

Ministry of Aboriginal Affairs, Province of British Columbia

LAKE BABINE NATION

FRAMEWORK AGREEMENT

This Framework Agreement initialled January 30, 1998.

BETWEEN:

THE LAKE BABINE NATION as represented by the Chief and Council and representatives of Likh c' ibu Clan (Bear Clan), Likh tsa mis xu Clan (Beaver Clan), Jilh tsekh xu Clan (Frog Clan) and Gilanton Clan (Caribou Clan) of the Lake Babine Nation. ("Lake Babine Nation")

AND:

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA as represented by the Minister of Aboriginal Affairs ("British Columbia")

(collectively the "Parties")

Initialled by:

Lake Babine Nation

Canada

British Columbia

WHEREAS:

- A. The British Columbia Treaty Commission (BCTC) has accepted the Lake Babine Nation as a First Nation as defined in the BCTC Agreement and the Parties have met BCTC requirements to commence Framework Agreement negotiations.
- B. The Constitution Act, 1982, recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada, and treaty rights include rights that now exist by way of land claims agreements or that may be so acquired.
- C. The Parties acknowledge the significant contributions of the Lake Babine Nation to the history and culture of Canada and Northern British Columbia.
- D. The Parties are committed to conducting negotiations of a treaty in accordance with a government to government relationship, within the framework of the Constitution of Canada and under the BC Treaty Process. The Parties are committed to negotiating self-government within their respective policies. The perspective of each Party on self-government will not limit or restrict the position on self-government that the other Parties may take.
- E. The Parties seek to achieve certainty by negotiating and implementing a treaty that will accommodate and reconcile the interests of the Parties and that will establish the foundation for a new and ongoing relationship based on mutual benefit, respect and understanding. During Agreement-in-Principle negotiations, the Parties will address the method by which certainty will be achieved. Furthermore, the Parties seek to provide the

method by which certainty with respect to ownership and use of lands and resources, and clarity with respect to jurisdiction and governance arrangements.

F. The Lake Babine Nation asserts that it has rights pursuant to a treaty (referred to by the Lake Babine Nation as the "Barricades Treaty") and will negotiate from this perspective. Canada asserts that no such treaty exists and if there was an agreement concluded, any rights and obligations pursuant to it are exhausted.

G. Canada appreciates the importance to the Lake Babine Nation of the issue referred to by the Lake Babine Nation as the "Barricades Treaty", and has committed to negotiations on fisheries matters with the Lake Babine Nation as a priority in these negotiations. The Parties agree that these negotiations should enable the Parties to develop an understanding of each other's interests and to explore in detail options for a fisheries Sub-Agreement which reflects those interests. The Lake Babine Nation asserts that the Barricades Treaty is of central importance to the Lake Babine Nation in the negotiation of an Agreement-in-Principle and implementation of a Final Agreement.

H. Canada affirms its respect for the Lake Babine Nation's right to pursue the issue referred to by the Lake Babine Nations as the "Barricades Treaty" in court should treaty negotiations be unsuccessful.

I. By agreement dated the 17th day of April, 1996 entitled "Protocol Regarding the Openness of the Lake Babine Nation Treaty Process", the Parties have agreed to the extent and format of all aspects of public consultation, and the communication of information to interested and affected members of the public.

1. Definitions

1.1 "Agreement-in-Principle" means the agreement approved as evidenced by signature of the Parties at the end of Stage IV of the BC Treaty Process, and it is comprised of various Sub-Agreements and other provisions as agreed; the Agreement-in-Principle is not intended to constitute a treaty or land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

1.2 "BCTC" means the British Columbia Treaty Commission.

1.3 "BCTC Agreement" means the British Columbia Treaty Commission Agreement executed by the First Nations Summit, Canada and British Columbia dated September 21, 1992 and amendments.

1.4 "BC Treaty 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.

