

DRAFT

NUU-CHAH-NULTH

AGREEMENT-IN-PRINCIPLE

March 10, 2001

Initialed by the Chief Negotiators to signify their intent to recommend the draft Nuu-chah-nulth Agreement-in-Principle dated March 10th, 2001 for approval in accordance with the process set out in the Approval of the Agreement-in-Principle Chapter of the Nuu-chah-nulth Agreement-in-Principle.

FOR THE NUU-CHAH-NULTH TRIBAL COUNCIL:

Initialed in Port Alberni, British Columbia, this 10th day of March, 2001.

Archie Little,
Co-Chief Negotiator

Nelson Keitlah,
Co-Chief Negotiator

Witnessed by:
Cliff Atleo, Ahousaht

Witnessed by:
Sharon Doucet, Ehattesaht

Witnessed by:
Richard Lucas, Hesquiaht

Witnessed by:
Robert Dennis, Huu-ay-aht

Witnessed by:
Peter Hansen, Ka:'yu:'k't'h'/Che:k'tles7et'h' Mike Maquinna, Mowachaht/Muchalaht

Witnessed by:

Witnessed by:
Tom Smith, Nuchatlaht

Witnessed by:
Bert Mack, Toquaht

Witnessed by:
Moses Martin, Tla-o-qui-aht

Witnessed by:
George Watts, Tseshah

Witnessed by:
Charlie Cootes, Uchucklesaht

Witnessed by:
Larry Baird, Ucluelet

FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA:

Initialed in Port Alberni, British Columbia, this 10th day of March, 2001.

Eric Denhoff
Chief Federal Negotiator

Witnessed by:
John Watson, Regional Director General
Department of Indian Affairs and Northern
Development

Robin Dodson
Chief Federal Negotiator (Fisheries)

FOR HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA:

Initialed in Port Alberni, British Columbia, this 10th day of March, 2001.

Trevor Proverbs
Chief Provincial Negotiator

Witnessed by:
Honourable Gerard Janssen
MLA, Alberni
Minister of Small Business, Tourism and
Culture

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PREAMBLE

WHEREAS Nuu-chah-nulth are aboriginal people of Canada;

WHEREAS section 35 of the *Constitution Act, 1982* recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada and the courts have stated that aboriginal rights include aboriginal title;

WHEREAS the courts have stated that reconciliation of the prior presence of aboriginal people and the assertion of sovereignty by the Crown is best achieved through negotiation and agreement rather than through litigation;

WHEREAS the Parties intend to negotiate a Final Agreement to provide a basis for this reconciliation and to provide a basis for a new relationship;

WHEREAS the negotiations of this Agreement have been conducted in an atmosphere of mutual respect and openness;

WHEREAS the Parties have negotiated this Agreement under the British Columbia Treaty Commission process;

WHEREAS the Parties desire certainty in respect of Nuu-chah-nulth ownership and use of lands and resources, Nuu-chah-nulth law-making authority and the relationship of Federal Laws, Provincial Laws and Nuu-chah-nulth Laws; and

WHEREAS this Agreement sets out the principles agreed to by the Parties as the basis for negotiating a Final Agreement,

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

CHAPTER 1 - DEFINITIONS

In this Agreement,

“Agreement” means this Agreement-in-Principle.

“Allocation” means

- a) in respect of a right to harvest Fish and Aquatic Plants:
 - i) a defined harvest quantity or quota;
 - ii) a formula defining a harvest quantity or quota; or
 - iii) a defined harvest area, within the Nuu-chah-nulth Domestic Fishing Area, and
- b) in respect of a right to harvest Wildlife or Migratory Birds:
 - i) a defined harvest quantity or quota; or
 - ii) a formula defining a harvest quantity or quota,

set out in the Final Agreement or in any Nuu-chah-nulth Harvest Agreement, as applicable.

“Annual Wildlife Harvest Plan” means the Annual Wildlife Harvest Plan described in the Wildlife and Migratory Birds Chapter.

“Aquatic Plants” includes all benthic and detached algae, brown algae, red algae, green algae, golden algae and phytoplankton, and all marine and freshwater flowering plants, ferns and mosses, growing in water or in soils that are saturated during most of the growing season.

