



Lheidli T'enneh Treaty Negotiations

*Key Points from Draft Chapters
Toward an Agreement-in-Principle*

Canada



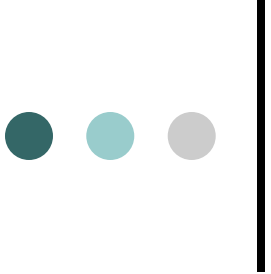
Lheidli T'enneh





History of Negotiations

- Statement of Intent: December 1993
- Table ready to negotiate: February 1995
- Framework Agreement: August 1996
- AIP negotiations begin: August 1996
- Government offer: August 2000
- AIP target: Spring 2003



Draft Chapters Toward an Agreement-in-Principle

- General Framework
- Lands
- Resources
- Governance
- Fiscal



General Framework

- Several chapters relate to the general operation of the Final Agreement:
 - *General Provisions*
 - *Eligibility and Enrolment*
 - *Approval of AIP*
 - *Ratification*
 - *Dispute Resolution*
 - *Transition*
 - *Definitions*



General Framework:

General Provisions

- Core legal provisions that are common throughout the Final Agreement, including:
 - Consistency with the *Constitution Act, 1982*
 - Application of federal, provincial and Lheidli T'enneh (LT) laws
 - Mechanism for defining & achieving certainty



General Framework:

General Provisions (continued)

- AIP will form the basis of Final Agreement but is not legally binding
- *Charter of Rights and Freedoms* to apply
- Amendment provisions



General Framework:

Approval of AIP & Ratification

Approval of Agreement in Principle

- Sets out the mechanisms by which each Party approves the AIP

Ratification of Final Agreement

- Sets out the mechanisms by which each Party ratifies the Final Agreement



General Framework:

Eligibility & Enrolment

- Sets out the eligibility criteria and procedures for enrolling in and participating under the treaty



General Framework:

Dispute Resolution & Transition

Dispute Resolution:

- Sets out formal procedures by which the Parties will resolve future disagreements about the treaty

Transition

- Provides for LT transition from governance under the *Indian Act* to governance under the treaty



Lands

Includes:

- *Lands*
- *Access*
- *Roads and Rights of Way*
- *Environmental Assessment*
- *Environmental Protection*
- *Parks and Protected Areas*



Lands:

Lands

- Area of land that will become LT Lands is under negotiation
- Some lands may be subject to application for removal from the ALR
- LT Lands will be owned in fee simple (*issue*)
- LT will have ability to sell or tenure LT Lands to third parties



Lands:

Lands *(continued)*

- LT may acquire additional LT Lands post-treaty with consent from Canada and BC
- BC and Canada may expropriate LT Lands for public purposes(*issue*)



Lands:

Access

- LT will allow reasonable public access to LT Lands for hunting, fishing and recreation
- LT will allow access across LT Lands to fee simple properties and third-party tenures
- Agreement will not affect the public's right to navigate on navigable waters
- Provincial and federal representatives may access LT Lands for activities in the public interest



Lands:

Roads & Rights-of-Way

- Crown roads and existing railroads will not form part of LT Lands
- Some public utility rights-of-way will continue on LT Lands
- Requirements for utility rights-of-way operations and maintenance will be provided through legal documentation



Lands:

Environmental Assessment

- Agreement promotes co-operation on environmental assessment among Parties
- LT has proposed that environmental assessment be addressed outside the treaty



Lands:

Environmental Protection

- LT may enter into agreements with other governments respecting environmental protection and environmental emergencies



Lands:

Parks and Protected Areas

- Canada or BC will consult with LT on management plans for parks and protected areas in LT Area
- LT treaty rights to fish and hunt in parks and protected areas within LT Area, subject to conservation, public health and public safety



Resources

- Includes:
 - *Forestry*
 - *Subsurface and Mineral Resources*
 - *Water*
 - *Wildlife*
 - *Migratory Birds*
 - *Fisheries*



Resources:

Forestry

- LT will own all Forest Resources on LT Lands
- BC & LT Government will negotiate information sharing and communication arrangements
- LT will be responsible for the management of forest health problems on LT Lands



Resources:

Forestry *(continued)*

- Final Agreement may set out a transition period for the transfer of management of forest resources on LT Lands to LT Government
- LT proposes that BC issue an area-based forestry tenure at Final Agreement

Resources:



Subsurface & Mineral Resources

- LT will own all the subsurface and mineral resources on or beneath LT Lands
- Tenures will continue in accordance with provincial law and will be administered by BC
- LT will collect rents and royalties from those tenures



Resources:

Subsurface & Mineral Resources *(continued)*

- Jurisdiction re: nuclear energy and atomic energy remains with Canada
- Jurisdiction re: petroleum, natural gas & occupational health, safety and labour standards remains with BC



