

## **XAXLI'P FRAMEWORK AGREEMENT TO NEGOTIATE A TREATY**

This Framework Agreement, dated the 18th day of November 1997

**AMONG: THE XAXLI'P FIRST NATION as represented by the Chief and Council ( Xaxli p )**

**AND: HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by the Minister of Indian Affairs and Northern Development ( Canada )**

**AND: HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA as represented by the Minister of Aboriginal Affairs ( 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;

B. The First Nations Summit, Canada and British Columbia have agreed that First Nations, Canada and British Columbia should establish a new relationship based on mutual trust, respect and understanding, by negotiating treaties through the process facilitated by the British Columbia Treaty Commission;

C. The Parties have agreed to negotiate a fair, honourable and just treaty settlement to establish that new relationship;

D. The Parties intend to enter into these treaty negotiations for the purpose of providing clarity and certainty regarding ownership, use of lands and resources, jurisdiction, inherent right to self-government and aboriginal rights and title; and

E. The Parties are committed to conducting the negotiations in accordance with a government-to-government relationship, and within the framework of the Constitution of Canada, and under the British Columbia Treaty Commission Process. For greater certainty:

- Canada is committed to negotiating self-government under Canada's Inherent Right Policy;
- Xaxli p is committed to negotiating self-government from the perspective that Xaxli p's

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 that subject.

## **NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:**

### **1. DEFINITIONS**

1.1 Agreement-in-Principle means the agreement approved and signed by the Parties setting out the major agreements and principles that will form the basis of the Final Agreement.

1.2 BCTC Process means the six stage negotiation process described in the Report of the British Columbia Claims Task Force dated June 28, 1991 and facilitated by the British Columbia Treaty Commission (BCTC).

1.3 Chapter means a part of an Agreement-in-Principle dealing with one or more subjects.

1.4 Chief Negotiator means the person appointed by each Party who is responsible for conducting these negotiations.

1.5 Final Agreement means the agreement signed and ratified by the Parties at the end of stage 5 of the BCTC Process and that, once in effect, will be a treaty.

1.6 Canada's 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)*

### **2. PURPOSE OF THIS FRAMEWORK AGREEMENT**

2.1 The purpose of this Framework Agreement is to set out the subjects for negotiation and the process and timing to complete the Agreement-in-Principle.

### **3. SCHEDULING AND TIMING**

3.1 Following the signing of this Framework Agreement, the Parties will complete a work plan for Agreement-in-Principle negotiations that will include a timeframe for completing the Agreement-in-Principle.

## **4. PARTIES TO THE NEGOTIATIONS**

4.1. The only Parties to these negotiations and the resulting agreements will be Xaxli'p, Canada and British Columbia.

## **5. SUBJECTS FOR NEGOTIATION**

5.1 The following are the subjects which the Parties intend to address during the negotiation of an Agreement-in-Principle:

### **5.1.2 GOVERNANCE**

- Xaxli'p legislative and administrative powers, including:
  - Taxation
  - Education and Training
  - Social welfare including community programs
  - Language and culture
  - First Nation citizenship
- Relationship among the Parties' respective governments
- Fiscal arrangements

### **5.1.3 LANDS AND RESOURCES**

- Land
- Water rights
- Tenure and Access
  - The Parties' respective rights, powers, and obligations
- Management of land and natural resources including, among others, trees, fish and wildlife
- Environmental management, including assessment, protection, and rehabilitation
- Harvesting rights
- Heritage resources
- Parks and protected areas

### **5.1.5 FINANCIAL COMPONENT**

- Financial Settlement
- Economic Development
- Resource Revenue Sharing

#### 5.1.6 GENERAL

- Certainty
- Xaxli'p entitlement to programs and benefits available to other Canadians
- Ratification
- Eligibility and enrollment
- Implementation
- Dispute resolution
- Amendment

#### 5.1.7 OTHER

- Any other subject which may be agreed to in writing by the Chief Negotiators.

5.2 The list of subjects for negotiation in Section 5.1 is not exhaustive and the inclusion of a subject in that section does not commit any of the Parties to conclude an agreement on that subject or any component of that subject.

5.3 The issue of constitutional protection, as it applies to the various provisions negotiated on each subject for negotiation, will be addressed prior to the conclusion of the Agreement-in-Principle.

### **6. INTERIM MEASURES**

6.1 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.

6.2 At any stage of negotiations, if the Parties consider that an interest is being affected which could undermine the process of negotiating a fair, just and honourable treaty settlement, they will attempt to negotiate an effective interim measure that is appropriate to the circumstances and that avoids displacing negotiations toward a treaty.