“Available Flow” means the volume of flow of water above that required:

- a) to ensure conservation of Fish, Wildlife Fish and stream habitats and to continue navigability as determined by the Minister in accordance with Federal and Provincial Laws and policies and in accordance with the provisions of the Final Agreement; and
- b) under water reservations and water licences existing as of the date of this Agreement, and water licences applied for prior to the date of this Agreement.

“Capital Transfer” means an amount paid by Canada or British Columbia to Nuu-chah-nulth or a Nuu-chah-nulth First Nation under the Capital Transfer and Negotiation Loan Repayment Chapter.

“Conflict” means where compliance with one law or requirement would result in a breach of another law or requirement.

“Consult” and **“Consultation”** mean provision to a party of:

- a) notice of a matter to be decided, in sufficient detail to permit the party to prepare its views on the matter;
- b) in Consultations between the Parties to the Final Agreement, if requested by a Party, sufficient information in respect of the matter to permit the Party to prepare its views on the matter;
- c) a reasonable period of time to permit the party to prepare its views on the matter;
- d) an opportunity for the party to present its views on the matter; and
- e) a full and fair consideration of any views on the matter so presented by the party.

“Crown” means Her Majesty the Queen in right of Canada or Her Majesty the Queen in right of British Columbia, as the case may be.

“Crown Corridors” means Provincial Roads, Public Utility corridors, and federal roads within Nuu-chah-nulth First Nation Lands.

“Domestic Purposes” means food, social and ceremonial purposes.

“Effective Date” means the date upon which the Final Agreement takes effect.

“Enhancement Initiatives” means an initiative that is intended to result in an increase in fish stocks through:

- a) an artificial improvement to fish habitat; or
- b) the application of fish culture technology.

“Federal Law” means federal statutes, regulations, ordinances, Orders-in-Council, and the common law.

“Final Agreement” means the agreement among Nuu-chah-nulth, Canada and British Columbia which will be negotiated based on this Agreement.

“First Nation Funding Agreements” means any agreement respecting loan funding allocated to the Nuu-chah-nulth Tribal Council by Canada directly, or through the British Columbia Treaty Commission or by British Columbia Treaty Commissioners.

“Fish” means:

- a) fish;
- b) shellfish, crustaceans and marine animals;
- c) the parts of fish, shellfish, crustaceans, and marine animals; and
- d) the eggs, sperm, spawn, larvae, spat, juvenile stages and adult stages of fish, shellfish, crustaceans and marine animals,

but does not include Wildlife Fish.

“Forest Resources” means all Timber Resources and Non-timber Resources, including all biota, but does not include Wildlife, Migratory Birds, water, Fish and Aquatic Plants.

“Gravel” means gravel, rock, random borrow materials and sand.

“Heritage Site” means a heritage site as defined by federal or provincial legislation, and includes archaeological, burial, historical, and sacred sites.

“Income Tax Act” means the *Income Tax Act*, S.C. 1985 (5th Supp.) c. 1.

“Income Tax Act (British Columbia)” means the *Income Tax Act*, R.S.B.C. 1996, c. 215.

“Intellectual Property” includes any intangible property right resulting from intellectual activity in the industrial, scientific, literary or artistic fields, including, but not limited to, any rights relating to patents, copyrights, trademarks, industrial designs, or plant breeders’ rights.

“Migratory Birds” means migratory birds as defined under federal legislation enacted further to international conventions that are binding on British Columbia, and for greater certainty, includes the eggs of those birds.

“Minister” means the federal or provincial Minister having responsibility, from time to time, for the exercise of powers in relation to the matter in question, and any person with authority to act in respect of the matter in question.

“Non-timber Resources” means all Forest Resources other than Timber Resources.

“Nuu-chah-nulth” means the collectivity of those aboriginal people who will be eligible to be enrolled under the Final Agreement and who collectively comprise the 12 Nuu-chah-nulth First Nations that will sign the Final Agreement, namely: Ka:’yu:’k’t’h’/Che:k’tles7et’h’ Nation, Ehattesaht, Nuchatlaht First Nation, Mowachaht/Muchalaht, Hesquiaht First Nation, Ahousaht, Tla-o-qui-aht First Nations, Ucluelet First Nation, Toquaht Nation, Tseshaht, Uchucklesaht Tribe, and Huu-ay-aht First Nation.

