

Yale First Nation Framework Agreement

THIS AGREEMENT dated the ____ day of _____, 1996

BETWEEN:

THE YALE FIRST NATION
("YFN")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
("Canada")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA
("British Columbia")

(collectively, the "Parties")

WHEREAS:

- A. The Constitution Act, 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada and provides that treaty rights include rights that now exist by way of land claims agreements or that may be so acquired.
- B. The YFN as original people within the Territory, have never signed a treaty with Canada or British Columbia, and the Parties agree to negotiate a treaty with the intent of defining rights to land and resources, governance, and other matters listed as substantive issues for negotiations in this Agreement.
- C. The Parties are committed to conducting negotiations in accordance with a government-to-government relationship and within the framework of the Constitution of Canada. For greater certainty:
 - o Canada is committed to negotiating self-government under its Inherent Right Policy;
 - o The YFN will approach treaty negotiations from the perspective that the inherent right to self-government is an existing aboriginal right within section 35 of the Constitution Act, 1982; and

- The perspective of each Party on self-government will not limit or restrict the positions that the other Parties may take on self-government.
- D. The Parties are committed to negotiating under the BCTC Process, and have met BCTC requirements to commence treaty negotiations.
- E. The Parties acknowledge the importance of providing for public information, public access to the treaty table and consultation with their respective advisory committees, and have therefore signed the "Protocol Regarding the Openness of the YFN Treaty Process".
- F. By negotiating a treaty, the Parties seek to establish a new and ongoing relationship on the basis of mutual respect, accommodation and understanding.

1. DEFINITIONS

- a. "Agreement-in-Principle" means the agreement approved as signed by the Parties at the end of Stage 4 of the BCTC Process, and is comprised of various Sub-Agreements and other provisions as agreed.
- b. "BCTC Agreement" means the British Columbia Treaty Commission Agreement dated September 21, 1992 and signed by Canada, British Columbia and the First Nations Summit.
- c. "BCTC Process" means the six-stage negotiation process described in the Report of the British Columbia Claims Task Force dated June 28, 1991, and referred to in the BCTC Agreement.
- d. "Inherent Right Policy" means the document titled *Aboriginal Self Government: The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government (1995)*.
- e. "Chief Negotiator" means the negotiator appointed by each of the Parties for the treaty negotiations contemplated by the BCTC Process or his or her designate.
- f. "Final Agreement" means the agreement signed and ratified by the Parties at the end of Stage 5 of the BCTC Process.
- g. "Main Table" means the table at which negotiations are conducted and at which each Party is represented by its Chief Negotiator.
- h. "Overlap" means a geographic area within the Territory which is claimed by a First Nation other than YFN.
- i. "Sub-Agreement" means an agreement initialled by the Chief Negotiators on a substantive issue listed in Section 5.1 of this Agreement.
- j. "Territory" means that geographic area identified by YFN as its traditional territory on the map

attached to the YFN Statement of Intent filed with the BCTC.

2. PURPOSE

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

3. SCHEDULE AND TIMING

3.1 Following the signing of this Agreement, the Chief Negotiators will jointly develop a work plan and a schedule for completing the Agreement-in-Principle stage.

4. PARTIES

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

5. SUBSTANTIVE ISSUES FOR NEGOTIATION

5.1 The Parties are committed to negotiate the following substantive issues with the intention of concluding an Agreement-in-Principle. This list is not exhaustive.

a. Land

- i. Selection and retention
- ii. Quantum
- iii. Tenure, Title and Expropriation
- iv. Access
- v. Parks and Protected Areas
- vi. Cultural and Heritage Sites and Resources
- vii. Environmental Assessment, Management and Protection

b. Natural Resources

- i. Forests
- ii. Fish and Fisheries

- iii. Wildlife
- iv. Subsurface
- v. Water
- c. Governance
 - i. Jurisdiction and Authority
 - ii. Intergovernmental Relations
 - iii. Structure and Procedures of YFN Government
- d. Implementation
- e. Financial areas
 - i. Fiscal Arrangements
 - ii. Financial Settlement
 - iii. Economic Development
- f. General
 - i. Eligibility
 - ii. Enrolment
 - iii. Ratification
 - iv. Dispute Resolution
 - v. Amendment
 - vi. Certainty

5.2 The negotiation of a substantive issue listed in Section 5.1 does not commit any of the Parties to conclude an agreement on that issue, or any component of that issue.

