

DEH CHO FIRST NATIONS FRAMEWORK AGREEMENT



Cover: Youth of the Deh Cho courtesy of the Deh Cho First Nations

Back to Front (l-r) Gregory Cazon, Liam Hardisty, Dustin Whelly, Joe Gargan, Myles Sibbeston, Beth Jumbo, Kurt Tsetso, Shermayne Menicoche-Moses, Jasmine Hardisty, Christie Hopson, Jessica Jumbo, Calen Hardisty, Brendan Whelly, Jordan Isaiah, Tonya & Ethan Moreau-Betsaka, Michael & Clinton Kraus, Charlene Deneyoua, Trish Isaiah, Hillary Deneyoua.

THE DEH CHO FIRST NATIONS FRAMEWORK AGREEMENT

among

**THE DEH CHO FIRST NATIONS
as represented by
the Deh Cho First Nations Grand Chief**

and

**THE GOVERNMENT OF CANADA
as represented by
the Minister of Indian Affairs and Northern Development
("Canada")**

and

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES
as represented by
the Minister Responsible for Aboriginal Affairs
("the GNWT")**

- WHEREAS the Deh Cho First Nations of the Dene Nation assert that the Deh Cho territory has been their traditional territory since time immemorial;
- WHEREAS the Deh Cho First Nations represent the Deh Cho Dene and Metis of the Deh Cho territory;
- WHEREAS the ancestors of the Deh Cho First Nations and the Crown entered into Treaty 8 in 1900, and Treaty 11 in 1921 and 1922;
- WHEREAS the Deh Cho First Nations and the Crown disagree on the interpretation of Treaties 8 and 11;
- WHEREAS the negotiations pursuant to this Framework Agreement are not intended as a renegotiation of Treaties 8 and 11;
- WHEREAS Canada recognizes that the inherent right of self-government is an existing aboriginal right recognized and affirmed by s.35 of the *Constitution Act, 1982*;
- WHEREAS the members of the Deh Cho First Nations are Aboriginal people within the meaning of section 35 of the *Constitution Act, 1982*;
- WHEREAS the Deh Cho First Nations, Canada and the GNWT agree to negotiate on a government to government basis within the framework of the Constitution of Canada;
- WHEREAS the Parties agree to negotiate in order to set out land, resources, and governance rights to apply in the Deh Cho territory;
- WHEREAS a Deh Cho final agreement is in the interest of all Canadians; and
- WHEREAS the Parties intend to conduct their negotiations in accordance with this framework agreement;

NOW THEREFORE, the Parties agree as follows:

1 DEFINITIONS

1.1 In this framework agreement,

"Chief Negotiator" means the person designated by each party as the Chief Negotiator;

"Certainty" means the objective of the provisions in the Deh Cho Final Agreement which clarify rights, title, roles, responsibilities and jurisdictions of the parties.

"Deh Cho agreement-in-principle" means the collection of provisions initialed by the Chief Negotiators, and signed by the Parties, referred to in 5.2.

"Deh Cho final agreement" means the land, resources and governance provisions accepted by the Parties which may be given effect through a variety of mechanisms including the final agreement, legislation, contracts and memoranda of understanding.

"Deh Cho territory" means the traditional land use area as asserted by the Deh Cho First Nations and as shown on the map attached as Appendix A.

"The Parties" means the Deh Cho First Nations, Canada and the GNWT.

2 OBJECTIVE OF NEGOTIATIONS

2.1 The objective of negotiations is to complete a Deh Cho final agreement which clarifies and builds upon the existing Treaties by:

- (a) implementing a Deh Cho government which will:
 - i make laws and deliver programs and services;
 - ii be a public government based upon Deh Cho First Nations laws and customs and other Canadian laws and customs;
 - iii be the primary government for the delivery of programs and services to residents of the Deh Cho territory within the Northwest Territories;
- (b) describing intergovernmental relationships and jurisdictions;
- (c) providing for certainty and clarity of rights respecting land, resources and governance; and
- (d) providing for the use, management and conservation of land, water and other resources, including wildlife, fish and their habitat in the Deh Cho territory.