“Nuu-chah-nulth Annual Fish Plan” means a plan described in the Fisheries Chapter, as modified or adjusted in season.

“Nuu-chah-nulth Area” means the area of land identified in the map attached to the most recent statement of intent filed with the British Columbia Treaty Commission by the Nuu-chah-nulth Tribal Council, and attached as Appendix A.

“Nuu-chah-nulth Artifact” means any object created by, traded to, commissioned by, or given as a gift to a Nuu-chah-nulth person or Nuu-chah-nulth First Nation, or that originated from a Nuu-chah-nulth First Nation or Nuu-chah-nulth heritage site and that has past and ongoing importance

to Nuu-chah-nulth culture or spiritual practices, but does not include any object traded to, commissioned by, or given as a gift to another aboriginal people.

“Nuu-chah-nulth Capital” means Nuu-chah-nulth First Nation Lands, Other Nuu-chah-nulth First Nation Lands, the Capital Transfer and the other assets transferred to Nuu-chah-nulth under the Final Agreement.

“Nuu-chah-nulth Citizen” means an individual who is enrolled under the Final Agreement in accordance with the Eligibility and Enrolment Chapter.

“Nuu-chah-nulth Constitution” means the constitution of Nuu-chah-nulth provided for in the Governance Chapter.

“Nuu-chah-nulth Domestic Fishing Area” means the area set out in Appendix C.

“Nuu-chah-nulth First Nation” means any of the 12 Nuu-chah-nulth First Nations, namely: Ka:’yu:’k’t’h’/Che:k’tles7et’h’ Nation, Ehattesaht, Nuchatlaht First Nation, Mowachaht/Muchalaht, Hesquiaht First Nation, Ahousaht, Tla-o-qui-aht First Nations, Ucluelet First Nation, Toquaht Nation, Tseshaht, Uchucklesaht Tribe, and Huu-ay-aht First Nation.

“Nuu-chah-nulth First Nation Constitution” means the constitution of a Nuu-chah-nulth First Nation provided for in the Governance Chapter.

“Nuu-chah-nulth First Nation Government” means the government of any of the 12 Nuu-chah-nulth First Nations.

“Nuu-chah-nulth First Nation Lands” means the lands identified in paragraph 1 of the Lands Chapter.

“Nuu-chah-nulth First Nation Laws” means a law made pursuant to Nuu-chah-nulth First Nation law-making authority set out in the Final Agreement and includes a Nuu-chah-nulth First Nation Constitution.

“Nuu-chah-nulth First Nation Private Lands” means Nuu-chah-nulth First Nation Lands that are designated as Nuu-chah-nulth First Nation Private Lands by a Nuu-chah-nulth First Nation Government.

“Nuu-chah-nulth First Nation Road” means any road on Nuu-chah-nulth First Nation Lands under the administration and control of a Nuu-chah-nulth First Nation.

“Nuu-chah-nulth Fish Licence” means any licence, permit, or document, or amendment thereto, issued by the Minister under Federal or Provincial Law in respect of the Nuu-chah-nulth Fishing Right.

“Nuu-chah-nulth Fishing Right” means a right to harvest Fish and Aquatic Plants for Domestic Purposes under the Final Agreement.

“Nuu-chah-nulth Government” means Nuu-chah-nulth Tribal Government and all the Nuu-chah-nulth First Nations Governments.

“Nuu-chah-nulth Indian Bands” means Ka:’yu:’k’t’h’/Che:k’tles7et’h’, Ehattesaht, Nuchatlaht, Mowachaht/Muchalaht, Hesquiaht, Ahousaht, Tla-o-qui-aht First Nations, Ucluelet First Nation, Toquaht, Tseshaht, Uchucklesaht and Huu-ay-aht First Nations.

“Nuu-chah-nulth Indian Reserves” means the lands that were “reserves”, as defined in the *Indian Act*, for the Nuu-chah-nulth Indian Bands on the day before the Effective Date.

“Nuu-chah-nulth Law” means a law made pursuant to Nuu-chah-nulth Government law-making authority set out in the Final Agreement and includes the Nuu-chah-nulth Constitution and Nuu-chah-nulth First Nation Constitutions.