1.5 "Chief Negotiator(s)" means the negotiator(s) appointed by each of the Parties, or his or her designate, for the treaty negotiations contemplated by the BC Treaty Process.

1.6 "Final Agreement" means the agreement ratified and signed by the Parties at the end of Stage V of the BC Treaty Process.

1.7 "Lake Babine Nation" is the registered name under the Indian Act of what was formerly known as the Lake Babine Band and for the purposes of the BC Treaty Process has been accepted as a First Nation by the BCTC.

1.8 "Main Table" means the table at which negotiations are conducted among the three Parties only at which each Party is represented by its Chief Negotiator(s) or their designates.

1.9 "Overlap" means a geographic area within the Territory claimed by a First Nation other than the Lake Babine Nation.

1.10 "Sub-Agreement(s)" means a part or parts of an Agreement-in-Principle detailing the agreement on one or more of the substantive issues negotiated.

1.11 "Territory" means the geographic areas identified by the Lake Babine Nation as its traditional territory on the map submitted in conjunction with the Lake Babine Nation Statement of Intent filed with BCTC or as amended and accepted by the BCTC.

2. Purpose

2.1 The purpose of this Framework Agreement is to promote efficient, effective, and orderly negotiations leading to completion of the Agreement-in-Principle stage and Final Agreement stage of the BC Treaty Process. This Framework Agreement guides the approach to and the process of negotiations among the Parties; identifies the scope of negotiations; and establishes an agenda and a timetable for the negotiations.

3. Scheduling and Timing

3.1 The Parties will negotiate with the intention of concluding an Agreement-in-Principle with respect to the substantive issues listed in section 5.1 with 84 months from the date of execution of this Framework Agreement.

4. Parties

4.1 The only Parties to the negotiations, the Agreement-in-Principle and resulting agreements will be the Lake Babine Nation, Canada, and British Columbia.

5. Substantive Issues For Negotiation

5.1 A list of the substantive issues which the Parties intend to address in the negotiations is set out below. The list is not intended to be exhaustive and may be amended in writing by agreement of the Chief Negotiators during negotiation of the Agreement-in-Principle or Final Agreement. Each Party may raise a broad range of components of negotiation under each substantive issue:

5.1.1 General Provisions including:

- (I) Eligibility
- (II) Enrollment
- (III) Ratification
- (IV) Certainty
- (V) Amendment Procedures
- (VI) Dispute Resolution
- (VII) Implementation

5.1.2 Land including:

- (I) Quantum and Selection
- (II) Tenure
- (III) Existing Reserve Lands
- (IV) Access and use
- (V) Expropriation
- (VI) Foreshore and submerged lands
- (VII) Parks and protected areas
- (VIII) Riparian Issues/Riparian Rights
- (IX) Subsurface ownership and management

5.1.3 Land and Planning including:

- (I) Land Management
- (II) Use and occupation of airspace

5.1.4 Environmental management including:

- (I) Environmental Assessment and Protection
- (II) Pollution and Air Quality

5.1.5 Resources and resource management including:

- (I) Forests

- (II) Minerals
- (III) Fish
- (IV) Wildlife/trapping
- (V) Flora and medicinal plants
- (VI) Water

5.1.6 Language, Heritage and Culture including:

- (I) Protection of sites and artifacts
- (II) Repatriation of artifacts and cultural property
- (III) Traditional place names
- (IV) Preservation, promotion, and development of Lake Babine Nation and culture and language
- (V) Use and Ownership of cultural and intellectual property. For greater certainty, Canada does not agree to negotiate jurisdiction with respect to intellectual property

5.1.7 Governance including:

- (I) Authority and Jurisdiction, including - Health and Social Services - Family and Child Welfare - Education and Training - Administration of Justice - Housing
- (II) Conflict of laws
- (III) Intergovernmental relations

5.1.8 Fiscal arrangements and economic development including:

- (I) Resource Revenues and royalties
- (II) Financial Transfers
- (III) Taxation

5.1.9 Financial component including:

- (I) Cash component
- (II) Cash equivalent benefits
- (III) Tax treatment of treaty proceeds
- (IV) Schedule of payment

5.2 Identification by the Parties of the substantive issues outlined in section 5.1 will not be used by any Party during Agreement-in-Principle negotiations so as to limit the exploration of interests under each issue.

