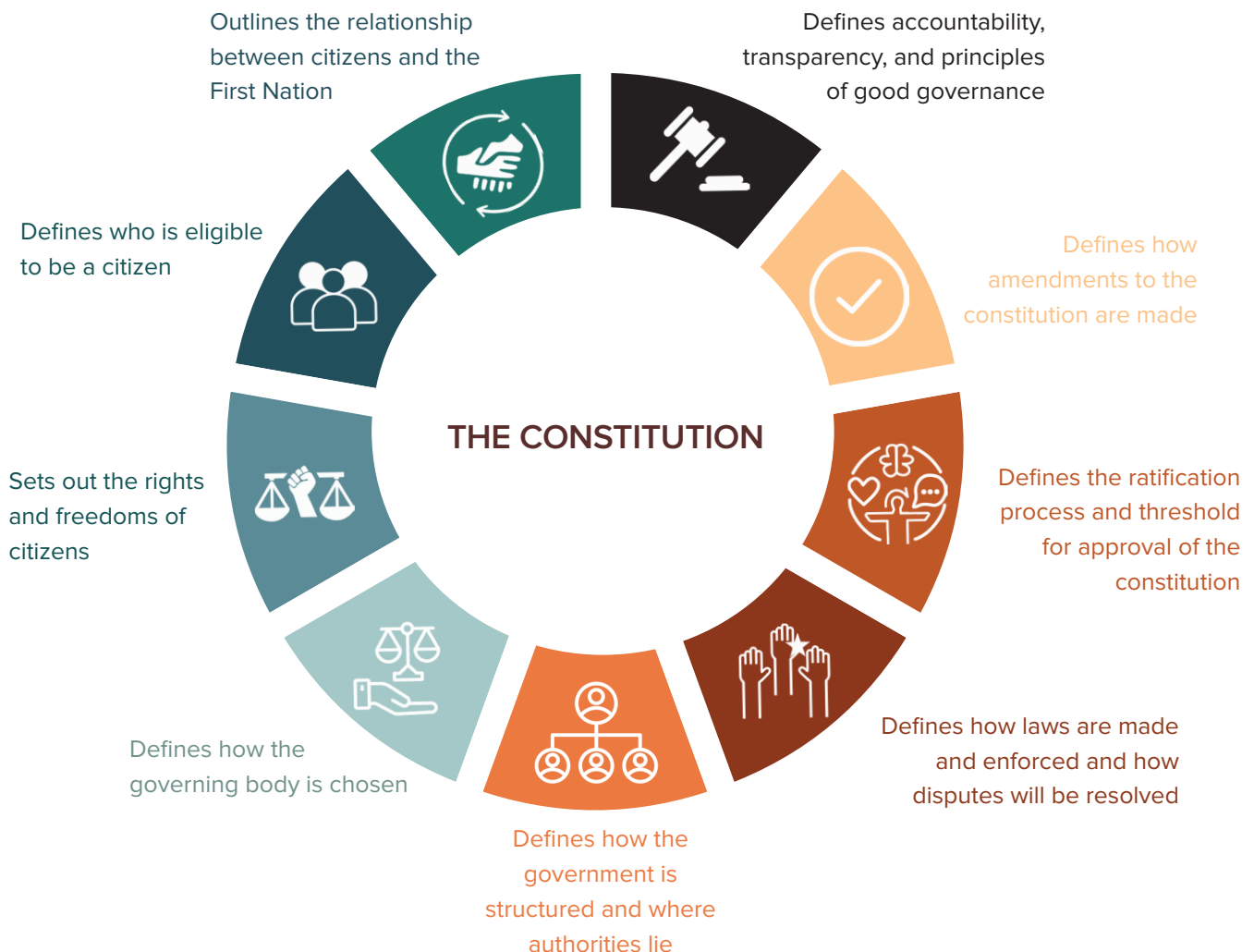
CONSTITUTION VOTE

The constitution vote is one of two votes required to ratify a treaty (if the First Nation does not already have a ratified constitution).

A constitution describes the future government and its responsibilities, provides a mechanism for citizens to challenge decisions made by the government, and is a document that is guided by citizens' input and vision. It is the key document informing self-governance and replaces the *Indian Act*.

The development and implementation of a First Nation's constitution is a proud milestone for many First Nations; it is the opportunity for the First Nation to create its own laws that will guide and govern them into the future. Some constitutions also integrate hereditary and traditional Nation systems with the new modern governing systems.

As explained by Kitselas First Nation "the Constitution is the 'foundation.' It sets out the roles and responsibilities of the Legislature (elected officials), how laws are made, a modern administration with real accountability, and a way to appeal administrative decisions. It sets out the 'rules of the game' based on our culture, history, and elders."



Drafting and voting on the constitution is a nation-building exercise that empowers members to work collaboratively to define their governance structures, laws, and systems of self-determination. By engaging members in the drafting process, a sense of belonging and unity is created. The constitution should be made by the citizens, for the citizens. A good practice in developing a First Nation's constitution is for leadership to empower a group of citizens to research and engage widely on what the constitution will look like. A committee of trusted citizens, appointed by the membership at large, for example, creates a great deal of trust. In that way, current leadership is not seen to be creating a place for themselves in future governments.

The vote on the constitution must occur prior to the vote on the treaty. Some First Nations, especially where the First Nation may already have experience in conducting large and important votes (approval of Land Codes for example), choose to hold their constitution and treaty votes on the same date. Others have opted to hold their constitution vote in advance, providing them with some experience and test-runs, both in communicating and engaging with citizens, and conducting a comprehensive voting process using various methods of voting. It is worth reaching out to First Nations who have gone through ratification processes to discuss lessons they may have learned.

Votes on the constitution and treaty, however, are required to be distinct voting processes. There must be separate ballots and ballot questions for each.

Recent treaties in BC specify the voting thresholds; most indicate that 50 per cent plus one of eligible voters must participate in the vote, and that 50 per cent plus one of those voters must vote in favour. The constitution itself will also include the requirements for its approval which will be consistent with the treaty.

The Constitution, once approved, will come into force on the treaty's effective date.

TREATY RATIFICATION VOTE

Treaty ratification involves a vote where citizens who have enrolled in the treaty cast their ballots to determine approval of the treaty. A treaty is a constitutionally-protected document that outlines the new relationship between a First Nation, Canada, and British Columbia and sets out rights that are protected under section 35 of the *Constitution Act, 1982*.

A favourable treaty ratification vote is a significant milestone for a First Nation, as it signifies the removal of the barriers put in place by the *Indian Act* and is an important step on the journey to self-government. It may take a First Nation many years of negotiations to get to the point of ratification. In some ways, ratification may feel like a finish line, but in reality, it is just the beginning. Ultimately, a treaty is a tool that a First Nation can use to move towards its ancestors' visions for a prosperous and healthy future.

Each treaty will specify the voting threshold required to ratify the treaty. Ratification thresholds are discussed in more detail in Section 2: The New Treaty Landscape, under "Ratification Threshold" (page 10).

IMPORTANCE OF VOTING

Treaty ratification is a critical moment in a First Nation's decision-making journey and path towards self-government. The ratification process emphasizes the need for deep engagement with, and active participation of, members. The treaty ratification process requires that those eligible to enrol in the treaty – whether they are on the *Indian Act* band list or not (and whether living in community or away from home) – are provided with the opportunity to have the autonomous decision to enrol in and vote on the constitution and treaty.

Further details on Eligibility and Enrolment are provided in Section 5: Eligibility and Enrolment.

Ratification of the treaty differs significantly from other votes, such as the elections of Chief and Council under the *Indian Act*. It is a communal vote on collective rights to land, self-government, and resources – a unique and transformative process. The ratification threshold in the most recently initialled treaties (updated from the aforementioned double majority) requires 50 per cent plus one of eligible voters participate in the vote, with 50 per cent plus one of those voters who participate voting yes in order for the treaty to be passed and ratified.

Continuously engaging members through clear communication and by providing meaningful opportunities to participate throughout negotiations, up to the treaty ratification, and beyond is critical. Providing regular platforms for dialogue and fostering community ownership of decisions not only builds trust; it strengthens governance structures and ensures that community engagement continues well beyond the formal vote. This helps create a sense of shared responsibility and empowerment among community members and the approach is essential for building a strong foundation for self-government.

TIPS

- » Clearly communicate to community that enrolling to vote comes with the responsibility of showing up on voting day.
- » Remind community members that voting is an opportunity for them to voice their vision for the future. This is the foundation for a shared future.



TEAMS & COMMITTEES

OVERVIEW OF TEAMS AND COMMITTEES

On the journey to ratification, building strong and effective teams is crucial. There are four groups that play a central role in the ratification process: the negotiation team, the engagement team, the enrolment committee, and the ratification committee. Having community members in leading roles on these teams and committees is an excellent way to build capacity and trust and ensure transparency. Another important but more specific body is the enrolment appeal board.

Further details on the roles and responsibilities of each of these groups follows.

NEGOTIATION TEAM

The negotiation team is established at the beginning of the negotiations process in preparation for tripartite negotiations. The team is generally led by a Chief Negotiator and is responsible for representing the First Nation at the negotiation table. Negotiation teams vary in size and composition based on the unique characteristics and needs of their communities. Early in the process, the negotiation team bears the responsibility for community engagement. The community must be informed of the ongoing discussions at the negotiation table to ensure that citizens' voices and vision are being accurately represented and embedded within the agreement as negotiations progress. In most First Nations, the members of the negotiation team remain fairly consistent over time, often throughout negotiations.

The composition of the team varies from Nation to Nation, but in general, key roles on the team include:

- » Chief or Lead Negotiator
- » Treaty Manager
- » Assistant Negotiator(s)
- » Communications Coordinator

Many First Nations also involve members with more specific roles on their negotiation team as topics demand, such as a Fisheries Coordinator or Self-Government Coordinator. For some First Nations, the Chief Councillor also acts as the Chief Negotiator. Others may choose a community leader or an outside consultant.

Building a negotiation team from within a First Nation is an investment in the community – it draws on existing strengths, builds future capacity, and contributes to trust between the community and the negotiation team. Ensuring that different demographic groups within the community (e.g., Elders, youth, members living at home and away) are represented helps move the process forward in a smooth, sustainable, and steady manner.

ROLES AND RESPONSIBILITIES

The negotiation team bears the responsibility for conducting negotiations on behalf of the First Nation.

The negotiation team should:

- » Ensure there is a comprehensive and clear mandate from the community and have a timely and effective process to modify that mandate if required.
- » Represent and advocate for the best interests of the community in negotiations, while balancing the needs and concerns of the community.
- » Assist the First Nation in addressing overlapping and shared territory issues, working collaboratively and respectfully with neighbouring First Nations to find solutions (through protocol agreements, for example).
- » Engage with the community throughout the negotiations process to keep them informed of what is being discussed at the table, and seek input on key issues (e.g., land and resource management, future governance structures, land ownership).
- » Prepare for negotiations by conducting internal meetings, researching what human resources/ staffing supports are needed, and coordinating with technical experts when necessary.
- » Conduct studies on topics discussed at the treaty table (e.g., costs associated with running an effective government, enforcement mechanisms).
- » Maintain records of the treaty negotiations process (e.g., documenting agreements, disagreements, decisions, outstanding items).
- » Regularly engage with and update First Nations leadership and administration on the progress of negotiations.

KEY CONSIDERATIONS

- » Ensure that the negotiation team is well-prepared, trained, and equipped with the right skills and expertise to engage effectively in tripartite discussions.
- » Engage Chief and Council so that they are kept apprised of developments, challenges, and progress in negotiations. This can be achieved by inviting them directly to attend negotiations, or by having frequent and regularly scheduled briefings, so that information is shared transparently and effectively.
- » Prepare for main table discussions by establishing clear objectives and priorities prior to each meeting (e.g., by hosting internal meetings prior to main table meetings).
- » Maintain regular communication with the community throughout the negotiation process by providing clear updates. Seek feedback on crucial decisions or challenges.
- » Advocate for different perspectives on the negotiation team, including the voices of Elders, youth, and other community members.
- » Don't forget to celebrate the wins!



ENGAGEMENT TEAM

The engagement team is responsible for supporting the treaty ratification vote and communicating with members at various stages in the lead-up to the vote. Though the engagement and negotiation teams may have some of the same members depending on their skills and expertise, the teams have very different roles and functions. The engagement team is notably larger and has the distinct responsibility of preparing the community for the treaty ratification vote.

The engagement team serves as a critical link between the community and the ratification process. This team facilitates communications and engagement efforts to ensure that community members are well educated and engaged leading up to the treaty ratification vote, assuring that members are able to make an informed decision.

The team should be established with ample time to engage the community before the treaty ratification vote. The role of the engagement team is to take the work of the negotiation team back to the community for input and approval.

The members of the negotiation team will be the obvious first choices to be part of this team. They will have the experience and knowledge of negotiations and the provisions of the treaty and will be in the best position to respond to questions as to how certain provisions were agreed to. Leading up to the final stages of negotiations and the ratification process, treaty teams tend to expand significantly as the need for communications and engagement heightens. The engagement team begins here as the team grows to meet the upcoming requirements.

Engaging community members as part of the team and utilizing experts who supported the negotiation team is important. Successful ratification will require a diverse range of expertise, skill sets, capabilities, and points of view. First Nations who have successfully ratified treaties describe the numerous individuals who need to be involved and play a role – either full time or part time, paid or volunteer – in engaging members in the discussion. Some of those include elected and hereditary leaders, administrative staff, heads of families, Elders, youth, the “middle aged” who can be underrepresented, community experts and influential champions (fishers, hunters, governance and finance experts, etc.), and volunteers. The time, energy, and commitment needed for thorough and effective engagement should not be underestimated.