“Nuu-chah-nulth Public Institutions” means a Nuu-chah-nulth Government body, board or commission established under Nuu-chah-nulth Laws, such as a school board or health board.

“Nuu-chah-nulth Right to Harvest Migratory Birds” means the right to harvest Migratory Birds for Domestic Purposes under the Final Agreement.

“Nuu-chah-nulth Right to Harvest Wildlife” means the right to harvest Wildlife for Domestic Purposes under the Final Agreement.

“Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds” means the Nuu-chah-nulth Right to Harvest Wildlife and the Nuu-chah-nulth Right to Harvest Migratory Birds.

“Nuu-chah-nulth Section 35 Rights” means the rights of Nuu-chah-nulth that are recognized and affirmed by the *Constitution Act, 1982*.

“Nuu-chah-nulth Tribal Council” means the entity that represents the 12 First Nations that for the purposes of this Agreement comprise Nuu-chah-nulth.

“Nuu-chah-nulth Tribal Government” means the government of the Nuu-chah-nulth.

“Other Nuu-chah-nulth First Nation Lands” means lands owned by a Nuu-chah-nulth First Nation that are not Nuu-chah-nulth First Nation Lands.

“Parties” means Nuu-chah-nulth, Canada and British Columbia.

“Private Roads” means those roads identified as Private Roads in the Final Agreement.

“Provincial Law” includes provincial statutes, regulations, ordinances, Orders-in-Council, by-laws and the common law.

“Provincial Road” means a road existing on the Effective Date located on Crown Corridors under the administration and control of British Columbia, including forest service roads, within Nuu-chah-nulth First Nation Lands.

“Public Utility” has the meaning as set out in the *Utilities Commission Act, R.S.B.C. 1996, c. 473* and includes British Columbia Hydro and Power Authority, Telus Corporation and a water, sewage, or petroleum distribution utility.

“Stewardship Activities” means activities conducted for the assessment, monitoring, protection and management of Fish and Fish habitat.

“Submerged Lands” means lands below the natural boundary as defined in the *Land Act, R.S.B.C. 1996, c. 245*.

“Subsurface and Mineral Resources” means minerals, placer minerals, petroleum, natural gas and geothermal resources and includes coal, earth, peat, marl, Gravel, riprap and other stone products.

“Timber” or “Timber Resources” means trees, whether living, standing, dead, fallen, limbed, bucked, or peeled.

“Trade and Barter” does not include sale.

“Treaty Related Measure” means an agreement among the Parties in support of treaty negotiations.

“Wildlife” means:

- a) all vertebrate and invertebrate animals, including mammals, birds, Wildlife Fish, reptiles, and amphibians; and
- b) the eggs, juvenile states, and adult stages of all vertebrate and invertebrate animals,

but does not include “Fish” or “Migratory Birds”.

“Wildlife and Migratory Birds Harvest Area” means the area set out in Appendix G.

“Wildlife Fish” means:

- a) lampreys, crustaceans, mollusks, and non-anadromous fish from or in non-tidal waters;
- b) the parts of lampreys, crustaceans, mollusks, and non-anadromous fish, from or in non-tidal waters; and
- c) the eggs, sperm, spawn, larvae, spat, juvenile stages, and adult stages of lampreys, crustaceans, mollusks, and non-anadromous fish, from or in non-tidal waters.

CHAPTER 2 - GENERAL PROVISIONS

Nature of the Agreement-in-Principle

1. This Agreement will form the basis for negotiating the Final Agreement. This Agreement is not legally binding, is not a treaty or land claims agreement and does not recognize or affirm any rights.

Nature of the Final Agreement

2. The Final Agreement will be a treaty and a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
3. The Final Agreement, once ratified by the Parties, will be legally binding on the Parties and on all persons, and can be relied on by the Parties and all persons.

Assurances

4. Nuu-chah-nulth will represent and warrant in the Final Agreement that, in respect of the matters dealt with in the Final Agreement, it has the authority to enter and does enter into the Final Agreement on behalf of all persons who have any aboriginal rights, including aboriginal title, in Canada, or any claims to such rights, based on their identity as Nuu-chah-nulth.
5. Canada, British Columbia and Nuu-chah-nulth will each provide assurances that they have the authority to enter into the Final Agreement.