5.3 The Parties will address the issue of implementation during negotiations of the substantive issues referred to in section 5.1.

5.4 The inclusion or negotiation of a substantive issue referred to in section 5.1 does not commit any of the Parties to conclude an agreement on that issue, or any component of that issue.

5.5 The Parties agree that entering into the BC Treaty Process does not preclude resolution of other issues in other venues.

5.6 The Parties agree that there may be substantive issues or elements of substantive issues that require regional and/or province-wide discussions and/or negotiations.

5.6.1 The determination of the need for and the approach to dealing with any substantive issue or element thereof pursuant to section 5.6 will be addressed by the Parties during Agreement-in-Principle negotiations.

5.6.2 For greater certainty, further negotiation of such issues or inclusion of the results of such regional and/or province-wide discussions and/or negotiations in the Agreement-in-Principle will be as set out in section 6 of this Framework Agreement.

5.7 The issue of constitutional protection of matters negotiated will be addressed prior to conclusion of the 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:

6.2.1 Managing the negotiation process including the development of work plans and the setting of priorities;

6.2.2 Establishing side tables, working groups and other processes, as agreed;

6.2.3 Implementing the Principles For Information Sharing Among Parties During Lake Babine Nation Treaty Negotiations, dated April 17, 1996.

6.2.4 Implementing the Protocol Regarding The Openness Of The Lake Babine Nation Treaty Process, dated April 17, 1996.

6.2.5 Implementing the procedures outlined in Stage Four Procedures Agreement For The Lake Babine Nation Treaty Negotiations, so long as those procedures are consistent with this Framework Agreement.

6.2.6 Implementing dispute resolution mechanisms, as agreed; and

6.2.7 Negotiating and, where an agreement is reached, concluding an Agreement-in-Principle and a Final Agreement.

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 or deleting provisions, as necessary.

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

6.6 Any Chief Negotiator may request that any initialled Sub-Agreements or the initialled Agreement-in-Principle may only be amended by agreement in writing of the Chief Negotiators.

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

6.8 After signing the Agreement-in-Principle, the Parties will develop a timetable for concluding a Final Agreement and will negotiate with the intention of concluding a Final Agreement based on the Agreement-in-Principle.

6.9 Any protocol or procedural agreement referred to in this Framework Agreement, and the initialling procedures set out in sections 6.3 to 6.6 of this Framework Agreement, may be amended by agreement in writing of the Chief Negotiators.

7. Overlapping Claims

7.1 The Parties accept recommendation eight of the British Columbia Claims Task Force Report that: "First Nations resolve issues relating to overlapping traditional territories among themselves. "The Lake Babine Nation is committed to resolving any issues resulting from Overlaps Claims which may affect the conclusion of a Final Agreement.

7.2 Where Canada and British Columbia are engaged in active negotiations under the BC Treaty Process with First Nations bordering the Territory, Canada and British Columbia will periodically report to the Main Table on the status of those negotiations. The Lake Babine Nation will also periodically report to the Main Table on the status of its Overlap negotiations with the other First Nations.

7.3 If the lack of resolution related to Overlaps is found to be interfering with the successful conclusion of the treaty negotiations among the Parties, the Lake Babine Nation will consider other options to resolve the Overlaps, including seeking assistance from the BCTC.

8. Negotiation Funding

8.1 Each Party will be responsible for obtaining funding for its participation in the negotiation process. The Parties acknowledge that the British Columbia Claims Task Force made the following recommendation:

“The First Nations, Canada and British Columbian negotiating teams be sufficiently funded to meet the requirements of the negotiations.”