3 ROLES OF THE PARTIES

- 3.1 The Parties recognize and respect the bilateral relationship between the Deh Cho First Nations and the Crown through Treaties 8 and 11.
- 3.2 Prior to beginning negotiations on any subject matter, the Parties will make a presentation of their interests. Roles of the Parties will be determined on the basis of the subject matter and the interests presented.
- 3.3 The Parties acknowledge that the roles of Canada and the GNWT will vary depending on the nature of the subject matter and area of jurisdiction or authority being discussed.
- 3.4 Where matters respecting the provisions of Treaties 8 and 11 arise during negotiations, they will be discussed and concluded on a bilateral basis between the Deh Cho First Nations and Canada, with the GNWT as an observer.

4 SUBJECT MATTERS FOR NEGOTIATION

- 4.1 The following are subjects which the Parties intend to address in their negotiations. The list is not intended to be restrictive and each of the Parties may raise a broad range of topics for negotiations under each subject. Further, any party may raise for discussion any subject matter in addition to the matters listed:
 1. Settlement area and tenure of land (Deh Cho territory);
 2. Legal status and capacity of Deh Cho government;
 3. Constitution of Deh Cho government;
 4. Models of governance;
 5. Intergovernmental relationships;
 6. Deh Cho government liability;
 7. Deh Cho First Nations citizenship and eligibility;
 8. Natural resources management, including land use planning;
 9. Environmental matters;
 10. Forestry;
 11. Wildlife harvesting and management;
 12. Fisheries harvesting and management;
 13. Education and training;
 14. Social services;
 15. Child welfare, guardianship and adoption;
 16. Health;
 17. Housing;
 18. Heritage resources;

19. Enforcement and adjudication of laws;
 20. Gaming;
 21. Wills and estates;
 22. Economic development;
 23. Taxation;
 24. Resource revenues, including resource royalties;
 25. Deh Cho First Nations language and culture;
 26. Transportation;
 27. Public Works;
 28. Dispute resolution;
 29. Financial payments;
 30. Review and amendment process;
 31. Ratification;
 32. General provisions;
 33. Clarification of rights (certainty in relation to s.35 rights);
 34. Access;
 35. Expropriation;
 36. Hay River Reserve;
 37. National Parks;
 38. Protected areas;
 39. Constitutional protection for elements of the final agreement;
 40. Fiscal arrangements for self-government;
 41. Implementation and transitional arrangements;
 42. Overlaps and rights of other Aboriginal people; and
 43. Dene Nation and Metis Association loans;
- 4.2 This framework agreement does not constitute a commitment by any party to reach agreement on all or any of the subject matters in 4.1, nor to agree to all or any provisions proposed in relation thereto.
- 4.3 Canada and the Deh Cho First Nations will explore options and identify processes for addressing transboundary issues in respect of the Deh Cho territory located outside the Northwest Territories.

5 APPROVAL PROCESS

Initialing Process

- 5.1 (a) To signify that negotiations with respect to a subject matter are substantially complete, the Chief Negotiators shall initial the provisions.
- (b) The Deh Cho Chief Negotiator will not initial provisions until instructed to do so by the Deh Cho leadership.
- (c) The initialed provisions may be reconsidered and amended and, if amendments are agreed to, the process in (a) will apply to the amended provisions.
- (d) Except for amendments which are minor or technical, the initialing of provisions shall be done at a meeting in the Deh Cho territory.

Approval of the Deh Cho agreement-in-principle

- 5.2 (a) Once all the provisions have been initialed, the Chief Negotiators may review and organize the package into an agreement-in-principle for legal and technical review and possible amendments.
- (b) When the process in (a) is complete, the Chief Negotiators will initial the agreement-in-principle. They shall submit it to their principals and recommend its acceptance by them.
- (c) The Deh Cho agreement-in-principle will be complete once it has been accepted and signed by the Parties.

Approval of the Deh Cho final agreement

- 5.3 (a) After the Deh Cho agreement-in-principle has been completed, the Parties will work towards completion of the Deh Cho final agreement based on, and in the manner set out in, the Deh Cho agreement-in-principle.
- (b) The Deh Cho final agreement will be complete once it has been ratified by the Parties in the manner set out in the final agreement.

6 SCHEDULING AND TIMING

- 6.1 The Parties will use their best efforts to reach a Deh Cho agreement-in-principle with respect to the subjects listed in section 4 within five years from the date of execution of this framework agreement.
- 6.2 Upon approval of the Deh Cho agreement-in-principle, the Parties will negotiate towards a Deh Cho final agreement based upon the Deh Cho agreement-in-principle.
- 6.3 The Parties will use their best efforts to reach a Deh Cho final agreement within two years from the signing of the Deh Cho agreement-in-principle.
- 6.4 A schedule will be prepared for the negotiation of the subject matters in section 4.