Indemnity

6. Nuu-chah-nulth will indemnify Canada and British Columbia regarding liability for any claims relating to any aboriginal rights and title, including any rights other than or different from the rights in the Final Agreement and any past infringements of aboriginal rights of Nuu-chah-nulth. Any indemnities will exclude fees and disbursements of lawyers and other professional advisors.

Constitution of Canada

7. The Final Agreement will not alter the Constitution of Canada, including:
 - a) the distribution of powers between Canada and British Columbia;
 - b) the identity of Nuu-chah-nulth as aboriginal people of Canada within the meaning of the *Constitution Act, 1982*; and
 - c) sections 25 and 35 of the *Constitution Act, 1982*.
8. The Canadian Charter of Rights and Freedoms will apply to Nuu-chah-nulth Government in respect of all matters within its authority.
9. The Final Agreement will provide for the application and operation of Federal and Provincial Laws in respect of human rights.

Character of Lands

10. After the Effective Date, there will be no “lands reserved for the Indians” within the meaning of the *Constitution Act, 1867* for Nuu-chah-nulth and Nuu-chah-nulth First Nations and there will be no “reserves” as defined in the *Indian Act* for Nuu-chah-nulth and Nuu-chah-nulth First Nations.

Application of Federal and Provincial Laws

11. Federal and Provincial Laws will apply to Nuu-chah-nulth, Nuu-chah-nulth First Nations, Nuu-chah-nulth Government, Nuu-chah-nulth Public Institutions, Nuu-chah-nulth Citizens, Nuu-chah-nulth First Nation Lands and Other Nuu-chah-nulth First Nation Lands.
12. Any licence, permit or other authorization to be issued by Canada or British Columbia under the Final Agreement will be issued under Federal or Provincial Laws and will not be part of the Final Agreement, but the Final Agreement will prevail to the extent of any Conflict with the licence, permit or other authorization.
13. The Final Agreement will set out the relationship between settlement legislation and other Federal and Provincial Laws and will specify the priority of the settlement legislation.

Relationship of Laws

14. If a Nuu-chah-nulth Law has an incidental impact on, or if one of the aspects of a Nuu-chah-nulth Law is with respect to, a subject matter over which:
- a) Nuu-chah-nulth Government will not have law-making authority over under the Final Agreement; or
 - b) Nuu-chah-nulth Government will have law-making authority under the Final Agreement but for which Federal and Provincial Laws prevail to the extent of a Conflict,
- and if that impact or aspect of the Nuu-chah-nulth law is in Conflict with a federal or provincial law, then the Federal or Provincial Law will prevail to the extent of the Conflict.
15. Federal Laws in relation to peace, order and good government, criminal law, human rights, and the protection of the health and safety of all Canadians, or other matters of overriding national importance will prevail in the event of any Conflict with Nuu-chah-nulth Laws made under the law-making authorities set out in the Final Agreement to the extent of any Conflict.
16. The Final Agreement will prevail to the extent of any Conflict with a Federal or Provincial Law.
17. Canada will recommend to Parliament that federal settlement legislation make Provincial Laws apply to Nuu-chah-nulth, Nuu-chah-nulth First Nations, Nuu-chah-nulth Government, Nuu-chah-nulth Public Institutions, Nuu-chah-nulth Citizens, Nuu-chah-nulth First Nation Lands and Other Nuu-chah-nulth First Nation Lands if those Provincial Laws do not apply of their own force.
18. Nuu-chah-nulth Laws will not apply to Canada or British Columbia.
19. Any Nuu-chah-nulth Law that is inconsistent or in Conflict with the Final Agreement will be of no force or effect to the extent of the inconsistency or Conflict.
20. Nothing in the Final Agreement will be construed as authorizing Nuu-chah-nulth Government to make laws or take any actions that are inconsistent with any of Canada's international legal obligations.

Application of the *Indian Act*

21. The *Indian Act* will not apply to Nuu-chah-nulth, Nuu-chah-nulth First Nations, Nuu-chah-nulth Government, and Nuu-chah-nulth Citizens, except as set out in the *Indian Act* Transition and Taxation Chapters.