Consider mapping out the existing skills and expertise already available within the First Nation and identifying gaps and areas for growth within the team. Most First Nations who have gone through the ratification process also had a technical team to support the negotiation and engagement teams. These internal or external consultants or contractors will be helpful in filling gaps and will provide critical support to aid the engagement team in effectively engaging the community on complex and difficult topics.

ROLES AND RESPONSIBILITIES

The central role of the engagement team is to contact and engage members on the constitution and treaty. The engagement team will:

- » Define and communicate key treaty and/or constitution messages to members, including changes and opportunities that will be created with a treaty or other agreement.
- » Convene and facilitate issue-oriented meetings aimed at raising awareness, addressing community concerns, and generating community investment.
- » Develop and implement a comprehensive communications strategy to share information about the constitution, treaty, and ratification process.
- » Coordinate outreach efforts to ensure that community members have access to information about the constitution, treaty, and ratification process.
- » Work closely with the negotiation team and the enrolment committee to ensure that messaging is accurate and consistent.

KEY CONSIDERATIONS

- » Ensure there is a clear leader of the team who will verify that a well-established ratification plan is developed, implemented, monitored, and amended as required in a timely manner (weekly check in meetings with the entire team are a good practice).
- » Build a diverse team with a range of skills including communications, facilitation, outreach, conflict resolution, and coordination.
- » Utilize a technical team to support the team in developing issue-specific presentations and providing overall support in communications.
- » Provide training, tools, and support for team members to ensure that they can effectively engage with community members, address their questions and concerns, and deal with challenging situations and people.
- » Collaborate or liaise closely with senior administrative staff to ensure that decisions can be made quickly, and resources can be accessed efficiently.
- » Maintain regular communication with the community throughout the ratification process and provide progress updates.
- » Host accessible gatherings to update the community on the status of negotiations, provide opportunities for informal engagement, and build community (e.g., lunch and learns, town halls).
- » Maintain a high level of professionalism with carefully documented plans and protocols.

QUALITIES OF AN EFFECTIVE ENGAGEMENT TEAM

A successful engagement team needs to connect with the community. It is critical that leadership and members of the First Nation are openly and heavily involved in talking about the treaty, how it will support achieving their vision, and the positive impacts it will have on the community. At times, outside experts may be required to support sharing, especially in more technical discussions, but the visible support of citizens and leaders is most important. As much as possible, draw on the existing capacity within the community by seeking out community members who demonstrate leadership and potential when it comes to engagement. Include them in the team, inform them, train them, and empower them.

The following are some essential skills and approaches for building an effective team:

APPROACHES

- » Enthusiasm, perseverance, and confidence.
- » Willingness to work collaboratively.
- » Accountability to the community and other team members.
- » Capacity to provide and accept constructive feedback.
- » Willingness to engage and challenge long-standing beliefs and opinions.
- » Respect, empathy and humility towards other points of view.
- » Ability to foster spaces for open and honest discussions.
- » Strong desire to understand and be supportive of the treaty, and to share that knowledge.


SKILLS

- » Actively listens.
- » Understands concerns and wishes of others.
- » Communicates easily with and between diverse perspectives, including leaders, allies, and individuals with differing views.
- » Stays organized, maintains records (e.g., notes).
- » Demonstrates flexibility and the ability to work in a fast-paced environment.
- » Demonstrates cultural awareness, sensitivity, and humility.
- » Communicates effectively (e.g., verbally, in writing), using terminology that is accessible and relevant to different audiences (e.g., translating legal jargon into plain language).



STRATEGIES FOR ENGAGEMENT

<p>CO-OPERATION STRATEGIES</p> <p>The engagement team should collaborate both with the community and with external organizations and stakeholders. This includes working with various groups (e.g., neighbouring First Nations, municipal governments, the public) to identify potential areas for collaboration.</p>	<p>EDUCATION STRATEGIES</p> <p>The engagement team should build community awareness about the treaty and how life will change for a Modern Treaty Nation and its citizens post-treaty. This includes providing clear and accessible information to ensure that community members are informed of what changes they will be asked to vote on.</p>
<p>PERSUASION STRATEGIES</p> <p>The engagement team may decide that an assertive “yes” campaign is best. To do this, persuasion and lobbying strategies are important and might include leaders and influential members being active in supporting and advocating for a “yes” vote. Key aspects of the campaign will include providing clear messaging, doing targeted outreach, and addressing concerns proactively to build trust and support.</p>	<p>DIFFUSION STRATEGIES</p> <p>Challenge issues and ideas, not people. The engagement team should avoid personal association with the campaign to support a degree of separation. This is especially important if any members of the engagement team are also on the negotiation team, as it will help to separate personal identities and relationships from the campaign’s objectives.</p>



*Our **treaty team** had a **passion** for **communicating** about the future of our Nation, and the path to get there. They **engaged community** and worked long and hard.*

- **Speaker**
2014 Ratification Forum

TIPS ON BUILDING A HOME VISIT TEAM

There are countless ways to engage community members, but one of the most important strategies of the ratification process is to meet people where they are at (literally and figuratively). One way of accomplishing this is through home visits.

The purposes of conducting home visits are to ensure that all members feel well-informed and confident in their understanding of the contents of the treaty and its supporting documents, such as the summaries and maps, and to provide members an opportunity to have their questions answered in a private setting. These visits will take place in areas with a high concentration of community members.

It is important to select the right members of the engagement team to sit on the home visit team, as the home visit team plays a crucial role in the success of the treaty campaign. These team members serve as the face of the campaign and will be engaging directly with community members. Ideally, individuals on the home visit team will be members, eligible citizens, or individuals with close connections to the community.

It is critical that these individuals be familiar with the constitution and treaty, demonstrate active listening, remain patient and empathetic under pressure, and have strong communications skills.

A well-rounded team will help address challenges that arise during home visits, including handling concerns, managing conflicts, dispelling myths and misinformation, answering questions, and inspiring support.

Goals of an effective Home Visit Team:

- » Build excitement and enthusiasm for the constitution and treaty.
- » Build trust, transparency, and accountability with eligible voters.
- » Encourage eligible voters to enrol to vote on the constitution and treaty.

OBJECTIVES

- » Provide eligible voters with timely, fact-based information that allows them to make informed decisions when it is time to vote.
- » Respond quickly and thoroughly to requests for information and questions from eligible voters.
- » Share information about the constitution and treaty with eligible voters.
- » Explain the E&E process, including the reasons for the development of an LEV.
- » Explain the ratification process.
- » Ensure eligible voters can share in and understand the decisions made by the negotiation team.

When hiring individuals for the home visit team, consider the following:

- » Outline the qualities that team members should have.
- » Personal suitability is key. An enthusiastic team member will learn quickly, and their enthusiasm will be contagious.
- » Look for candidates with experience in community engagement, outreach, or related fields.
- » Evaluate the candidate's ability to actively listen and communicate their ideas.
- » Prioritize candidates who demonstrate cultural awareness and sensitivity.
- » Seek individuals who have strong problem-solving skills, are adaptable, and can think on their feet.
- » Look for candidates who work well within a team and can collaborate with others, share responsibilities, and support team members in achieving campaign goals.



TRAINING

The home visit team should be trained to engage and effectively communicate with community members on the constitution and treaty. The training should cover skills required for interacting with the community (e.g., conflict resolution and facilitation training), as well as the content of the constitution and treaty themselves (e.g., thorough summaries and extensive training on key aspects of both documents).

TRAINING	TRAINING MATERIALS	COMMUNICATION TOOLS
<ul style="list-style-type: none"> » Review of roles and responsibilities » Communications training » Facilitation training » Conflict resolution training » How to use materials/ tools (including communications database) 	<p>Orientation package that includes:</p> <ul style="list-style-type: none"> » Roles and responsibilities » Contact information for team members » The First Nation's vision and values » Strategic plan <p>Other key materials:</p> <ul style="list-style-type: none"> » Communications, facilitation, and conflict resolution workshops » Lands information and mapping » Written materials (summary booklets, pamphlets, info sheets) » Videos » Podcasts » Communications app (if the First Nation has one) » FAQs » Constitution » Treaty » Key messages » Other communications and engagement materials that may be developed 	<ul style="list-style-type: none"> » Written materials » Videos » Podcasts » Website » Social media » Communications app » Infographics



ADDITIONAL RESOURCES AND TOOLS

- » Home Visit Package Checklist



ENROLMENT COMMITTEE

The enrolment committee is comprised of three representatives who are appointed by the First Nation to oversee the enrolment process, make determinations on applications for enrolment, and maintain the enrolment register. The roles and responsibilities of the committee are set out in the specific treaty itself and should be carefully reviewed by committee members. The committee assures the First Nation's due diligence in ensuring that eligible voters are accurately identified and enrolled on the enrolment register prior to the ratification votes.

While the enrolment committee and the ratification committee are independent bodies, they must work together to ensure accurate and reliable information management and sharing throughout the ratification process. This is especially important for the maintenance of the enrolment register, which is created by the enrolment committee and used by the ratification committee to create the list of eligible voters (LEV).

ROLES AND RESPONSIBILITIES

In fulfilling its obligation to oversee the enrolment process, the enrolment committee will review and assess applications against the criteria set out in the treaty to determine whether an individual is eligible to be enrolled. The enrolment committee will:

- » Develop application forms that include all information necessary for enrolment (e.g., contact details, supporting documentation).
- » Gather complete and current contact information to ensure effective communication throughout the ratification process.
- » Review and assess enrolment applications in a timely manner.
- » Create and maintain the enrolment register (or appoint someone on behalf of the enrolment committee to maintain the register), which will form the basis of the LEV.
- » Establish procedures for how and when the enrolment committee will communicate with the ratification committee and enrolment appeal board, and how personal information will be protected and kept confidential.

KEY CONSIDERATIONS

- » Consistency and attention to detail are crucial during the enrolment process to ensure that all information provided is accurate and complete.
- » Make enrolment accessible. Develop user-friendly forms that are easy to fill out.
- » Ensure that a member of the enrolment committee or the E&E coordinator is available to answer questions and provide assistance to applicants during the enrolment process, including at community meetings and events.
- » Coordinate with the ratification committee to ensure that enrolment procedures align with ratification procedures, and that the process for information-sharing between the two committees is clear and well-defined.
- » Given time constraints and potential timeline shifts, it may be beneficial to have the E&E Coordinator, with the assistance of legal counsel, draft procedures and terms of reference in advance of committee appointments, allowing for their review, revision, and approval.



ENROLMENT APPEAL BOARD

The enrolment appeal board provides an opportunity for individuals to seek recourse in cases where their application has been denied by the enrolment committee and they are dissatisfied with the decision. The board includes one member appointed by the First Nation, one member appointed by the Government of Canada, and a third member appointed jointly. Members of the enrolment committee and members of the enrolment appeal board must be mutually exclusive. The appeal board operates independently and is responsible for reviewing appeals, making determinations, and upholding the integrity of the enrolment process.

Individuals may seek judicial review of decisions of the enrolment appeal board through the Supreme Court of British Columbia.

ROLES AND RESPONSIBILITIES


The enrolment appeal board is responsible for reviewing appeals from individuals whose applications have been denied.

KITSELAS ENROLMENT APPEAL BOARD ROLES AND RESPONSIBILITIES

- (a) establish and publish its procedures and time limits, including a time limit for making enrolment decisions;
- (b) hear and determine any appeal brought under paragraph 28 and decide whether the individual will be enrolled;
- (c) conduct its hearings in public unless it determines in a particular case that there are reasons for confidentiality that outweigh the public interest in having an open hearing;
- (d) provide written reasons for its decision to the applicant and the Parties;
- (e) maintain a record of its decisions and provide it to the Enrolment Committee; and
- (f) report on the appeal process to the Parties on request.

KEY CONSIDERATIONS

- » Ensure that the enrolment appeal board operates independently, impartially, and is free from influence or bias.
- » The enrolment appeal board highlights the Parties' dedication and commitment to procedural fairness.



*To ensure an **effective voting process** at multiple geographic locations, the entire **Tsawwassen enrolment committee** attended **each poll** to process last-minute enrollees on the spot. Because of their knowledge of the community, the Tsawwassen ratification committee had **firsthand information** on finding the whereabouts of voters who had not voted yet by late afternoon. Consequent follow-up was usually successful in bringing the voter to the poll.*

- Tsawwassen Ratification Committee Report

RATIFICATION COMMITTEE

The ratification committee is a tripartite committee with one representative from each Party at the negotiation table – the First Nation, Canada, and BC. The ratification committee manages the entire voting process required to ratify the constitution and treaty, including establishing the LEV. The ratification committee operates independently to ensure that the voting process is conducted fairly, impartially, and in accordance with established rules and procedures. The roles and responsibilities of the committee are set out in the treaty and should be carefully reviewed by committee members. The primary role of the ratification committee is to establish and publish ratification procedures and time limits in relation to the ratification votes, following the provisions outlined in the ratification chapter of the treaty with respect to eligibility, enrolment, and voting requirements.

As previously noted, while the enrolment committee and the ratification committee are independent bodies, they must work together to ensure accurate and reliable information management and sharing throughout the ratification process.