Resources:

Water

- Two water reservations in treaty:
 - one for LT's domestic, community, industrial and commercial use on LT Lands
 - one for hydro power purposes
- Storage, diversion or use of water on LT Lands will be licenced in accordance with federal and provincial law



Resources:

Water *(continued)*

- Water licences existing before the approval date of the AIP will have priority over the LT water reservation
- LT Government may participate in relevant water planning processes for the Fraser River Watershed



Resources:

Wildlife

- Right to harvest wildlife for food, social & ceremonial purposes
- Minister retains authority to manage and conserve wildlife and wildlife habitat



Resources:

Wildlife *(continued)*

- LT will develop a wildlife harvest plan, to be approved by the Minister, for designated species and other agreed-upon species
- Agreed-upon process for dealing with conservation concerns
- Existing trap line & guiding interests to be respected



Resources:

Migratory Birds

- Right to harvest for food, social & ceremonial purposes
- Minister retains authority to manage and conserve migratory birds and their habitat
- Agreed-upon process for dealing with conservation concerns



Resources:

Fisheries

- Right to harvest for food, social & ceremonial purposes:
 - Specified harvest levels for sockeye and chinook salmon
 - Harvest levels may be set for freshwater fish, if necessary
- Minister will retain authority to manage & conserve fish and fish habitat in a manner consistent with the Final Agreement
- Harvest Agreement (*issue*):
 - Outside treaty
 - Specified harvest level for sockeye salmon



Resources:

Fisheries

- Provisions for LT harvest of surplus salmon
- Management through:
 - Annual fishing/harvesting plans
 - Joint Fisheries Committee
 - LT participation in regional advisory management processes
 - Operational guidelines



Governance

Includes:

- *Governance*
- *Local & Regional Government Relationships*
- *Culture and Heritage*



Governance:

Governance

- Governance for LT will be achieved through a variety of means including the powers and rights set out in the Final Agreement and in a Governance Agreement
- The Final Agreement will provide for:
 - LT Constitution: open, accountable and democratic government
 - LT Government: elected LT representatives and at least 1 elected non-LT citizen resident on LT Lands



Governance:

Governance *(continued)*

- LT laws to be made public
- A process for consultation and participation by non-LT residents on LT Lands over matters that may directly affect them
- The establishment of appeal processes
- Federal and provincial laws to apply concurrently with LT laws on LT Lands



Governance:

Governance *(continued)*

- LT Government to have law-making authority on LT Lands over areas such as:
 - Access
 - Management and planning
 - Management of resources
 - Environmental Protection and Assessment
 - Culture and Heritage
 - LT harvest of Fish, Wildlife and Migratory Birds within the LT Area
- AIP provides for which law prevails in the event of a conflict



Governance:

Governance *(continued)*

- The Governance Agreement will be separate from the Final Agreement and will not be constitutionally protected
- The Governance Agreement may provide for:
 - a range of law-making authorities including education, health, child and family services, housing and enforcement of LT laws
 - provisions respecting fiscal relations



Local and Regional Government Relationships

- LT Citizens will continue to have the right to vote in municipal and regional government elections and referenda
- LT Government may participate in and coordinate activities and services with other local governments



Governance:

Culture and Heritage

- LT artifacts on LT Lands belong to the LT
- The disposition of artifacts found outside LT Lands will be negotiated outside the treaty by the relevant parties
- Specified sites of cultural and historical significance may be designated under the *Heritage Conservation Act* and named with Carrier names



Fiscal

- Including the following chapters:
 - *Fiscal Relations*
 - *Capital Transfer and Negotiation Loan Repayment*
 - *Taxation*
 - *Implementation*



Fiscal:

Fiscal Relations

- AIP will contain provisions to guide the Parties in negotiating fiscal agreements outside of treaty
- Fiscal Agreement will:
 - be of limited duration, typically 5 years, renewable
 - set out the funding for agreed upon programs and services
 - LT contribution to cost of LT Government
 - address financial accountability

Fiscal:

Capital Transfer and Negotiation Loan Repayment

- AIP will set out a capital transfer to LT
- The transfer of capital, including cash, would:
 - not be taxable
 - be paid out over a number of years
 - be separate from funding for programs and services
- Provisions for repayment of negotiation loans



Fiscal:

Taxation

- Direct tax authority on LT Lands over LT citizens
- LT may negotiate other taxation agreements with Canada and BC
- *Indian Act* tax exemptions would no longer apply for LT citizens (*issue*)
- Additional taxation clauses remain to be negotiated



Fiscal:

Implementation

- The Parties will conclude an implementation plan prior to the Final Agreement
- The implementation plan will not be constitutionally protected