5.3 The Chief Negotiators may, by agreement in writing, amend the list of substantive issues for negotiation as set out in Section 5.1.

5.4 The issue of which negotiated provisions will receive constitutional protection will be

addressed prior to concluding an Agreement-in-Principle.

6. NEGOTIATION PROCESS

6.1 The Chief Negotiators will be responsible for the conduct and co-ordination of negotiations.

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

- a. Establishing working groups, side tables and other processes, as agreed;
- b. Managing the negotiation process, including the development of workplans and the setting of priorities and Main Table agendas;
- c. Negotiating and concluding an Agreement-in-Principle and a Final Agreement;
- d. Implementing the "Protocol Regarding the Openness of the YFN Treaty Process" which provides access to the Main Table, access to documents, consultation and public information;
- e. Implementing detailed procedures, consistent with this Agreement, to guide the Parties during the Agreement-in-Principle and Final Agreement negotiations as outlined in a document entitled "Procedures Agreement for YFN Treaty Negotiations"; and
- f. Implementing dispute resolution mechanisms, pursuant to Section 14.1.

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

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

6.5 The Parties:

- a. agree that some issues listed in Section 5.1 may require resolution on a regional basis;
- b. agree that some issues listed in Section 5.1 may require consideration on a province-wide basis for all treaties to be negotiated in the Province of British Columbia;

- c. will determine what issues in Section 5.1 may be best dealt with on a regional basis or on a provincial basis; and
- d. will develop a process for dealing with those issues on a regional or provincial basis as agreed.

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

6.7 Any Chief Negotiator may request that any initialled Sub-Agreement be reconsidered or amended.

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

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

7. INTERIM MEASURES

7.1 The Parties acknowledge that the British Columbia Claims Task Force made the following recommendation concerning Interim Measures:

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

8. OVERLAPPING CLAIMS

8.1 The YFN shall make best efforts to resolve Overlap claims, if any, with other First Nations and provide regular reports on the status of overlap discussions to the Main Table.

9. NEGOTIATION FUNDING

9.1 Each Party will be responsible for obtaining funding for its participation in the negotiation process.

10. GOVERNMENT PROGRAMS

10.1 During the negotiation process, the YFN will continue to enjoy the same rights and benefits as any citizen of Canada and will have access to the various programs and services

of Canada and British Columbia in effect from time to time, including those directed to Aboriginal People and their organizations in accordance with the criteria established from time to time for the application of those programs and services.

11. INTERPRETATION

11.1 This Agreement is not intended by the Parties to be legally enforceable and is not intended to define, create, recognize, deny or amend any of the rights of the Parties.

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

11.3 Subject to Section 5.4, the Final Agreement once in effect is intended to be a treaty within the meaning of Sections 25 and 35 of the Constitution Act, 1982.

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

11.5 For greater certainty, the Parties agree that Section 11.4 does not determine the enforceability of any agreement related to these negotiations, nor the admissibility of any such agreement in any proceeding to enforce that agreement.

11.6 For greater certainty, the Parties agree that Section 11.4 extends to documents submitted to other First Nations in accordance with the fulfilment of overlap provisions set forth in Section 8 of this Agreement.

12. AMENDMENTS

12.1 Subject to Section 5.3, this Agreement may only be amended by agreement of the Parties in writing.

13. APPROVAL OF THIS AGREEMENT

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

13.2 The Parties will approve this Agreement by signing it.

13.3 The Chief of YFN is authorized to sign this Agreement on behalf of the YFN.

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

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

14. DISPUTE RESOLUTION

14.1 Should an impasse be reached, the Parties may either individually or collectively approach the BCTC for assistance, or may use a mutually agreed-upon alternative dispute resolution mechanism.

15. SUSPENSION OF NEGOTIATIONS

Should any of the Parties decide to suspend negotiations contemplated by this Agreement, the Party suspending will provide written confirmation of the suspension, including the reasons for suspension, as soon as possible, to the other Parties and British Columbia Treaty Commission.

Signed on behalf of
YALE FIRST NATION
Chief Robert Hope

Signed on behalf of
HER MAJESTY THE QUEEN IN RIGHT OF CANADA
The Honourable Ron A. Irwin
Minister of Indian Affairs and Northern Development

Signed on behalf of
HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA
The Honourable John Cashore
Minister of Aboriginal Affairs