ROLES AND RESPONSIBILITIES

The primary role of the ratification committee is to administer the voting process required to ratify the constitution and the treaty. The ratification committee will:

- » Hire a Chief Electoral Officer to oversee the constitution and treaty votes.
- » Create and publicize the LEV, which is generated based on the enrolment register that is established and maintained by the enrolment committee throughout the enrolment process.
- » Develop and publicize rules for the votes, including eligibility criteria, procedures for casting ballots, and timelines for voting.
- » Coordinate polling stations.
- » Count and publicize the results of the constitution and treaty ratification votes, including the number of votes cast in favour and cast against the constitution and treaty.

KEY CONSIDERATIONS

- » Select ratification committee representatives based on their neutrality, familiarity with the community, and communications and administrative skills.
- » Publicize the voting procedures well in advance and provide clear and accessible information to community members.
- » Implement measures to maximize voter turnout and ensure accessibility, including opportunities for advance voting, electronic voting, and mail-in ballots.
- » Conduct training for polling station volunteers to ensure that voting procedures are consistently followed.
- » Establish mechanisms to address any disputes or challenges that arise during the voting process (e.g., protests, vote boycotts).
- » Maintain regular communication with the community throughout the ratification process by providing updates.
- » Ensure that the results of the constitution and treaty votes are communicated, and provide opportunities for community members to witness, review, and verify the outcomes.

TSAWWASSEN VOTER TURNOUT

For Tsawwassen First Nation, the main preoccupation in the month leading up to the vote was ensuring that eligible members would participate in the vote. Both the ratification committee and enrolment committee went to extraordinary efforts to reach every voter, such as calling each individual eligible voter a minimum of four times. Special ballot collection trips were arranged for voters that could not mail their ballots in on time or who could not vote on the specified date.

ELIGIBILITY AND ENROLMENT

OVERVIEW OF ELIGIBILITY AND ENROLMENT

E&E is a key aspect of treaty making and nationhood. It is the process by which a First Nation determines and communicates to its citizens (or 'members' both terms are used interchangeably) the basis for, and benefits of, citizenship and enrolment in the treaty. Throughout the E&E process, First Nations exercise their inherent rights while pursuing self-governance. Key aspects of this process include the establishment of clear eligibility criteria and the creation of enrolment procedures that uphold principles of fairness, transparency, and inclusivity.

UNDERSTANDING ELIGIBILITY

Although eligibility and enrolment are often referred to together, they are two different processes. Eligibility precedes enrolment, which occurs before a ratification vote can be held. Eligibility is a collective agreement on a set of criteria for citizenship, whereas enrolment is an activity undertaken by individual eligible citizens.

Eligibility criteria is determined by community according to values and vision. The citizenship/membership codes and the *Indian Act* band list can serve to inform eligibility and enrolment.

The eligibility criteria outlined in each treaty may extend beyond the band list to include individuals who qualify through ancestry, adoption, or acceptance into the community by traditional legal processes. These additional criteria have been referred to in some treaties or final agreements as “having a demonstrated attachment to the community.”

By establishing criteria that reflect and are rooted in collective community understanding, the E&E Chapter of the treaty ensures that community members with established voting rights can enrol and participate in the ratification process.

UNDERSTANDING ENROLMENT

When engaging with community about enrolment, it is important that they understand two key messages:

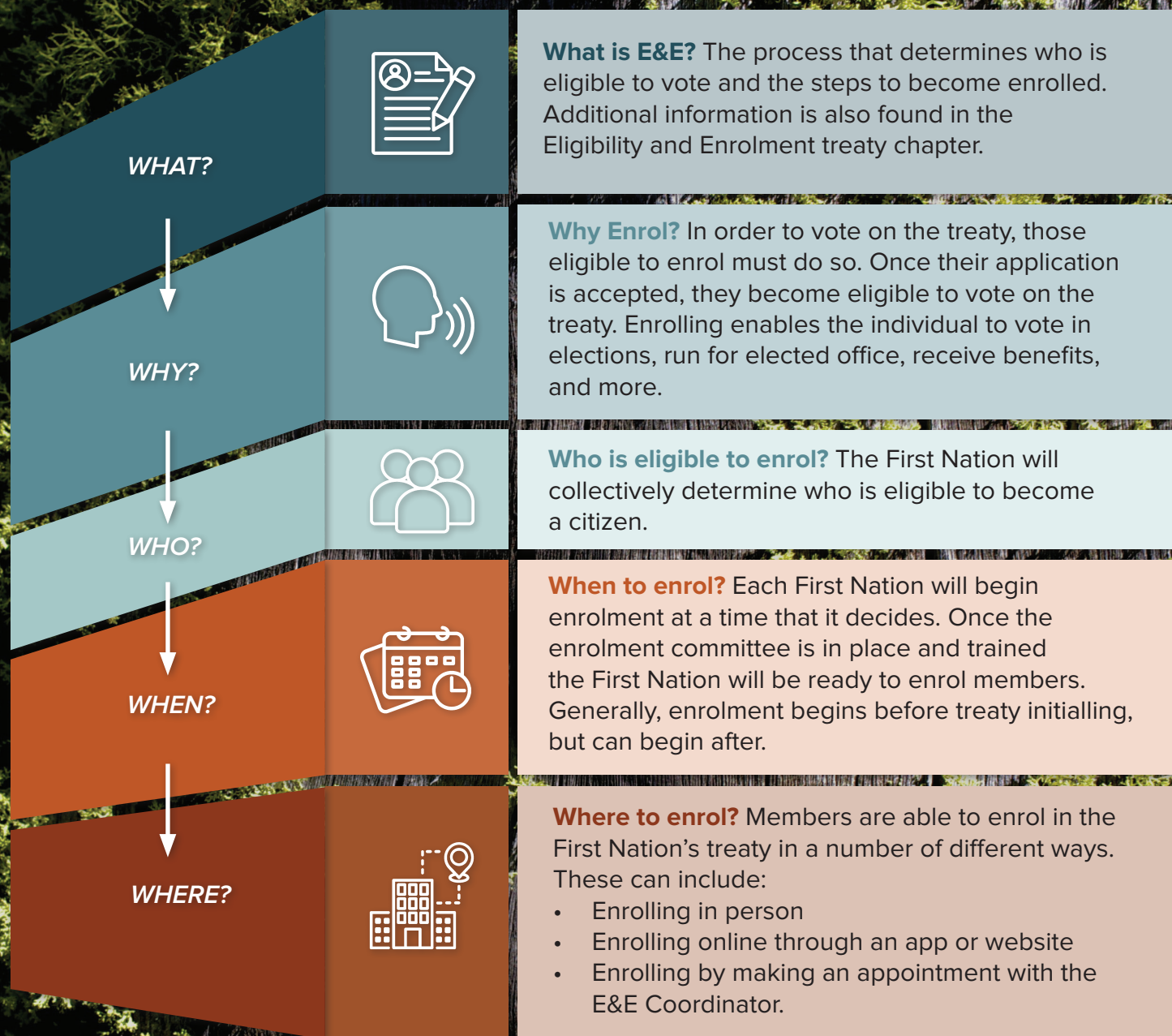
- » First, to vote on the treaty, members must enrol.
- » Second, their vote matters and voting is a clear means of expressing approval or disapproval of the treaty.

Enrolment does not mean an individual is approving the treaty; enrolling is a means of obtaining informed consent, and must be done through an active (self-initiated/self-driven) process.

In preparation, it is important to consider and communicate the following:

- » The current practice is that individuals who are not enrolled cannot vote.
- » The final list of “eligible voters” (those who fulfill the eligibility criteria and meet the minimum age to vote as determined in the treaty) is the result of substantial and collaborative work.
- » While separate enrolment processes for voting and citizenship are possible, First Nations that have ratified treaties have generally opted for a more streamlined approach which includes enrolling for both the treaty and the constitution votes.
 - » Having one process is much simpler; on the treaty effective date, those enrolled to vote automatically become citizens.
 - » Relying on such a process would require members who do not want to enrol in the treaty to disenroll.
- » The enrolment and disenrollment processes are active. This means that at any time during or after the ratification process, individuals have the choice to enrol or disenroll. If an individual does not enrol, or disenrolls, and they are a status Indian, they will retain their status and be placed on the general band list, as the *Indian Act* band would be dissolved through the enactment of the treaty.
 - » It is important for citizens to understand the enrolment and disenrollment processes and the implications of their decision. This requires careful and clear communication, open dialogue, community outreach, and engagement.





WHAT IS CITIZENSHIP?

Citizenship is the means through which an individual's ties to a broader collective are formally recognized. This recognition affirms that an individual has a broad series of rights and responsibilities.

Common rights associated with citizenship include:

- » Voting in elections and participating in democratic processes (e.g., a referendum).
- » Engaging in or with broad social well-being programs (e.g., access to healthcare, social programming, and education).
- » Legal minimum standards for the treatment of oneself and others.

Granting citizenship first requires clarity and consensus on eligibility.

ELIGIBILITY CRITERIA

Eligibility – who can be a citizen – is a fundamental act of self-determination and is listed in the treaty itself.

Determining eligibility criteria requires active engagement and participation from community members, including Elders and youth. Throughout this engagement process, it is important to gather input, perspectives, and feedback to help inform the development of an inclusive and equitable eligibility criteria. These criteria will become listed in the treaty and will need to be agreed upon by Canada and British Columbia; however, post-effective date, the Modern Treaty Nation is responsible for managing and amending the criteria when necessary.

To begin, ask community what it means to be a citizen of the First Nation. Various responses may arise given community members' experiences with membership, belonging, and recognition, as well as historic implications of how the *Indian Act* dictates status.

Eligibility is integral to how a community defines itself. There will be many options and opinions for consideration of how to define citizenship, including, but not limited to:

- | | |
|-----------------------------------|---|
| » Ancestry | » Adoption (Canadian legal system and traditional/customary laws) |
| » Traditional laws | » Residency |
| » Blood quantum | » Connection to culture |
| » Marriage or familial ties | » Dual citizenship/membership in other First Nations |
| » The <i>Indian Act</i> band list | |

For example, some members may have had negative experiences obtaining status or recognition for themselves or their descendants. For these individuals, it may be important for citizenship to include individuals who may never obtain Indian status and were denied registration under the *Indian Act* (e.g., generation cut-off). Others may find it important for citizenship to include those who have a strong connection to the community, culture, language, and traditional practices (e.g., through a demonstrated attachment and community custom acceptance).

General consensus and acceptance of the criteria is important as it helps to ensure the integrity of the vote. Community engagement will bring diverse viewpoints and foster a sense of collective ownership and responsibility over citizenship and self-determination.

FROM ELIGIBILITY TO ENROLMENT

Once the eligibility criteria are established, mechanisms to document and verify citizenship applications must be implemented. This may involve gathering historical records, genealogical data, birth certificates, and other relevant documentation like marriage and/or death certificates and adoption papers.

Post treaty effective date, the source of eligibility criteria is the criteria in the Nation's constitution (identical to the criteria in the treaty). This criteria may require amendments to reflect changing demographics, cultural inclusion, and legal frameworks. It is important to have a process for ongoing engagement, feedback, and regular reviews of the eligibility criteria to ensure it remains relevant, responsive, and reflective of community values and vision. Any amendments would require a referendum of citizens, organized according to the requirements outlined in the treaty.

First Nations that have already developed and ratified a custom membership code under the *Indian Act* will have undergone extensive consultation and engagement with the community to establish and approve criteria.

Throughout this process, consider:

- » Encouraging active participation and engagement from community members by inviting them to share their perspective and input on citizenship criteria.
- » Utilizing various communication methods to ensure that information is accessible to all community members.
 - » This could include scheduled phone calls, virtual and in-person town halls, and digital and physical materials such as emails, ads or flyers.
- » Ensuring there is a safe, supportive, and respectful environment where community members can ask questions and speak freely as discussions about citizenship bring up diverse viewpoints
- » Establishing a committee or advisory group of members who are representative of the community and can support the engagement process. When establishing the committee consider community members with diversity in age, gender, family representation, Elders, and youth.
- » Celebrating the inherent right of the First Nation to determine citizenship by creating criteria that are tailored to the Nations unique needs, values, and shared vision.

KEY CONSIDERATIONS

There is no one-size-fits-all approach to this work. It is the community's inherent right to have these important discussions and determine who will be eligible to be citizens of the First Nation under treaty.

Eligibility is an opportunity to engage the First Nation and determine eligibility criteria apart from the limitations to registration under the *Indian Act*.

CRITERIA

Through this process, the First Nation will collectively exercise their right to self-government by defining the basis for citizenship. This process brings several benefits:

- » It will move the First Nation out from under the confines of the *Indian Act*.
- » It allows for the recognition of individuals who have been excluded from the legal and limited definition of "Indian" under the *Indian Act*.
- » It moves away from a unilateral definition under the *Indian Act* to a self-determining and inclusive Nation.
- » It provides the opportunity for open dialogue and Nation (re)building for the community.
- » It helps to build a brighter and more equitable future.

SAMPLE ELIGIBILITY CRITERIA

First Nations define citizenship in different ways. The following are examples of eligibility criteria from treaties in BC:

TLA'AMIN NATION ELIGIBILITY CRITERIA

1. An individual is eligible for enrolment under this Agreement where that individual:
 - a. is of Tla'amin ancestry;
 - b. is registered, or is eligible to be registered, on the Sliammon Indian Band list as of the day before the Effective Date;
 - c. was adopted as a Child under the laws recognized in Canada or by Tla'amin custom by an individual eligible for enrolment under subparagraph 1.a, 1.b or 1.d;
 - d. is a descendant of an individual eligible for enrolment under subparagraph 1.a, 1.b or 1.c;
or
 - e. after the Effective Date, is accepted according to a community acceptance process set out in Tla'amin Law.