### **7. NEGOTIATION PROCESS**

7.1 The Agreement-in-Principle will be written in plain language to make clear the intention of the Parties.

7.2 Negotiations will be guided by the Protocol of Procedures signed by the Chief Negotiators on October 31, 1995.

7.3 The Chief Negotiators will signify their agreement on a subject by initialing a Chapter. Any Chief Negotiator may request that an initialed Chapter be reconsidered and amended, prior to the signing of an Agreement-in-Principle.

7.4 Once all Chapters of the Agreement-in-Principle have been initialed, the Chief Negotiators will consolidate the Chapters into a draft Agreement-in-Principle.

7.5 The Chief Negotiators will signify their agreement to the complete Agreement-in-Principle by initialing it, and will recommend it for approval to their respective Parties.

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

7.7 After the Agreement-in-Principle has been approved, the Parties will negotiate, as quickly as practicable, a Final Agreement based on the Agreement-in-Principle.

7.8 The Parties agree that certain subject matters will need regionally coordinated negotiations or province-wide discussions. The determination of the need for and approach to regional negotiations or province-wide discussions on any particular subject matter will be addressed by the Parties during Agreement-in-Principle negotiations.

## **8. OVERLAPS**

8.1 Consistent with the intent of recommendation 8 of the British Columbia Claims Task Force Report, where an overlap with another First Nation will affect the outcome of these treaty negotiations, the Parties agree that it is the responsibility of Xaxli p to take action to resolve it and report back to the main table periodically on the status of its overlap discussions.

## **9. DISPUTE RESOLUTION**

9.1 The Parties will attempt to resolve disputes through negotiation. The Parties further agree that they may ask the British Columbia Treaty Commission to assist in the resolution of disputes, or will utilize such other procedures as they may agree upon.

## **10. SUSPENSION OF PARTICIPATION IN NEGOTIATIONS**

10.1 The Parties are committed to interest based negotiations within the BCTC Process.

10.2 Each Party reserves the right to suspend its participation in the negotiations, and any Party may object to such a suspension, but such objection does not affect the right of any Party to suspend participation in these negotiations.

10.3 Where there is a dispute, the Parties may work together to resolve the dispute prior to, or after, a suspension of participation in these negotiations.

10.4 If a Party decides to exercise its right of suspending its participation, that Party shall provide written confirmation of suspension to the other Parties and the BCTC, setting out the reasons for suspending its participation and the date of commencement.

## **11. NEGOTIATION FUNDING**

11.1 Each of the Parties will be responsible for funding its own participation in the negotiation process.

## **12. INTERPRETATION**

12.1 This Framework Agreement does not create, recognize, deny or amend any enforceable rights.

12.2 This Framework Agreement, and any Agreement-in-Principle which may flow from it, are not intended to constitute a treaty or a land claim agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

12.3 For greater certainty, during the negotiation process, all rights and benefits that are available to other citizens or organizations will continue to be available to Xaxli p and its citizens. Further, they will have access to the various services and programs of Canada and British Columbia including those directed to Aboriginal people and organizations, including Bands as defined in the Indian Act, in accordance with those policies and laws in effect from time to time governing those programs and services.

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

## **13. LEGAL NATURE OF THE FINAL AGREEMENT**

13.1 Once in effect, the Final Agreement will be a treaty within the meaning of sections 25

and 35 of the *Constitution Act, 1982*.

## **14. APPROVAL OF THIS FRAMEWORK AGREEMENT**

14.1 The Chief Negotiators will initial this Framework Agreement to signify their intention to recommend it to the Parties for their approval. The Parties will approve this Framework Agreement by having their authorized representative sign it.

14.2 The Chief and Council are authorized to sign this Framework Agreement on behalf of Xaxli'p.

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

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

## **15. OPENNESS**

15.1 The Parties recognize the importance of public information and consultation related to these negotiations. For this purpose they will implement the public information and consultation processes contained in their Protocol of Procedures signed by the Chief Negotiators on October 31, 1995.

## **16. AMENDMENT**

16.1 This Agreement may be amended by agreement of the Parties in writing, except as noted in Section 5.

Signed on Behalf of the Xaxli'p First Nation: Roger Adolph, Chief; Herman Alec, Councillor; Darrell Bob, Councillor; Geraldine John, Councillor; Pauline Michell, Councillor; Edwin Mountain, Councillor; Rosalinde Narcisse, Councillor.

Signed on Behalf of Her Majesty The Queen in Right of Canada: The Honourable Jane Stewart, Minister of Indian Affairs and Northern Development.

Signed on Behalf of Her Majesty The Queen in Right of British Columbia: The Honourable John Cashore, Minister of Aboriginal Affairs.

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