9. Interpretation

9.1 The Parties acknowledge that the BC Treaty Process is voluntary and that this Framework Agreement is not legally binding.

9.2 Nothing in this Framework Agreement is intended to define, create, recognize, deny, or amend any rights or obligations of the Parties.

9.3 This Framework Agreement is not intended to constitute a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

9.4 The treaty negotiations and all related documents, except for a Final Agreement that is in effect, are without prejudice to the legal positions taken by any of the Parties in court proceedings or any other forum.

9.4.1 No statement made or document prepared by one or more of the Parties for the purpose of treaty negotiations shall be construed as an admission of fact or liability in court proceedings or any other forum.

9.4.2 For greater certainty, the Parties agree that section 9.4 does not determine the enforceability of any agreement between any of the Parties or the admissibility of any such agreement in any proceeding to enforce that agreement.

10. Approval of this Framework Agreement

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

10.2 The Parties will signify their approval of this Framework Agreement by the signature of their authorized representative(s).

10.3 The Chief of Lake Babine Nation and representatives of Likh c' bu (Bear Clan), Likh tsa mis xu (Beaver Clan), Jilh tsekx xu (Frog Clan), and Gilanton Clans (Caribou Clan) together are authorized to sign this Framework Agreement on behalf of the Lake Babine Nation.

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

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

11. Amendments

11.1 Except as otherwise provided in this Framework Agreement, this Framework Agreement may only be amended by agreement of the Parties in writing.

12. Interim Measures

12.1 The Parties may negotiate and enter into interim measures agreements during treaty negotiations when an interest is being affected which could undermine the process or in order to protect provisions already agreed

upon at the negotiation table.

13. Government Programs

13.1 During the negotiation process, the rights and benefits of Lake Babine Nation members who are citizens of Canada and residents of British Columbia will continue to be the same as the other citizens of Canada and residents of British Columbia.

13.2 During the negotiation process, the Lake Babine Nation and its members 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 organizations in accordance with the criteria established from time to time for the application of those programs and services.

14. Dispute Resolution

14.1 Where appropriate, the Parties will endeavour to resolve disputes which may arise in the course of negotiations by utilizing agreed upon dispute resolution methods.

15. Suspension of Negotiations

15.1 Should any of the Parties decide to suspend the negotiations contemplated by this Framework Agreement, the Party suspending will provide written confirmation, which sets out the reasons for the suspension and the commencement date, to the other Parties and to the BCTC.

15.2 Where appropriate, prior to a Party exercising its right to suspend negotiations under section 15.1, the Parties will make all reasonable efforts to enter into appropriate methods of dispute resolution.

15.3 If a Party suspends negotiations under section 15.1, the Chief Negotiators and their advisors are committed to attending one meeting to thoroughly explore the possibility of resolving the issues leading to the suspension in negotiations, as those issues relate to treaty negotiations. If the Parties agree, the assistance of the BCTC or an independent facilitator may be requested for this meeting.

THIS FRAMEWORK AGREEMENT is agreed to at Woyenne in the Province of British Columbia by:

Signed on behalf of the Lake Babine Nation as represented by its Chief and Council:

Chief Betty Patrick Lake Babine Nation

Signed on behalf of the Lake Babine Nation as represented by Clan representatives:

Likh c'ibu Clan (Bear Clan) Spokesman
Likh tsa mis xu Clan (Beaver Clan) Spokesman
Jilh tsekh xu Clan (Frog Clan) Spokesman
Gilanton Clan (Caribou Clan) Spokesman

Signed on behalf of Her Majesty the Queen in Right of British Columbia:

The Honourable John Cashore Minister of Aboriginal Affairs

Signed on behalf of Her Majesty the Queen in Right of Canada:

The Honourable Jane Stewart Minister of Indian Affairs and Northern Development

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