2. Notwithstanding subparagraph 1.d, where an individual having no aboriginal ancestry became a member of the Sliammon Indian Band prior to April 17, 1985 because of marriage to a Sliammon Indian Band member, and that individual subsequently has a Child with another individual having no Tla'amin ancestry, that Child will not be entitled to be enrolled.

K'ÓMOKS FIRST NATION ELIGIBILITY CRITERIA

1. Subject to paragraph 3, an individual is eligible for enrolment under this Agreement if that individual:
 - a) is of K'ómoks ancestry by matrilineal or patrilineal descent and has a Demonstrated Attachment to K'ómoks;
 - b) is a Band member listed or entitled to be listed as a Band member on the K'ómoks First Nation list under the *Indian Act* as of the day before the Effective Date;
 - c) was adopted as a Child under a law recognized in Canada, including K'ómoks Law, by an individual eligible to be enrolled under this Agreement;
 - d) a descendant of an individual eligible to be enrolled under paragraphs 1.a), 1.b), or 1.c); or
 - e) after the Effective Date, is accepted according to a community acceptance process set out in K'ómoks Law.

TSAWWASSEN FIRST NATION ELIGIBILITY CRITERIA

2. An individual is eligible to be enrolled under this Agreement if that individual:
 - a. was a member or was entitled to be a member of the Tsawwassen First Nation band under the *Indian Act* as of the day before the Effective Date;
 - b. is of Tsawwassen First Nation ancestry;
 - c. was adopted under a law recognized in Canada, or under Tsawwassen First Nation customs, by an individual eligible to be enrolled; or
 - d. is a descendant of an individual eligible to be enrolled under subclause 2.a, 2.b or 2.c.
3. Despite subclause 2.d, where an individual having no aboriginal ancestry became a member of the Tsawwassen First Nation band under the *Indian Act* before April 17, 1985, because of marriage to a member of the Tsawwassen First Nation band under the *Indian Act*, and that individual subsequently has a child with another individual who is not eligible under clause 2, that child is not eligible to be enrolled.

MAA-NULTH FIRST NATIONS ELIGIBILITY CRITERIA

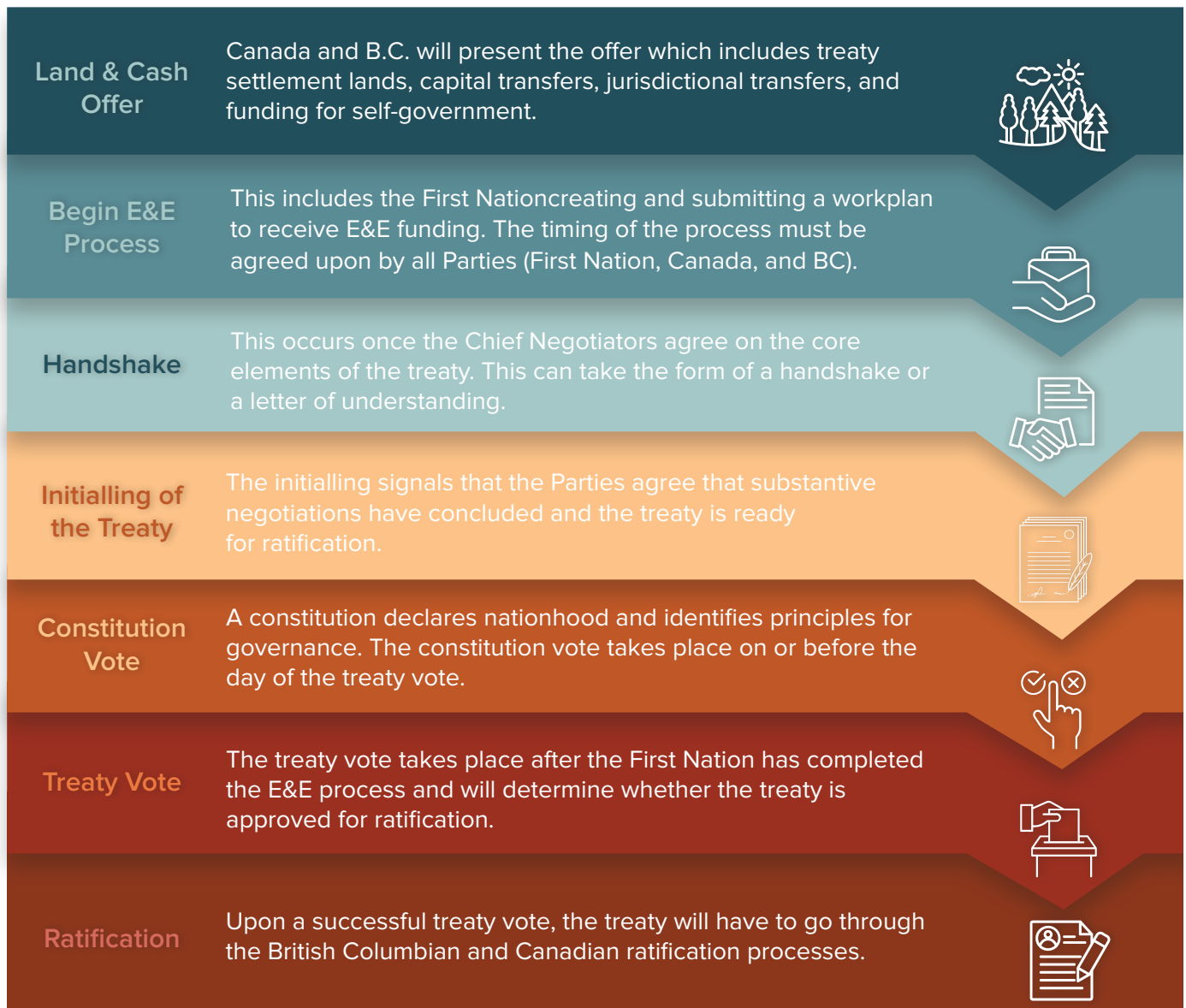
26.11. As regards a Maa-nulth First Nation, an individual is eligible for enrolment under this Agreement if that individual:

- a. is of that Maa-nulth First Nation ancestry;
- b. was adopted under laws recognized in Canada or in accordance with the custom of that Maa-nulth First Nation by an individual of that applicable Maa-nulth First Nation who is eligible for enrolment under a., b. or c.;
- c. is a descendant of an individual of that Maa-nulth First Nation who is eligible for enrolment under a. or b.; or
- d. is accepted by that Maa-nulth First Nation as a member of that Maa-nulth First Nation in accordance with the custom of the Maa-nulth First Nation and has a demonstrated attachment to that Maa-nulth First Nation community.



PROCESS AND TIMELINES

The overall treaty timeline influences the E&E process in many ways, namely when it comes to funding allocations and progressing from one step to the next. Upon completing certain milestones, specific funding is available.



ENROLMENT TIMELINE

Generally, Canada provides E&E funding at a point determined by the Parties after the land and cash offer. However, this topic is subject to negotiation at each treaty negotiation table and through those negotiations the specific timing of funding will be determined. The First Nation will be required to draft and submit a workplan to access this funding. Once it receives the funding, the First Nation will need to initiate a series of activities to be ready to start enrolling citizens under the treaty.

The E&E timeline is a critical aspect of the self-government transition process. Having a clear, well-defined timeline helps inform and guide workplanning, scope, and budget.





PREPARATION

During this stage, the First Nation will lay the groundwork for the E&E process. This includes:

- » Collaboratively determining the eligibility criteria, and what this looks like for community, considering factors such as ancestry, adoption, and demonstrated attachment.
- » Developing the eligibility criteria with the community to ensure transparency, cultural safety and awareness, and acceptance.
- » Developing a comprehensive workplan and budget.
- » Posting a job description, hiring an E&E Coordinator, and appointing the E&E committee.
 - » Defining activities, objectives, anticipated timelines, and responsibilities.
 - » Developing job descriptions and committee terms of reference.
- » Creating engagement materials to inform and guide citizens about the “who, what, where, when, and why enrol.”
- » Developing a communications and engagement strategy.

ENGAGEMENT

Before the First Nation begins enrolling citizens, it must engage with and inform the community of what it means to be a treaty citizen (e.g., what are the benefits, implications of not enrolling, what will change vs. what will stay the same). Important considerations will include developing and maintaining an eligible members database, and engaging members through various workshops, meetings, home visits, and more.

ENROLMENT

Once the criteria are established and defined after community engagement, the enrolment period can begin. In order to vote on the treaty, all citizens must enrol by way of an application. All enrolled citizens information should be added to a database, which should be provided to the ratification committee.

The enrolment process should be easily accessible, with clear guidelines and support mechanisms in place depending on citizens' needs for assistance.



ADDITIONAL RESOURCES AND TOOLS

Explore our application templates to kickstart the journey towards the enrolment process:

- » Template Enrolment Form
- » Template Disenrollment Form

APPLICATION REVIEW AND NOTICE OF ENROLMENT

Once the First Nation begins enrolling citizens, the E&E committee will review each application and notify applicants of their enrolment status (approved, denied, pending due to incomplete information).



ADDITIONAL RESOURCES AND TOOLS

Explore our standardized letters to assist in communications throughout the E&E process:

- » Standardized Notice of Application
- » Standardized Application Status
- » Standardized Confirmation of Disenrollment

APPEALS PROCESS

To ensure fairness and support the overall integrity of the enrolment process, an appeals process must be established. This process will review individuals' concerns and seek to resolve disputes with the enrolment committee decisions. This is mostly related to applications that are denied enrolment.

PREPARATION OF THE ENROLMENT REGISTER

Everyone who successfully enrolls is added to the enrolment register. The list of eligible voters is all those on the enrolment register who have reached legal voting age (as defined in the treaty) by the last scheduled day of voting. Post-effective date, all those on the enrolment register are eligible to become citizens. If the First Nation chooses to have one enrolment process, the enrolment register will become the most up-to-date list of citizens based on the criteria established by the First Nation.

The E&E Coordinator and committee prepare and deliver the enrolment register to the ratification committee and voting officer before the votes.

REPORTING

Reporting is a key function of the E&E project and funding. The First Nation is required to submit a report on activities and expenditures each fiscal year to Canada. The report should be a narrative of how the funds were used that fiscal year. The E&E process may extend from one fiscal year to the next, so the First Nation may end up submitting more than one report or requesting reporting extensions.

WORKPLANNING AND BUDGETING

A well-defined workplan and timeline adherence are essential in the E&E process. A workplan serves as a roadmap, providing clarity and guidance on objectives, activities, deliverables, and responsibilities. Sticking to timelines is essential to achieve the goals set in the ratification deadlines.



ADDITIONAL RESOURCES AND TOOLS

Prepare for the journey towards self-governance with a comprehensive workplan template, designed to guide First Nations through the E&E process step by step:

- » Workplan Template

BUILDING A TEAM

An important part of preparing for self-government is building the internal capacity of the team. The retention of corporate history allows for a smoother transition from an *Indian Act* band to a self-governing Nation. For example, for Nations with ratified treaties, individuals on the treaty team found themselves on the implementation team or in some cases, transitioning into leadership roles – ensuring the retention and passing along of corporate knowledge and history while on their journey of self-governance.

First Nations have reported that the years spent in the BC treaty negotiations process have given them opportunities for growth, advancement, and innovation.

The E&E process presents a substantial capacity building opportunity, including building hard and soft skills. Capacity building is not just a strategic decision but can be understood as a commitment to the empowerment of the community, paving the way for a more inclusive and prosperous future for generations to come.

It is vital to appoint an E&E committee, develop a committee terms of reference and post job descriptions that will lead to the hiring of a coordinator.

KEY CONSIDERATIONS

- » Human, institutional, and community capacity all play a role in helping community navigate the complexities of self-government confidently and more effectively. Capacity building is an investment, creating a more certain and prosperous future.
- » It is important to have the team be representative of the community. This can include people from a variety of demographics, such as Elders, women, youth, and family representation.



TRAINING MATERIALS

Training materials must include comprehensive information on the First Nation's constitution and treaty, as these topics will account for a significant portion of communications efforts.

This information ensures that the team members are well-informed and able to provide clear and effective communications to citizens during the engagement process. This is important for citizens so that they can make an informed decision when it comes time to vote.

It is important to train and mentor staff and committee members in E&E roles, responsibilities, and skills. As a part of this training staff must learn about the treaty, acquire and practice public speaking skills, gain communication skills, and work as a team.

Onboarding packages can be used to facilitate change management, and to inform and train administration staff on the constitution and treaty. This will help to support a smoother transition from an *Indian Act* band to a self-governing Nation.

The training and onboarding package could include, but is not limited to:

- » The vision and strategic plan of the First Nation.
- » An overview of the First Nation's history including its journey throughout the treaty negotiations process.
- » Roles and responsibilities
 - » Organizational structure.
 - » Delegated decision making.
- » Plans for governance, operations, strategic planning, etc.
- » Comprehensive treaty overview.
- » Land and Cash offer overview.
- » Summaries of the constitution, treaty, and E&E.
- » Lands and lands use planning.
- » Review of previous Treaty Related Measures.
- » Review of capacity development plans to date
 - » Capacity plan.
 - » Change management plan.
 - » Government start-up costs spreadsheet.
 - » Organization development plan
 - » Draft future organizational chart.
 - » Recruitment and retention strategy.
- » Facilitation and conflict resolution training.
- » Recorded stories and publications from self-governing First Nations.