7 OPENNESS AND PUBLIC AWARENESS

- 7.1 The Parties agree that the negotiations will take place in an open and transparent manner.
- 7.2 The Parties agree that the public should be knowledgeable and well informed regarding the general status, aims, objectives and progress of the negotiations. To that end, the Parties will together develop and implement a program of public information and consultation and will attend meetings with such individuals, groups or organizations as they may jointly agree will assist in the process of building public consensus.
- 7.3 The Parties may, separately, carry out such additional consultation and communications initiatives as they see fit, including to obtain a broad range of input and consensus.
- 7.4 Notwithstanding the desire to keep the public informed, the Parties may agree that details of positions and documents exchanged or developed by the Parties during negotiations will be confidential. In such an event those details or documents shall not be disclosed except as required by law.
- 7.5 The Parties commit to educating each other throughout the process of negotiations.

8 THE NEGOTIATIONS PROCESS

- 8.1 The Parties commit to a process that fosters an open exchange of ideas, the frank discussion of interests that underlie positions and the joint analysis of problems. As a general principle, informal discussions are encouraged and statements, whether written or oral, will be without prejudice and will not be attributable to the party making them. It is recognized that from time to time statements may be qualified as being positions.
- 8.2 The Parties agree that it is desirable that the negotiations proceed at a pace which allows for the people of the Deh Cho territory, and particularly the Elders, to remain fully informed and involved in the process. To this end, while the Parties agree that the negotiations should proceed as expeditiously as possible, they also agree that the negotiations may proceed in stages toward agreement on priority agenda items.
- 8.3 Subject to 8.2, the Chief Negotiators may establish ad hoc working groups to research and report on specific issues or concerns as they deem fit. Working groups may be established to address issues which have particular importance to a particular community or communities including boundary and overlap issues. Any such working groups will report to the main negotiations table.
- 8.4 Unless otherwise agreed to by the Chief Negotiators, the negotiating sessions will take place in the Deh Cho territory.
- 8.5 (a) When sessions are held in the Deh Cho territory, the Deh Cho First Nations will host the negotiations;
- (b) If sessions are held outside the Deh Cho territory, Canada will host the negotiations;
- (c) If sessions are held in Yellowknife, the GNWT may host the negotiations.
- 8.6 Unless otherwise agreed to by the Chief Negotiators, the negotiating sessions will not be formally chaired.
- 8.7 Should an impasse in negotiations be reached, any party may request facilitation. The Parties shall equally share the costs of facilitation.

9 FUNDING

- 9.1 Canada undertakes to provide funding to the Deh Cho First Nations to finance the costs of their participation in the negotiations according to Canada's funding policies and initiatives related to land, resources and self-government negotiations and subject to yearly appropriations of funds by Parliament for this purpose. The budget for the Deh Cho First Nations' participation will be established on submission of annual joint work plans that set out mutually-agreed upon milestones.
- 9.2 Before the Deh Cho final agreement is completed an implementation plan shall be developed by the Parties that will provide bridge funding for specific activities that will occur after the signing of the Deh Cho Final Agreement, but before it comes into effect.

10 INTERPRETATION OF THIS AGREEMENT

- 10.1 Nothing in this framework agreement is to be interpreted as creating, recognizing or denying rights or obligations, including funding obligations, on the part of any of the Parties.
- 10.2 All negotiations pursuant to this framework agreement and all related documents, except for the Deh Cho final agreement once it has been brought into effect, are without prejudice to the legal position taken by the Parties in any legal proceeding and shall not be construed as admissions of fact or liability.
- 10.3 This framework agreement is not legally binding and is without prejudice to the legal positions of the Parties.

11 AMENDMENT

- 11.1 This framework agreement may be amended with the written consent of the Parties.

Signed at Fort Simpson, Northwest Territories, this 23 day of May, 2001.

For the Deh Cho First Nations

For Canada

For the GNWT

Michael Nadli
Grand Chief

The Hon. Robert Nault
Minister of Indian Affairs and
Northern Development

The Hon. Jim Antoine
Minister Responsible for
Aboriginal Affairs

Witness

Witness

Witness