Other Rights, Benefits and Programs

22. The Final Agreement will not affect the ability of Nuu-chah-nulth Citizens who are Canadian citizens to enjoy rights and benefits for which they would otherwise be eligible as Canadian citizens.
23. Subject to paragraph 24, nothing in the Final Agreement will affect the ability of Nuu-chah-nulth, Nuu-chah-nulth First Nations, Nuu-chah-nulth Government, Nuu-chah-nulth Public Institutions, or Nuu-chah-nulth Citizens to participate in, or benefit from, federal or provincial programs for aboriginal people, registered Indians or other Indians, in accordance with general criteria established for those programs from time to time.
24. Nuu-chah-nulth Citizens will be eligible to participate in programs established by Canada or British Columbia and to receive public services from Canada or British Columbia, in accordance with general criteria established for those programs or services from time to time, to the extent that Nuu-chah-nulth has not assumed responsibility for those programs or public services under a Nuu-chah-nulth fiscal agreement.

Court Decisions

25. The Final Agreement will provide for the effect of court decisions regarding interpretation or validity of the Final Agreement.

Certainty

26. The Parties desire certainty in respect of all of the matters referred to in the Final Agreement.
27. The Final Agreement will be the full and final settlement in respect of all Nuu-chah-nulth rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.
28. The Final Agreement will comprehensively set out all of Nuu-chah-nulth Section 35 Rights and the limitations to those rights.

29. The Final Agreement will provide for certainty in respect of:
- a) ownership and use of lands and resources in the area to which the Final Agreement will apply;
 - b) jurisdictions, authorities and the relationship of laws in the area to which the Final Agreement will apply;
 - c) Nuu-chah-nulth rights recognized and affirmed by the *Constitution Act, 1982*; and
 - d) the resolution of claims in respect of past infringement of aboriginal rights.
30. Before concluding the Final Agreement, the Parties will agree on the precise legal technique for achieving certainty, and in determining that precise legal technique, the Parties may consider different legal approaches to determine a mutually acceptable legal technique for achieving certainty.

Other Aboriginal People

31. The Final Agreement will not affect, recognize or provide any aboriginal or treaty rights for any aboriginal people other than Nuu-chah-nulth.
32. If a court determines that a provision of the Final Agreement adversely affects aboriginal or treaty rights of another aboriginal people, that provision will not operate to the extent of the adverse effect and the Parties will make best efforts to remedy or replace the provision.
33. The Final Agreement will set out provisions for negotiating appropriate remedies where Nuu-chah-nulth Section 35 Rights are adversely affected by a future treaty with another aboriginal people.

Amendment Provisions

34. The Final Agreement will include an amendment process.

Interpretation

35. The General Provisions Chapter of the Final Agreement will prevail over other Chapters of the Final Agreement to the extent of any Conflict or inconsistency.
36. The terms of the Final Agreement will not be presumed to be interpreted in favour of any Party.
37. In the Final Agreement:
- a) a reference to a statute will include every amendment to it, every regulation made under it, and any law enacted in substitution for, or in replacement of it;
 - b) a reference to “Canada’s international legal obligations” will include those which are in effect on, or after, the Effective Date; and
 - c) unless it is otherwise clear from the context, the use of the singular will include the plural, and the use of the plural will include the singular.
38. For greater certainty, the Parties acknowledge that the *Official Languages Act* applies to the Final Agreement, including the execution of the Final Agreement.
39. The Final Agreement will set out other provisions concerning interpretation of the Final Agreement.

Consultation

40. Where Canada and British Columbia have Consulted or provided information to Nuu-chah-nulth or Nuu-chah-nulth First Nations under the Final Agreement, or consulted in accordance with federal or provincial legislation, Canada and British Columbia will have no additional consultation obligations.

Information and Privacy

41. The Final Agreement will set out arrangements among the Parties relating to privacy and access to information requirements of the Parties.