In addition to materials, it is helpful to schedule one-on-one meetings with key treaty team members like the chief negotiator and technical consultants for further context and information on the constitution and treaty.

STAFF AND THE COMMITTEES

E&E COORDINATOR

The E&E Coordinator plays an important role on the treaty team. For many community members, this role signifies the progression and advancement of treaty efforts toward ratification. For this reason, the role extends beyond the realm of simply enrolling citizens.

This person will become the point of contact for many individuals and should be prepared to answer questions clearly, effectively, and in a timely manner. The E&E Coordinator role can be very technical, but is deeply rooted in community. Their responsibilities could include:

- » Educating and engaging the community on the enrolment process, eligibility criteria, and procedures.
- » Creating enrolment forms and other relevant documents.
- » Creating draft enrolment committee procedures.
- » Developing and maintaining a database.
- » Coordinating genealogical research and family tree work.
- » Developing comprehensive communications strategies and materials to ensure that citizens are well-informed and prepared for enrolment.
- » Guiding citizens towards resources and/or individuals in the First Nation who can provide information on treaty and constitution building efforts.

The roles of the E&E Coordinator and committee members are crucial to communicating key messages to members and citizens. This includes the restrictive nature of registration under the *Indian Act*, the significance of autonomy and decision-making gained under a treaty, and what the First Nation gains through the treaty by being able to determine citizenship criteria according to its own laws.

The E&E Coordinator's ability to understand the E&E, Ratification, and Governance Chapters of the treaty is crucial. Many aspects of these chapters directly impact their role and will help guide their work and processes (e.g., creating forms, standardized letters, and draft procedures).

KEY CONSIDERATIONS

- » It is important to take the time to train and mentor the E&E Coordinator and committee members, and provide them with opportunities for growth and capacity building.
- » The E&E Coordinator is a member-centered role. Having a community member fill this role helps build trust, transparency, and accountability in the process.
- » Conflict resolution training can greatly benefit this role as they engage in challenging conversations related to the treaty and/or citizenship.

PROCESS

Approach

A requirement of this role is to ensure that the process is clear and aligned with the E&E Chapter.

Focus

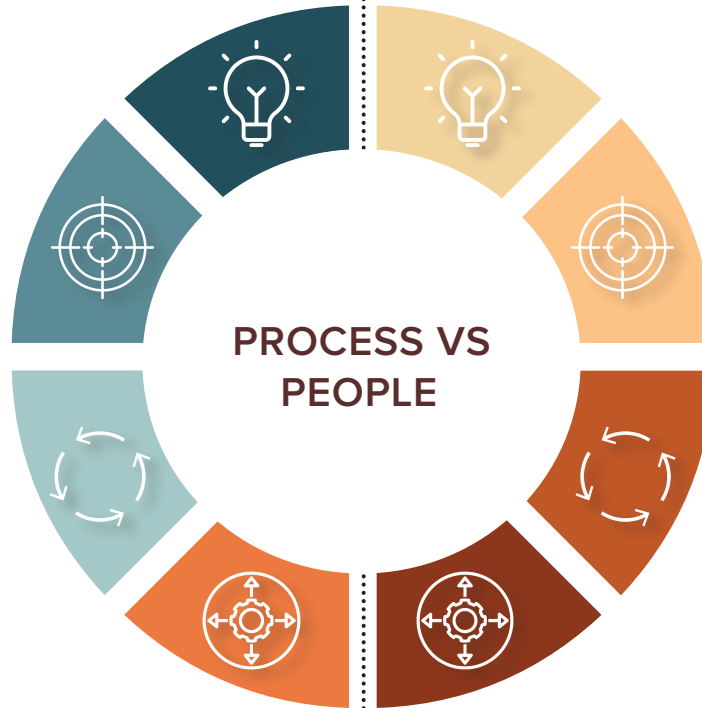
Developing procedures and forms, determining where information will be stored, and ensuring good practices are implemented and followed.

Process

Review and understand the E&E Chapter to understand what the process looks like in practice.

Scope

Strategy, data management, research, and compliance.



PEOPLE

Approach

Building trust and transparency through meaningful engagement.

Focus

Informing citizens well in advance what the process will look like and what supports will be available.

Process

Be prepared to answer questions by learning about not just E&E but the treaty itself. Honesty and authenticity go a long way.

Scope

Relationship building, communications, “boots on the ground” approach.

ENROLMENT COMMITTEE

The enrolment committee will be established at a time agreed upon by Canada, BC, and the First Nation, and will consist of three representatives appointed by the First Nation.

The enrolment committee has a very important function and responsibilities in the enrolment process. The committee must adhere to the procedures, policies, and eligibility criteria in a consistent and unbiased manner when reviewing and processing applications.

The committee serves as a decision-making body with direct influence over the right of individuals to vote on the treaty. For this reason, careful consideration must be given to the qualifications and responsibilities of the members.

Modern Treaty Nations have expressed the value in having committee members who are knowledgeable about the community (e.g., community historians, membership clerks) as this greatly enhances the efficiency of their work.

RATIFICATION COMMITTEE

The ratification committee includes one representative appointed by each Party and is tasked with overseeing the ratification process (the constitution and treaty votes) as outlined in the Ratification Chapter of the treaty.

ENROLMENT APPEAL BOARD

This independent body is responsible for reviewing appeals concerning enrolment applications, offering an opportunity for individuals dissatisfied with the decisions of the enrolment committee to seek review and resolution. The creation of the enrolment appeal board highlights the Parties' dedication and commitment to procedural fairness. The enrolment appeal board is set out in the treaty and will be established at a date agreed to by the First Nation and Canada.

For more details on these boards and committees see Section 4: Teams and Committees.



PROCEDURES

Each committee is responsible for adhering to the procedures and eligibility criteria in their operations and decision-making. It is critical that the committees uphold principles of fairness, impartiality, and transparency.

Information-sharing among First Nations, especially with those who have ratified their treaties, has been enormously beneficial. Many First Nations have drawn on documentation, procedures, terms of reference, and other information shared by those who have previously ratified treaties. The knowledge has helped inform their work and Nations involved in upcoming votes have the opportunity to use and modify existing documents to fit their unique needs.

Given time constraints and potential timeline shifts, it may be beneficial to have the E&E Coordinator, with the assistance of legal counsel, draft procedures and terms of reference in advance of committee appointments, allowing for their review, revision, and approval.

ENROLMENT PROCEDURES

To prepare for enrolment, the enrolment committee is established by the First Nation. The committee will consist of three representatives appointed by the First Nation. It has a range of responsibilities defined in the treaty (see example below).

The enrolment committee is responsible for making decisions on who meets the criteria for enrolment and for creating and maintaining an enrolment register.

TSAWWASSEN ENROLMENT COMMITTEE RESPONSIBILITIES

- a. establish its procedures and set its time limits;
- b. publish its procedures and time limits, including the eligibility criteria and a list of the documentation and information required of each applicant, in time for individuals to review before making their applications for enrolment;
- c. provide an application form to any individual who wishes to apply for enrolment;
- d. receive applications for enrolment;
- e. consider and make a decision on each application, based on the eligibility criteria set out in clause 2;
- f. before the date of the ratification vote, enrol applicants who meet the eligibility criteria and who meet the time limits set out in subclause 11.a;
- g. maintain a record of those decisions;
- h. provide written notification to each applicant and to the Parties of its decision in respect of each application and, if enrolment is refused, include written reasons for that decision;

- i. establish and maintain an enrolment register containing the name of each individual who is enrolled;
- j. add names to, delete names from, or amend names on, the enrolment register in accordance with this chapter and the decisions of the enrolment appeal board;
- k. provide information in respect of an enrolment application, in confidence, on request of the Parties or of the enrolment appeal board, and the Parties acknowledge that such information is personal information as defined in federal and provincial privacy and access to information legislation, and agree to protect that personal information from subsequent disclosures to the extent possible under the law;
- l. report to the Parties on the enrolment process as requested;
- m. keep information about applications confidential; and
- n. on request provide to the Parties without cost a true copy of the enrolment register.

Consideration may be given to streamlining this process by designating the E&E Coordinator to manage tasks on behalf of the enrolment committee such as receiving applications, managing the enrolment register, recording decisions, and managing communications. It is important that their workplan and job description are reflective of their responsibilities.

Although drafting procedures and terms of reference offer valuable guidance, it is essential to recognize that the committees will ultimately hold the responsibility for any modifications and approvals.

RATIFICATION PROCEDURES

The ratification committee will include a representative from each of the Parties.

TLA'AMIN RATIFICATION COMMITTEE RESPONSIBILITIES

- a. establish and publish its procedures and set its time limits;
- b. take reasonable steps to provide an opportunity for Tla'amin People to review the Tla'amin Constitution and this Agreement;
- c. prepare and publish a preliminary list of voters for each of the Ratification Votes based on the information provided by the Enrolment Committee under subparagraph 14.k of the Eligibility and Enrolment Chapter;
- d. prepare and publish an Official Voters List for each of the Ratification Votes based on the preliminary list of voters prepared under subparagraph 7.c...
- e. update the Official Voters List for each of the Ratification Votes...
- f. approve the form and content of the ballots before each of the Ratification Votes commences;
- g. authorize and provide general direction to voting officers, including the establishment of polling stations and rules that may include advance polling and mail-in ballots;
- h. ensure that the dates of each of the Ratification Votes and the location of the polling stations are made public;
- i. conduct each of the Ratification Votes on a day or days determined by the Ratification Committee;
- j. make public the results of each of the Ratification Votes immediately following the Ratification Vote count; and
- k. prepare and provide to the Parties a written report on the outcome of the Ratification Vote within 90 days following the last day of each of the Ratification Votes.

MANAGING TRANSFERS

An individual can only legally belong to one First Nation or treaty in Canada. Therefore, if an individual decides to enrol under the treaty, but is registered with a different *Indian Act* band or treaty, they will be required to disenroll and enrol in the treaty in question. However, an individual can have ties to more than one First Nation based on their ancestry.

TLA'AMIN OTHER LAND CLAIMS AGREEMENTS AND INDIAN BAND MEMBERSHIP

4. An individual may not at the same time be enrolled under this Agreement and:
 - a. receive benefits under another treaty or land claims agreement in Canada;
 - b. be enrolled under another treaty or land claims agreement in Canada; or
 - c. be on an *Indian Act* band list, other than that of the Sliammon Indian Band.

The First Nation must establish a clear process for managing enrollees falling into the above categories, either within the treaty itself or preferably through enrolment procedures.

There is no one-size-fits-all approach to this process. However, examples of how Nations have addressed this include:

- » Requesting the applicant to withdraw from enrolment under the other treaty or land claims agreement;
- » Asking the applicant not to exercise rights as a beneficiary until the transfer is complete; or
- » Encouraging them to apply for a transfer through a Band Council Resolution (BCR) either before or upon the effective date.

JUDICIAL REVIEW

Individuals have the option to seek a judicial review of decisions made by the enrolment appeal board through the Supreme Court of British Columbia.

TLA'AMIN JUDICIAL REVIEW

31. An applicant or Party may apply to the Supreme Court of British Columbia to review and set aside a decision of the Enrolment Appeal Board, or any body established in accordance with subparagraph 37.a, on the grounds that the Enrolment Appeal Board or body:
 - a. acted without jurisdiction, acted beyond its jurisdiction, or refused to exercise its jurisdiction;
 - b. failed to observe procedural fairness;
 - c. erred in law; or
 - d. based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

BUILDING A DATABASE

A comprehensive database is fundamental to the efficiency of the enrolment process. Proper data management can help support planning, coordination, communication, negotiations, and reporting.

The database could include contact details, personal information, and communications preferences. A detailed record of interactions – when, where, what, and by whom – will benefit the team in several ways, including tracking follow-ups, addressing concerns, compiling FAQs, and identifying outreach gaps.

The First Nation will be required to determine where the team will store the highly confidential information that is received throughout the enrolment process (e.g., personal details and legal documents such as birth certificates, adoption papers, and marriage or death certificates). Carefully consider things like cyber security, storage and disposal of confidential materials, reporting features, functionality, and access controls. Where possible, consider developing a data management strategy that details how often data is reviewed or updated, and how individuals may contact the team to update their own data.

Be prepared to answer questions regarding security and governing laws, how personal information will be protected, who has access, and what measures are in place to ensure that information will remain private and confidential (e.g., confidential agreements, access controls, policies and procedures to protect personal and private information). Breaches can lead to serious consequences, and as such, the creation and maintenance of this database must be taken seriously. Also confirm whether federal or provincial laws will be followed when it comes to the control and access of personal information and data.



ADDITIONAL RESOURCES AND TOOLS

Various software options are available for database management, including:

- » Xyntax
- » Excel
- » Access
- » Quick books
- » Hawk Solutions
- » Consultation Manager



When selecting a database:

- » Consider what IT infrastructure is required and what additional security measures must be taken and implemented to ensure there are no security breaches.
- » Clarify roles and access permissions early on – designate one (or two) people who will be responsible for data entry and management.
- » Work within the organization to centralize a database; many departments will have their own lists and databases, but it's critical to have a central location. This makes it simpler for citizens to update their contact information and be assured that all departments in the organization will have access to the updated information.
- » Modern Treaty Nations have identified challenges in maintaining accurate voter lists, particularly around last-minute registrations (on the last day of voting). It can be helpful to utilize databases or programs with functional features that streamline information sharing and updates (e.g., user-friendly reporting and filters to organize information based on categories or headers).
- » The database is a tool – assess its functionality, reporting capabilities, and security features before investing time, energy, and resources.

