

K'omoks First Nation Treaty Negotiations

Openness Protocol Agreement

THIS AGREEMENT dated January 23, 2007, is entered into by the K'omoks First Nation, Canada and British Columbia (collectively, the "**Parties**").

The following arrangements with respect to Openness matters affecting the conduct of framework negotiations (Stage 3) are agreed by the Parties.

Purposes

This Openness Protocol shall apply to the treaty process between the Parties and is intended to allow public access throughout the treaty process while recognizing the need to conduct effective negotiations.

In acknowledging the need to have an open and effective treaty negotiation process, the desire to provide accurate information to the public, and access throughout the treaty negotiation process, the Parties agree to provide greater access through:

- (i) access to documents;
- (ii) consultation processes established by each of the Parties;
- (iii) public information; and
- (iv) access to negotiation meetings

as specified for in this Openness Protocol.

1. Public Information / Education Community Meetings and Forums

- 1.1. The Chief Negotiators for the Parties will be responsible for ensuring that an effective and regular public information process is established.
- 1.2. A tri-partite information work plan for all stages of the treaty negotiation process will be developed and will include dates, times, and location of community meetings and forums.
- 1.3. Notices of these meeting and forums will be issued to the local media two weeks prior to a meeting or forum whenever practical.

- 1.4. All community meetings and forums will be open to members of the public.
- 1.5. The Parties will update the public at these meetings and forums on the progress of the negotiations and any other information that the Parties consider relevant.
- 1.6. Members of the public in attendance at the community meetings and forums will be encouraged to express their views and ask questions.
- 1.7. The Parties will determine how the proceedings from the community meetings and forums will be documented and reported back to the main table.
- 1.8. Nothing in the section shall be construed to prevent the Parties from pursuing bilateral or independent public information/education activities.

2. Main Table Sessions

- 2.1. The Chief Negotiators of the Parties each retain the exclusive prerogative of determining the composition of their respective negotiation teams at the main table sessions.
- 2.2. All members of the three negotiation teams will be subject to all rules of confidentiality which may be agreed to by the Parties for the full duration of negotiations.
- 2.3. The Chief Negotiators will determine if a main table meeting will be open to the public.
- 2.4. In making a determination about whether or not a main table session is to be open to the general public, the Chief Negotiators will assess whether attendance by individuals other than members of the negotiating teams would:
 - 2.4.1. interfere with the effectiveness of the treaty negotiation process;
 - 2.4.2. increase the effectiveness of the session; or
 - 2.4.3. reasonably be expected to prejudice the positions or strategies of the negotiating Parties.
- 2.5. Notices of all open main table sessions will be issued to the local media at least two weeks prior to a main table session whenever practical.
- 2.6. The Chief Negotiators of the Parties will be responsible for the overall conduct of the negotiations, and members of the public in attendance at the main table sessions will participate as observers only. The chair will be responsible for ensuring that observers are not disruptive to the negotiations.

3. Public Record of Main Table Sessions

- 3.1. A record of decisions will be kept of the proceedings of main table sessions and will be released after approval by the Parties.
- 3.2. The record of decisions will include the time and location of a main table session, the agenda for the session, a description of actions taken or to be taken of matters discussed, an attendance list and the names and phone numbers of contact persons for each of the Parties.
- 3.3. Recording, videotaping and photographing of open main table sessions will be allowed upon approval of the Parties. However, any recordings or video taping of the sessions, will be used for historical purposes only and will have no status as admissions of fact or records of agreement in any proceedings.

4. Documents Used in the Negotiations

- 4.1. The release of documents is acknowledged to be subject to the provincial *Freedom of Information and the Protection of Privacy Act* and federal *Access to Information Act*, and *Privacy Act*. If a Chief Negotiator is aware of a written request for information relating to the treaty negotiations, notice of the request will be given to the other Parties.
- 4.2. The Chief Negotiator for a Party introducing a document to the main table will decide whether the document is to be made public or confidential.
- 4.3. Where two or more of the Parties jointly produce a document, the document will be assumed to be available to the public unless the Parties expressly determine and agree that that particular document is not to be released. The Parties will agree on a time frame during which the document will be kept confidential.
- 4.4. Correspondence among the Parties relating to treaty negotiations is to be treated as confidential and released only when the Parties agree to make any specific document more widely available.
- 4.5. The following documents, once they have been initialed by the Chief Negotiators, will be made available to the public:
 - 4.5.1. the Framework Agreement;
 - 4.5.2. this Openness Protocol Agreement, the Principles for Information Sharing, and the Negotiation Procedures Agreement;
 - 4.5.3. the Agreement in Principle; and,

4.5.4. the Final Agreement.

5. Media Relations

- 5.1. Media coverage of open main table sessions will be allowed. Following all open main table meetings and approval by the Parties, records of decisions will be made available.
- 5.2. The Chief Negotiators, or their delegates, will actively seek invitations to make presentations or participate in discussion panels through the broadcasting and print media.

6. Consultation with "Third Parties"

- 6.1. The Parties will share information with each other and with the general public, concerning their respective consultation processes, and will make allowances to enable consultation to occur.
- 6.2. The Parties will undertake joint consultation whenever possible. The Parties retain the discretion to not participate in consultation activities.
- 6.3. In accordance with their respective accountability mechanisms, provincial and federal negotiators will ensure that they report back regularly to their advisory groups. Where practicable, provincial and federal negotiators will explain how the advice provided had been taken into account during the negotiations and integrated into statements of interest or positions taken in the negotiations.
- 6.4. Each Party retains the right to consult with its respective advisory groups.

7. Consultation with Local Government

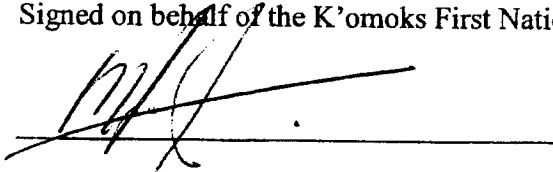
- 7.1. The Parties acknowledge that British Columbia may include a representative of local government as a member of the provincial team.
- 7.2. The local government representative will be subject to the rules of confidentiality agreed to by Canada, British Columbia and K'omoks First Nation and to this openness protocol for the full duration of the negotiations.

8. Amendments

8.1. This document may be amended by agreement in writing by the Chief Negotiators.

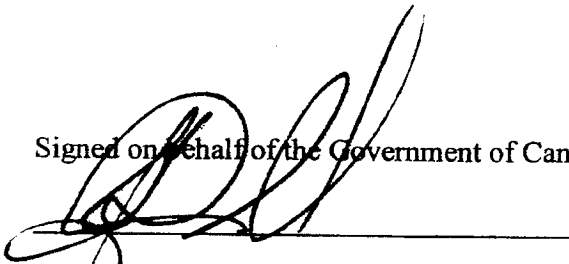
This openness protocol is executed by the Parties as of the date first written above.

Signed on behalf of the K'omoks First Nation

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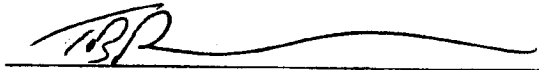
Mark Stevenson
K'omoks First Nation Chief Negotiator

Signed on behalf of the Government of Canada

A large, stylized handwritten signature in black ink, written over a horizontal line.

Jim Doswell
Chief Federal Negotiator

Signed on behalf of the Government of British Columbia

A handwritten signature in black ink, appearing to be 'TBP', written over a horizontal line.

Trevor Proverbs
Chief Provincial Negotiator