ENROLMENT REGISTER

The enrolment register serves as a comprehensive record of all individuals who have successfully enrolled under the treaty. This list will need to be continuously updated as the enrolment committee conducts their work.

The enrolment register is the most comprehensive list, as it includes all citizens (both status and non-status individuals) as defined by the eligibility criteria.

It is important to consider:

- » Liaising with the Indian Register Administrator (IRA), early on in the process. There are strict rules limiting what can and cannot be shared, and this is important to consider ahead of the creation of the enrolment register.
- » Sensitive situations may arise when the IRA compiles a comprehensive list; it is possible that the names of deceased individuals may appear on the list. In that case, appropriate documentation would need to be obtained from family so these individuals could be removed from the list.
- » Each citizen will be required to complete an enrolment application. For individuals already on the band list, this process can be simplified (e.g., no additional documentation other than photo ID).
- » Identifying who will be updating the register, providing updates on the status of the register (e.g., how many individuals have enrolled), and providing the list to the ratification committee and voting officer.
- » Streamlining this process by delegating registry for maintaining the enrolment register to one person (e.g., E&E Coordinator or an administrative assistant). This can be beneficial in minimizing administrative errors and ensuring efficiency in the enrolment process.

PREPARING THE DATA

As the ratification vote approaches, collaboration among the enrolment committee, ratification committee, and voting officer is essential to compile and transfer an accurate and carefully prepared enrolment register. This list must include full legal names, birth dates, current addresses, and contact information as it serves as the foundation for the official voters list.

Nations who have ratified treaties have expressed the importance of establishing clear and well-defined procedures that facilitate effective communication and information-sharing between the enrolment and ratification committees. It is important that all members of the committees sign a confidentiality agreement.

This is where the database can make or break the information sharing process. Remember to consider its reporting features, which can make updating the enrolment register and passing information between the committees a simple process.

It is important that the First Nation identifies or appoints the person or persons responsible for holding the pen to mitigate any administrative errors during this process.

COMMUNICATIONS AND ENGAGEMENT

ENGAGEMENT WITH CITIZENS

The enrolment process can feel very technical, bureaucratic, and complicated. That is why effective communication and engagement with the community and citizens are vital to the process. Detailed communication, engagement, and outreach strategies are critical, and to be successful, they should include a variety of outreach methods. This can include written and visual materials, regular direct engagement (phone calls, coffee meetings, and meals), community meetings and other means. Each First Nation will need to determine its own best approach.

Approaches may change throughout the engagement process, perhaps to better align with engagement with different audiences – that is ok!

An example of effective engagement is how Tsawwassen made enrolment accessible and fun by meeting citizens where they were at, hosting breakfasts and bringing equipment to enrol citizens to every community meeting. They also celebrated enrolment milestones with the community and provided regular updates.

K'ómoks First Nation started engaging with its community early on by providing presentations and sharing other communications materials (e.g., podcasts, brochures, and videos) on the enrolment process.

All Modern Treaty Nations incorporated strategies for regular engagement with their citizens who live at home and those who live away from home. Technology and social media have advanced such that they can be very impactful on the engagement process. Modern Treaty Nations experienced elevated

involvement from their youth throughout the enrolment and ratification processes. Youth are not only a critical audience, but potential champions in supporting the ratification process. This is highly significant when considering that they are the demographic who will take on much of the future implementation of the treaty.

There are fears and misconceptions surrounding treaties, specifically regarding E&E. It is important that team members take the time to listen to and address concerns, empower members with facts, and educate the community by providing clear and consistent messaging on the process and the treaty itself.



ADDITIONAL RESOURCES AND TOOLS

Navigate common questions and misconceptions through our FAQs section. Find answers to pressing questions surrounding the E&E process, thereby supporting communications efforts:

- » FAQs

GENEOLOGICAL WORK

It is important to make best efforts to ensure that individuals potentially affected by the signing of a treaty are adequately engaged and informed and have a reasonable opportunity to review the constitution and treaty, fully participate in the ratification process, and vote.

One of the ways to ensure that the E&E team can identify a broader range of individuals with potential ties to the community is through family trees. Family trees help establish genealogical connections and can provide insights into the historical and cultural ties to and within communities. Not only does this process help to unite families, it provides important context to the community. For example, this work can help illuminate the impacts of the *Indian Act* on citizenship as well as providing valuable insight relating to how the community might grow into the future.

Together, these components contribute to a comprehensive understanding of the First Nations citizens and also help inform engagement, communications strategies, and outreach.

It is important to acknowledge that any genealogical work the First Nation conducts will be ongoing and complex. It might be worthwhile to collaborate with community historians, membership clerks, and cultural workers. In addition, this process has the potential to bring up a range of emotions like excitement, pride, belonging, or sadness. Take care when conducting this work.



ADDITIONAL RESOURCES AND TOOLS

Explore our family tree templates. These templates not only aid in tracing lineage for the enrolment process, but play a crucial role in Nationhood and Nation rebuilding:

- » Template Visual Family Tree
- » Template Family Tree Form

ENGAGEMENT ON MEMBERSHIP CHANGES

Through genealogical or family tree work, the team will gain a fuller understanding of the community – both present and future. This knowledge will help guide engagement and outreach efforts, including identifying target audiences (e.g., individuals who live and/or work away from home, post-secondary students), and communications approaches (e.g., home visits, larger community meetings, contacting members by phone or in-person).

Through a Treaty Related Measure, K'ómoks First Nation conducted a demographics study to better understand the future projections of their community, which considered factors such as status registration, marriage and birth rates, and geography. This work helped inform their communications strategies and approach to E&E.

INDIAN ACT	MEMBERSHIP CODE	SELF-GOVERNMENT
<p>The government of Canada is responsible for determining who can register under the <i>Indian Act</i> and issuing Indian Status (e.g., the band list).</p> <p>The formula for granting Indian Status is complicated, discriminatory, and removed from the First Nation.</p> <p>The band list is not reflective of the entire First Nation (e.g., restricted to those who have Indian Status).</p> <p>Process to obtain Indian Status is long and complicated.</p>	<p>The First Nation determines who is a member of the First Nation through a custom membership code (the First Nation does not grant Indian Status).</p> <p>The eligibility criteria must be developed, accepted, and approved by a majority of the First Nation.</p> <p>The First Nation assumes complete control over its membership and includes individuals who have been excluded under the <i>Indian Act</i>.</p> <p>The First Nation does not grant Indian Status. This remains a responsibility of the Government of Canada.</p>	<p>The First Nation determines who is a citizen by developing an eligibility criteria as an act of self-determination and self-government.</p> <p>The eligibility criteria must be developed, accepted, and approved by a majority of the First Nation.</p> <p>The First Nation assumes complete control over its membership and can include individuals excluded under the <i>Indian Act</i>.</p> <p>The First Nation does not grant Indian Status it grants citizenship. <i>Indian Act</i> status remains a responsibility of the Government of Canada.</p>

It is important to be accessible and flexible in the approach to communications. Members will have a variety of learning styles, existing understandings of the E&E process, and/or understandings of the work that the First Nation has been undertaking. For this reason, it is helpful to approach communications with an open mind and provide different methods of communication, including but not limited to:

- » Newsletters for updates and reminders.
- » Informative videos explaining key concepts and processes.
- » Engaging podcasts featuring community members, discussions, and interviews related to enrolment.
- » Brochures summarizing important information in a visually appealing format.
- » Brief summaries highlighting key points for quick reference.
- » One-on-one meetings to address individual concerns and questions.
- » Home visits for those who prefer face-to-face interactions.

Elevate the communications with these tips:

- » Engage early and as often as the budget allows.
- » Grab every opportunity to engage through community meetings, events, or gatherings.
- » Be creative in engagement efforts, such as organizing enrolment breakfasts or meals to support informal discussion.
- » Address misconceptions head-on by providing consistent, accurate information and messaging.
 - » This might include providing updates on older policies, such as tax exemptions, contribution-only funding, and the nature of treaties as living documents.
- » Use accessible and plain language where possible. Using unnecessarily complex jargon is a barrier.
- » Prepare to tackle challenging questions with confidence, authenticity, and honesty. If team members do not know the answer, confirm a follow up.
- » Maintain open lines of communication, encouraging dialogue and feedback.
- » Don't forget to celebrate the wins!

ENGAGEMENT WITH OTHER NATIONS

Building relationships among First Nations helps enhance the overall efficiency of ongoing negotiations, contributing to the overall success of self-government for each participating First Nation. As a result of shared experiences and mutual support, Nations can work together to achieve their common goals and aspirations.

This engagement provides a platform for sharing best practices, lessons learned, and insights gained throughout the E&E process from First Nations who have experienced it firsthand on their journey to self-governance. Through these connections, the First Nation can utilize this knowledge to enhance its own processes to support a successful, streamlined, and well-organized process.

As an example, in 2022, Canada amended its long-standing policy that required Modern Treaty Nations to phase out the tax exemptions included under s.87 of the *Indian Act* after many years of First Nations lobbying the government and advocating for change. This is a monumental shift in treaty making and was made possible through the determination and collaboration of First Nations and their supporting partners.



THE VOTE

RATIFICATION CONSIDERATIONS

The ratification vote is the community's decision — its consent — to move forward with the treaty, and away from the *Indian Act*, as a Self-governing Nation.

In most recent cases, the constitution and treaty are ratified and passed when 50 per cent plus one of eligible voters on the final LEV participate in the vote, with 50 percent plus one of those voters voting yes.

The constitution vote and treaty vote can be done separately, or a First Nation can vote on the constitution slightly before the treaty (e.g., on the same day, but in two separate votes). A First Nation can have a constitution without a treaty but cannot have a treaty without a constitution.

Ultimately, voting to ratify a treaty is a collective act on behalf of a First Nation and its members, and demonstrates unity, resilience, and determination. It represents a commitment to establishing a new relationship with Canada and BC that is based on mutual respect, partnership, and reconciliation. Through this process, the First Nation takes a step towards its vision for self-determination and affirms its identity within the framework of modern treaty relationships.

THE TSAWWASSEN EXPERIENCE

For the Tsawwassen vote, the framework and steps of the actual voting process were outlined in a set of published rules. The high quality of the voting process was due in large part to the experience and professionalism of the Chief Electoral Officer and her staff, and to the diligence and insights provided by the engagement team, enrolment committee, and ratification committee.

KEY PRINCIPLES OF A STRONG RATIFICATION PROCESS

The ratification process should uphold principles of transparency, accountability, and integrity. Transparency involves establishing procedural guidelines for administering events to ensure that the rules of engagement are very clear.

It is also important to avoid potential conflicts of interest; it may be prudent to avoid overlap between certain teams and committees (e.g., avoiding having members sit on both the negotiation team and the ratification committee).

It is important that voting is accessible, and that members understand what they are voting on.

KEY PRINCIPLES



TRANSPARENCY

- » Establish clear and accessible guidelines for administering the ratification process. This will be accomplished through the ratification procedures.
- » Ensure that the rules governing the process, including eligibility criteria, timelines, and voting procedures, are well defined and communicated to eligible voters well in advance of the voting dates.



SEPARATION OF FUNCTIONS

- » Maintain a clear separation between the voting procedures and administrative procedures involved in the ratification process (e.g., the enrolment and ratification committees).
- » Clearly define roles and responsibilities to avoid conflicts of interest and ensure impartiality.



INTEGRITY AND ACCESS TO INFORMATION

- » Uphold principles of accountability and integrity throughout the ratification process.
- » Ensure that community members have easy access to accurate and comprehensive information about the constitution and treaty so that they can make an informed decision when it comes time to vote.
- » Confirm that information is presented in various formats that are understandable and accessible to all members (e.g., visually appealing documents, summaries, videos, podcasts).



VOTING ACCESSIBILITY

- » Design the voting process to be easily accessible and user-friendly. Be available to answer any and all questions about the process and provide information well in advance of the vote.
- » Provide multiple methods for voting (e.g., in-person, online, by mail) to accommodate different preferences and to encourage participation.



ENGAGEMENT AND BUILDING CONFIDENCE

- » Promote active engagement which builds confidence in the ratification process by ensuring people have a clear understanding of the steps involved in ratification and when and why things are happening.
- » Foster open dialogue and transparency throughout the ratification process to enhance trust and participation.

FAIRNESS AND TRANSPARENCY IN THE VOTING PROCESS

It is important to plan the process of casting and counting ballots in as much detail as possible. The Chief Electoral Officer plays a key role in assuring a fair and transparent voting process. Additionally, there must be policies and procedures in place to confirm voter identity on the voting day and to confirm voter identity for mail-in and electronic ballots.

These details will be included in the enrolment procedures and the ratification procedure. These comprehensive documents are heavily relied upon throughout the ratification process and will provide guidance to the committees.



ADDITIONAL RESOURCES

- » Enrolment Policies and Procedures
- » Ratification Rules of Procedure

Important: Determine how long enrolment committee members will have to process enrolment applications after voting closes.



TIMING

The timing of the constitution and treaty votes is incredibly important. The decision of when to hold these votes can profoundly shape the future of the community.

Carefully consider the timing to ensure that community members are:

- » Engaged;
- » Fully informed; and
- » Able to meaningfully participate in the process.

It is important to consider community events and other external factors, especially band elections, when choosing the dates of the votes. Ensure that community members have enough time to fully partake and ask their questions on the constitution and treaty prior to the vote.

A well-timed vote can empower the community, strengthen confidence in governance, and advance the community's vision of self-determination.

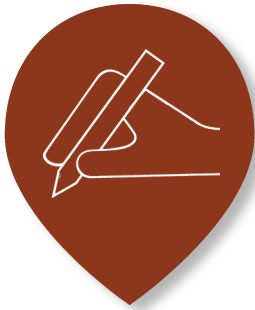
KEY CONSIDERATIONS

- » Ensure that the timing of the vote does not coincide with other votes (e.g., band elections).
- » Confirm that the timing of the vote does not interfere with other important community events or seasonal activities like gathering, fishing, and hunting.
- » Hold the vote when the treaty team, leadership, administration, and community are ready.
- » Certify that voters are well informed not only on the constitution and treaty, but also on their broader rights as voters and how to exercise those rights.

CONDUCTING THE VOTE

Conducting a constitution or treaty vote is a significant process. The ratification process is very technical and requires a specific set of procedures and skilled individuals (e.g., the Chief Electoral Officer and Voting Officers). The vote itself must be conducted with transparency and fairness, and order must be maintained throughout to ensure the integrity and credibility of the vote. Each eligible voter is given the opportunity to vote either in-person, or through secure means such as electronic voting or mail-in ballots. The results are announced publicly, respecting the will of the First Nation, and honouring the principles of self-determination – whether the result is a “yes” or “no” vote.

The steps to ratification are outlined below:



PREPARATION AND PLANNING

- » Ensure that the treaty team is sufficiently staffed with First Nation members, leaders, legal experts, and advisors.
- » Determine and map out a timeline for the ratification process, which should include planning for additional support for the treaty team during enrolment, the engagement process, and the vote.



INFORMATION CAMPAIGN

- » Prepare educational materials, fact sheets, and FAQs to communicate the details of the constitution and treaty.
- » Distribute information through newsletters, websites, social media, and face-to-face engagement to ensure widespread understanding.



VOTER REGISTRATION

- » Establish a voter registration process to ensure eligible citizens are identified and included in the voting process.
- » Hire a Chief Electoral Officer.
- » Identify staff and volunteers for polling locations and ballot collection.
- » Verify eligibility criteria and provide opportunities for eligible voters to enrol.



VOTING PROCESS

- » Determine the voting methods (e.g., in-person, mail-in ballots, online), and establish ratification procedures to guide the ratification committee and the casting and counting of votes.
- » Ensure the integrity of the vote by appointing an independent ratification committee.



ANNOUNCEMENT OF RESULTS

- » Count and verify the voting results in accordance with the established ratification procedures.
- » Announce the outcome of the vote to members.

KEY CONSIDERATIONS

- » The voters list must be available and accessible to members for feedback.
- » Results must be publicized as soon as possible, once the count is complete.
- » Votes must be scrutinized to ensure the integrity and credibility of the voting process.

ELECTIONS STAFF AND SUPPORT

Building the right team of elections staff and support is crucial to the success of the ratification processes. It will require a strong collaborative effort among people with many different skill sets, including those serving on several committees.

To achieve a “yes” vote for the ratification of the constitution and treaty, it is important to build a skilled and knowledgeable team that has experience conducting elections and/or referendums.

This team could consist of individuals who have previously managed band elections, or external consultants who specialize in electoral processes. The Chief Electoral Officer is vital as they oversee the entire voting process, from planning and logistics to guaranteeing that the established procedures are upheld.

Building the right team requires careful consideration, and there are various roles and responsibilities beyond the Chief Electoral Officer. For example, additional team members could include:

- » The treaty team, to carry the message.
- » Legal advisors knowledgeable in constitutional and treaty matters.
- » Leadership, to guide the vision and values of the First Nation.
- » Communications experts and the home visit team, to effectively engage with community members.
- » The committees that manage enrolment and ratification.
- » Support staff, to manage logistical aspects, such as voter registration and polling station coordination.

The team’s background and expertise should facilitate a cooperative environment which enables effective planning and problem-solving throughout the process. Collaborative decision-making and shared responsibility among team members can encourage confidence and promote the trust of members in the integrity of the voting process.

Each member of the team contributes to the success of the ratification process by playing a unique role in ensuring that votes are conducted transparently, fairly, and in accordance with the First Nation’s values and goals.

ESTABLISHING THE LIST OF ELIGIBLE VOTERS (LEV)

The ratification committee is responsible for creating the List of Eligible Voters (LEV) (which is sometimes referred to by other names, such as the Official Voters List). The ratification committee works closely with the enrolment committee using information on the enrolment register – the names, contact information, and birth dates – to establish the LEV. Once finalized, the LEV should only contain the first, middle, and last name of each individual to ensure full compliance with federal and provincial access to information and privacy legislation. Additionally, the LEV must be kept up to date and made public to the First Nation for review 30 days before voting begins. In the past, First Nations have done so by posting the LEV in band offices. Be cautious of how this information is shared or displayed.

KEY CONSIDERATIONS

- » Voters have the right to know if their name is on the LEV.
- » Publicize voter lists so names can be added or removed based on new information.
- » Ensure the LEV is kept up to date.
- » Consider only posting the LEV in the band office or treaty office, and not on the First Nation's website or social media for confidentiality purposes.
- » The ratification committee is responsible for updating and publicly posting the LEV.
- » Provisions outlining the process for the removal of names from the LEV should be clearly set out in the ratification procedures.
- » Ensure that all voters listed meet the age criteria as of the last scheduled day of voting.
- » Use a database to allow the enrolment committee and ratification committee to efficiently capture and share information.

COORDINATING POLLING STATIONS

The location and number of polling stations are critical decisions made by the ratification committee. Polling stations should be placed in accessible and communal spaces. In addition to the polling stations, various voting methods such as mail-in ballots and online voting should be considered to accommodate individuals of different demographics and geographic areas.

Consider setting up additional polling stations in various locations where community members live, potentially on different dates to ensure the vote is accessible. However, be mindful that at least one member of the ratification committee and the enrolment committee will need to be present at each polling station to accommodate individuals who did not enrol in advance but wish to vote.

COUNTING THE VOTE

Counting the vote is a very technical and precise process that requires accuracy, order, and adherence to ratification procedures. Once the voting period has finished, the counting process can begin; it must be witnessed by at least two members of the ratification committee, any community members who wish to be present, and one representative from each of the Parties.

To ensure a fair count, the following steps are necessary:

SECURE HANDLING OF BALLOTS:

Immediately following the close of voting, all ballots should be securely transported to the location allocated for the count. Mail-in and electronic ballots will also be tallied.

VERIFICATION OF VALID BALLOTS:

Before counting begins, the Chief Electoral Officer or Voting Officers will verify the validity of each ballot. This involves checking for proper marking, ensuring that ballots are from eligible voters, and addressing any potential discrepancies.

COUNTING PROCESS:

The ratification committee, Chief Electoral Officer, and Voting Officers must make reasonable efforts to ensure that good order is maintained at the location where the ballots are counted. To ensure the integrity and credibility of the counting process, no person is permitted to interfere or attempt to interfere as the Electoral Officer and Voting Officers conduct the count.

CHALLENGES AND DISPUTES:

In cases where there are challenges or disputes regarding the validity of ballots or counting procedures, established protocols should be followed – the process will be set out in the ratification procedures.

ANNOUNCEMENT OF RESULTS:

Once all ballots have been counted, in the presence of at least two members of the ratification committee, the Chief Electoral Officer will announce the results of the vote and certify the result. This announcement includes the total number of votes cast, and a breakdown of the votes (e.g., the number of ballots marked “yes”, the number of ballots marked “no”, and the number of spoiled or rejected ballots).

Counting cannot occur until:

- » The enrolment committee makes decisions on the enrolment status of all pending enrollees.
- » The ratification committee prepares a final LEV.
- » The ratification committee processes all mail-in ballots and electronic votes.

PROVIDING MORE OPTIONS TO VOTE: MAIL-IN BALLOTS & ELECTRONIC VOTING

The use of mail-in ballots and electronic voting plays a crucial role in ensuring accessibility and inclusivity in the voting process, particularly for community members who may reside in remote or distant locations. Mail-in ballots and electronic voting also provide flexibility for those who may have mobility constraints or busy lifestyles, enabling eligible voters to participate in the ratification votes without the need to physically visit a polling station. This allows individuals to cast their votes conveniently and securely from their own homes or communities, increasing overall voter turnout and engagement.

It is important to note that mail-in ballots require cut-off dates for both enrolment applications and for ballot requests. Cut-off dates must be clearly communicated, and members should be contacted prior to the cut-off dates.

SCRUTINEERS AND OBSERVERS

It is important to have scrutineers (representatives who observe the casting and counting of the ballots) present throughout voting to ensure the integrity and credibility of the voting process. Any individual is allowed to observe the voting process but cannot disrupt it.



ADDITIONAL RESOURCES

- » Voting Day Checklist



BUILDING ON EXPERIENCE

While every First Nation's ratification journey will follow its own unique path and set of experiences, learning from those who have ratified treaties is invaluable. Engaging with Modern Treaty Nations is essential to understand important lessons, key considerations, and best practices in navigating the ratification processes.

Seeking input and guidance from other First Nations ensures that knowledge around effective strategies, challenges, and various approaches is shared. For example, First Nations have emphasized the importance of creating clear lines of communication between the enrolment committee and ratification committee.

In addition, this type of engagement supports relationship building and networking among First Nations, an incredible and beneficial outcome of the treaty process. These support networks and the knowledge that is shared through them contribute to a brighter future for all communities.

REFLECTING ON THE MEANING OF THE VOTE

Building on the ratification experience and extending community consultation beyond the ratification journey makes for good governance.

Moving forward, it is vital to understand why people voted the way they did.

ANALYZING A "YES" VOTE

Each treaty identifies a threshold for the ratification vote under which the treaty will be ratified. For example, a common threshold is 50 percent plus one of eligible voters on the final LEV voting, and 50 percent plus one of those who vote voting yes.

If the First Nation has secured a "yes" vote and has chosen to ratify its treaty, it is time to consider what is next. Celebrating the First Nation coming out from under the constraints of the *Indian Act* is important. Many Modern Treaty Nations have marked the ratification of a treaty with a cultural celebration, and in some cases on a treaty's effective date have conducted a ceremony to burn a copy of the *Indian Act*. It is important to acknowledge and celebrate all the hard work, effort, and determination that went into this process – from the team, community members, and all others involved – they have earned it!

Once a First Nation has ratified its constitution and treaty, it will begin the journey to implementation. The First Nation will move into the "start-up phase," which involves undertaking a series of activities to be ready to implement the treaty.

The start-up phase (from the “yes” vote to the effective date – the date the treaty comes into effect) can take anywhere from two to four years. First Nations receive start-up funding for self-governance from Canada to carry out activities during this phase to prepare their governments, administration, and citizens for effective date. Funding for other activities may come from the Province. This includes:

- » Developing core laws.
- » Preparing for the enforcement of laws (including signing enforcement agreements).
- » Developing policies and procedures to mobilize laws.
- » Building capacity within the government and staff for the transition to self-government.
- » Preparing to assume control of infrastructure and developing infrastructure plans for Treaty Settlement Lands.
- » Surveying lands and preparing to register them (either in the Land Title and Survey Authority of British Columbia or the First Nation’s own registry).
- » Engaging in communications efforts with citizens, other government agencies, and the public on treaty implementation.

ANALYZING A “NO” VOTE

A lot of work goes into ratification processes and a “no” vote was likely not the anticipated result. However, it is important to understand the reasons that led to that outcome, so it is vital to have a plan in place in the event of such a result. Without a strategy, a “no” vote can lead to a loss of momentum for the team and the community.

Additionally, take time after the vote to regroup, reflect, and assess the next steps.

A thorough post-vote analysis can provide a better understanding of the results of the vote, including barriers to enrolment, key reasons for members’ decisions, and sources of influence on those decisions. Possible reasons for a “no” vote could include:

- » Members requiring a better understanding of the voting process itself.
- » Enrolment barriers (e.g., accessibility, information sharing).
- » Barriers in comprehending treaty language.
- » Limited understanding of the impacts of a treaty.
- » Other influences affecting the decision (e.g., groups against the treaty, media coverage, changes in leadership).
- » The First Nation’s mandate not being adequately reflected in the treaty.

Ultimately, analyzing a “no” vote involves weighing these factors to determine whether further negotiations could address the underlying concerns.

One way to move forward is to poll First Nation members about a subsequent vote. This poll can be conducted through surveys, community meetings, or personal outreach efforts.

SUBSEQUENT VOTES

Deciding whether to proceed with a subsequent vote after a “no” vote is a consequential decision requiring significant consideration. When considering a subsequent vote, seek to understand the factors that contributed to a “no” vote – how have those factors changed since the vote? What makes the timing appropriate for a subsequent vote? How was the community involved in the decision to proceed?

If, after careful analysis, a decision is made to proceed with a subsequent vote, considerable time and effort will need to be spent on revising the communications strategy, which could benefit from input from an outside representative.

KEY CONSIDERATIONS FOR A REVISED STRATEGY

- » Identify which communications methods were effective or ineffective.
- » Assess whether the community is interested in self-government.
- » Determine what questions and issues need to be addressed in renewed treaty negotiations.
- » Address the issues which contributed to the non-ratification of the treaty.
- » Develop a strategy to address each issue identified in the post-vote analysis within the communications strategy.

Here are some key tips to guide the development of a revised strategy:

- » Meet with the community to clarify their questions about the treaty and confirm that the answers provided address their questions.
- » Examine the issues identified for why people voted “no” and determine whether they can be resolved through negotiations and/or improved outreach.
- » Consider having a third party conduct an analysis of the reasons behind the “no” vote.

CONCLUSION

This guide provides an overview of the ratification process within the BC treaty negotiations process. It covers various aspects including an overview of ratification, the process for determining citizenship and eligibility criteria, roles and responsibilities of staff and committees, database management, and communications strategies.

In addition, the guide highlights the importance of building internal capacity, work planning and budgets, and fostering collaboration among First Nations.

We hope the valuable insights into good practices, key terms and considerations, practical strategies, and real examples found throughout this guide help First Nations navigate the ratification process with confidence and efficiency.

This guide will continue to be updated, and we appreciate feedback from First Nations who make use of this document. To provide feedback, please get in contact with the Treaty Commission Communications Department at communications@bctreaty.ca.



AGREEMENT IN PRINCIPLE A document that outlines the essential aspects of a future agreement between the Parties. It is an incremental step towards a treaty, agreement, or other constructive arrangement and contains the broad elements that will appear within it.

BAND COUNCIL RESOLUTION A resolution or authorizing document ratified by a quorum of an *Indian Act* band council at a meeting.

CITIZENSHIP The status of being a citizen or belonging to a community.

CONSTITUTION Fundamental principles established by a First Nation in cooperation with community by which they agree to be governed. The constitution includes the composition of the First Nation government, a declaration of rights and freedoms, and an overview of administrative and jurisdictional powers.

DEMONSTRATED ATTACHMENT Refers to whether an individual can demonstrate their bond to a community either culturally, linguistically, or through familial and community connections.

DISENROLLMENT The process outlined in the enrolment procedures for citizens to revoke their citizenship from a community.

DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT An act passed by the Government of BC that confirms the principles within the UN Declaration and their applicability in provincial law, including the requirement of free, prior and informed consent.

EFFECTIVE DATE The date on which a treaty takes effect.

ELIGIBLE VOTER Someone who fulfills the eligibility criteria and meets the minimum age to vote as determined in the treaty.

ELIGIBILITY The status of meeting the criteria required for citizenship.

ELIGIBILITY AND ENROLMENT COORDINATOR The person responsible for coordinating the enrolment process and working closely with the enrolment committee.

ELIGIBILITY CRITERIA The criteria established under the Eligibility and Enrolment chapter of the treaty through extensive community engagement and consultation which outlines who is entitled to become a citizen.

ENGAGEMENT TEAM Those responsible for supporting the ratification vote and communicating with members at various stages in the lead-up to the vote.

ENROLMENT The legal process of becoming a citizen. All individuals will need to enrol to vote on the constitution and treaty.

ENROLMENT APPEAL BOARD A board established under the Eligibility and Enrolment chapter of the treaty. An independent body responsible for reviewing appeals concerning enrolment applications and offering an opportunity for individuals dissatisfied with the decisions of the enrolment committee to seek review and resolution of those decisions.

ENROLMENT COMMITTEE The committee established under the Eligibility and Enrolment chapter of the treaty, responsible for the enrolment process.

ENROLMENT PROCEDURES A document that outlines the processes and procedures that must be followed throughout the enrolment process.

ENROLMENT REGISTER The list of individuals who have been accepted for enrolment under the Eligibility and Enrolment chapter of the treaty.

FAMILY TREE A document that establishes genealogical connections.

HOME VISIT TEAM Individuals (including members of the engagement team) designated by the First Nation to visit members of the First Nation at their homes to provide them with information on a treaty, constitution, or other agreement.

INDIAN ACT A federal law that concerns registered Indians, bands, and the system of Indian reserves.

INDIAN OR STATUS INDIAN An individual who, pursuant to the *Indian Act*, is registered as an Indian or is entitled to be registered as an Indian.

INDIAN RESERVE A tract of land, the legal title to which is vested in Her Majesty, that has been set apart by Her Majesty for the use and benefit of a band.

JUDICIAL REVIEW The process established under the Eligibility and Enrolment chapter of the treaty for an applicant to apply to the Supreme Court of British Columbia to review a decision made by the enrolment appeal board.

LETTER OF UNDERSTANDING Similar to a Memorandum of Understanding, a Letter of Understanding is also an agreement that states the intent of two or more Parties to move forward with a treaty, agreement, or constructive arrangement.

LIST OF ELIGIBLE VOTERS A list of all those who have enrolled and are of legal voting age on the last scheduled day of voting.

MEMORANDUM OF UNDERSTANDING An agreement between two or more Parties that confirms their commitment to negotiating a treaty, agreement, or constructive arrangement.

MODERN TREATY NATIONS First Nations in British Columbia who are implementing modern treaties. At present, these Nations are the Nisga'a Nation, Tsawwassen First Nation, Huu-ay-aht First Nations, Toquaht Nation, Ka:'yu:'k't'h'/Che:k'tles7et'h First Nations, Uchucklesaht Tribe Government, Yuułu?ıł?ath Government, and Tla'amin First Nation.

NEGOTIATION TEAM Those representing a First Nation (or Nations) at the negotiation table.

ORDERLY PROCESS A mechanism by which a treaty can be amended if a new aboriginal right is established, recognized, or affirmed through the courts.

OWN SOURCE REVENUE Income that First Nations generate independently from government funding, typically through economic development and taxation.

THE PARTIES The Government of Canada, the Government of British Columbia, and one or more First Nations with traditional territory in British Columbia.

PERIODIC REVIEW A mechanism by which a treaty can be amended on a recurring basis, including areas that the Parties may want to renegotiate or expand upon. It also includes changes to a treaty or other agreement due to unforeseen circumstances.

RATIFICATION The process or act of approving a constitution and/or treaty, determined by an official voting process.

RATIFICATION COMMITTEE The committee established under the Ratification Chapter of the treaty, responsible for overseeing the ratification of the constitution and treaty.

RATIFICATION PROCEDURES A document that outlines the processes and procedures that must be followed throughout the ratification process.

SECTION 87 TAX EXEMPTION A tax exemption under section 87 of the *Indian Act* which states that the interest or personal property of an Indian or a band on a reserve is exempt from taxation.

SELF-GOVERNING INDIGENOUS GOVERNMENTS Indigenous Nations in Canada who are operating under various self-government regimes, including a comprehensive land claim agreement that includes a comprehensive self-government component, a comprehensive agreement on self-government, or a legislated comprehensive self-government arrangement.

TREATY A constitutionally-protected agreement under s.35 of the *Constitution Act, 1982*, between the Government of British Columbia, Government of Canada, and a First Nation. It recognizes First Nations inherent rights and reconciles First Nations sovereignty, title, and rights with the assumed crown sovereignty, title, and rights. For the purposes of this guide, “treaty” refers to modern treaties negotiated in British Columbia through the BC treaty negotiations framework.

TREATY TEAM A wider body including but not limited to members of the negotiation team, engagement team, enrolment committee, ratification committee, administration, and others who support the ratification process.

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES A universal, international human rights instrument that serves as a foundation for the recognition of the rights of Indigenous Peoples. It contains the minimum standards for the survival, dignity, and well-being of Indigenous Peoples worldwide.

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES ACT A federal act that affirms the rights set out in the UN Declaration as having application in Canadian law and calls for the development of an action plan.



APPENDIX A

The BC Treaty Commission has developed helpful tools and resources for First Nations to strengthen capacity and community engagement.

The following templates can be used to support the ratification process and votes, including example ballots, certifications, appointment documents, and voting instructions.

To access copies of these templates, please go to the “Contact Us” page on our website (bctreaty.ca), call us toll free at 1-855-482-9200, or email communications@bctreaty.ca.

AFFIRMATION OF CHIEF ELECTORAL OFFICER

This form is to be used to affirm that a First Nation’s Chief Electoral Officer witnessed the treaty and ratification votes and verifies that the ballot boxes were not tampered with.

AFFIRMATION OF CHIEF ELECTORAL OFFICER (RECEIPT OF MAIL-IN BALLOTS) This form is to be used to affirm that a First Nation’s Chief Electoral Officer witnessed the proper deposit of mail-in ballots into a ballot box(es).

AFFIRMATION OF A VOTING OFFICER This form is to be used to affirm that a First Nation’s Voting Officer witnessed the treaty and ratification votes and verifies that the ballot boxes were not tampered with.

APPLICATION FOR ENROLMENT AND/OR CITIZENSHIP This form is to assist First Nations in thinking about developing enrolment and/or citizenship applications.

APPLICATION FOR DISENROLLMENT This form is to assist First Nations in thinking about the process for citizens to disenroll, as well as the information that citizens must understand in making their decision.

APPOINTMENT OF A CHIEF ELECTORAL OFFICER This form is to be used when appointing a Chief Electoral Officer.

APPOINTMENT OF A GUARANTOR OF IDENTITY This form is to be used when appointing someone to act as a guarantor of identity.

APPOINTMENT OF A VOTING OFFICER This form is to be used when appointing someone to act as a voting officer.

BALLOT 1: FIRST NATION CONSTITUTION This is a sample ballot for voters to affirm or reject the First Nation’s constitution.

BALLOT 2: FIRST NATION TREATY This is a sample ballot for voters to affirm or reject the First Nation’s treaty.

CERTIFICATION OF SEALED BALLOT BOXES OR HOLDING ENVELOPES This form is to be used by the Chief Electoral Officer to verify that the ballot boxes or holding envelopes were properly used and sealed.

CERTIFICATION OF SEALED BALLOT BOXES OR HOLDING ENVELOPES INTEGRITY This form is to be used by the Chief Electoral Officer to verify that the ballot boxes or holding envelopes were not tampered with prior to the votes.

CERTIFICATION OF VOTE RESULT This form is for the Chief Electoral Officer to certify the results of the First Nation constitution and/or treaty vote(s).

CONFIDENTIALITY AGREEMENT This form is to be signed by Enrolment Committee members to ensure that sensitive information remains confidential.

CONFIRMATION OF IDENTITY This form is to be filled out by the Guarantor of Identity to confirm a voter's identity.

DRAFT FAQs This document provides answers to some common questions asked by citizens whose First Nations are working through the E&E process.

DRAFT GLOSSARY This glossary includes common terms and words used throughout the Eligibility and Enrolment process.

DRAFT STANDARDIZED LETTER - CONFIRMATION OF DISENROLLMENT This standardized letter is meant to assist First Nations in providing detailed communications of decisions that were made on applications throughout the E&E process.

DRAFT STANDARDIZED LETTER - NOTICE OF APPLICATION This standardized letter is meant to assist First Nations in providing detailed communications of decisions that were made on applications throughout the E&E process.

DRAFT STANDARDIZED LETTER - STATUS OF APPLICATION This standardized letter is meant to assist First Nations in communicating decisions made on enrolment applications throughout the E&E process.

FAMILY TREE PAPER FORM This form is to assist First Nations in conducting genealogical work for their communities. A visual family tree form is also available. This information can be used to understand how many potential citizens a First Nation might gain through the E&E process. It can also be used to assist applicants who are not on the band list.

IDENTIFICATION ENVELOPE This is to accompany a mail-in ballot and confirm a voter's identity.

NOTICE OF VOTE This document can be circulated to inform First Nation community members that constitution and treaty ratification votes will be happening and of how they can participate in the votes.

SAMPLE WORKPLAN This document is to assist First Nations in planning their eligibility and enrolment and related activities in preparation for ratification.

STATEMENT OF WITNESS This form is to be filled out by a witness who saw the ballot boxes before voting began and can confirm that appropriate procedures were followed.

STATEMENT OF WITNESS - MAIL-IN BALLOTS

This form is to be filled out by a witness who saw the ballot boxes before they were filled with mail-in ballots and can confirm that appropriate procedures were followed.

TLA'AMIN ENROLMENT APPEAL BOARD RULES

This is a copy of the rules followed by the Tla'amin Enrolment Appeal Board during the ratification process of the Tla'amin Treaty. It can be adapted to fit a First Nation's specific enrolment appeal board needs.

VOTE TO EFFECTIVE DATE: SAMPLE TIMELINE

This document provides an overview of a potential timeline between advanced negotiations and treaty implementation.

VOTING INSTRUCTIONS FOR ELECTRONIC

VOTERS This template outlines instructions for how eligible voters can vote electronically.

VOTING INSTRUCTIONS FOR MAIL-IN VOTERS

This template outlines instructions for how eligible voters can vote by mail.

APPENDIX B

These draft procedures can be used to help guide a First Nation's Enrolment and Ratification Committees in creating their policies and procedures.

To access the draft templates, please go to the "Contact Us" page on our website (bctreaty.ca), call us toll free at 1-855-482-9200, or email communications@bctreaty.ca.

BC TREATY COMMISSION DRAFT RATIFICATION COMMITTEE RULES OF PROCEDURE This document provides a draft of the rules of procedure for a Ratification Committee that can be adapted to suit a First Nation's needs.

DRAFT ENROLMENT COMMITTEE POLICIES AND PROCEDURES This document provides a draft of policies and procedures for an Enrolment Committee that can be adapted to suit a First Nation's needs.



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