CHAPTER 3 - LANDS

1. On the Effective Date, Nuu-chah-nulth First Nation Lands will consist of:
 - a) Ahousaht,
 - i) existing Ahousaht Indian Reserves, and
 - ii) up to 13,000 hectares of Crown land;
 - b) Ehattesaht,
 - i) existing Ehattesaht Indian Reserves, and
 - ii) up to 3,200 hectares of Crown land;
 - c) Hesquiaht First Nation,
 - i) existing Hesquiaht Indian Reserves, and
 - ii) up to 5,000 hectares of Crown land;
 - d) Huu-ay-aht First Nation,
 - i) existing Huu-ay-aht First Nations Indian Reserves, and
 - ii) up to 4,900 hectares of Crown land;
 - e) Ka:'yu:'k't'h' Nation and Che:k'tles7et'h' Nation,
 - i) existing Ka:'yu:'k't'h'/Che:k'tles7et'h' Indian Reserves,
 - ii) up to 3,000 hectares of Crown land for the Ka:'yu:'k't'h' Nation, and
 - iii) up to 1,200 hectares of Crown land for the Che:k'tles7et'h' Nation;

- f) Mowachaht/Muchalaht,
 - i) existing Mowachaht/Muchalaht Indian Reserves, and
 - ii) up to 5,000 hectares of Crown land;
- g) Nuchatlaht First Nation,
 - i) existing Nuchatlaht Indian Reserves, and
 - ii) up to 1,300 hectares of Crown land;
- h) Tla-o-qui-aht First Nations,
 - i) existing Tla-o-qui-aht First Nations Indian Reserves, and
 - ii) up to 4,200 hectares of Crown land;
- i) Toquaht Nation,
 - i) existing Toquaht Indian Reserves, and
 - ii) up to 1,000 hectares of Crown land;
- j) Tseshaht,
 - i) existing Tseshaht Indian Reserves, and
 - ii) up to 7,500 hectares of Crown land;
- k) Uchucklesaht Tribe,
 - i) existing Uchucklesaht Indian Reserves, and
 - ii) up to 2,000 hectares of Crown land; and

- l) Ucluelet First Nation,
 - i) existing Ucluelet First Nation Indian Reserves, and
 - ii) up to 3,700 hectares of Crown land,

within the area set out in Appendix A.

2. Nuu-chah-nulth First Nation Lands will include those Subsurface and Mineral Resources referred to in paragraphs 10 and 11, but Nuu-chah-nulth First Nation Lands will not include Submerged Lands, Crown Corridors, any existing fee simple lands, and Private Roads, within Nuu-chah-nulth First Nation Lands.
3. Nuu-chah-nulth First Nation Lands will include, for each Nuu-chah-nulth First Nation, all or a portion of those lands offered in the “Offer to the Nuu-chah-nulth Tribal Council by the Governments of Canada and British Columbia,” dated December 11, 2000, and all existing Indian Reserves for each Nuu-chah-nulth First Nation.
4. The Final Agreement will provide for agreed upon fee simple lands acquired by Nuu-chah-nulth First Nations to be included as Nuu-chah-nulth First Nation Lands.
5. The Final Agreement will set out the precise description, location and amount of Nuu-chah-nulth First Nation Lands for each Nuu-chah-nulth First Nation.
6. On the Effective Date, each Nuu-chah-nulth First Nation will own its Nuu-chah-nulth First Nation Lands in fee simple, and subject to paragraph 7, Nuu-chah-nulth First Nation fee simple ownership of Nuu-chah-nulth First Nation Lands will not be subject to any condition, proviso, restriction, exception, or reservation set out in the *Land Act*, or any comparable limitation under Federal or Provincial Law.
7. Nuu-chah-nulth First Nation fee simple ownership of Nuu-chah-nulth First Nation Lands will be subject to any Agricultural Land Reserve designation in respect of Crown lands referred to in paragraph 1, and the continuation of all interests existing on the Effective Date on Nuu-chah-nulth Indian Reserves and the Crown land referred to in paragraph 1.

8. The Final Agreement will set out all of the interests to which Nuu-chah-nulth First Nation Lands will be subject to on the Effective Date, including all leases, licences, tenures, permits, and other uses of Crown land authorized by the Crown.
9. In the event that a Nuu-chah-nulth First Nation will be required to issue replacement tenures, or to assume existing tenures, in respect of those interests, and the terms and conditions of those tenures will be included as part of the Final Agreement.
10. Each Nuu-chah-nulth First Nation will own Subsurface and Mineral Resources on its Nuu-chah-nulth First Nation Lands, except for those parcels of Crown land where Subsurface and Mineral Resources are not owned by the Crown.
11. Each Nuu-chah-nulth First Nation's ownership of Subsurface and Mineral Resources is subject to all mineral tenures existing on the Effective Date on its Nuu-chah-nulth First Nation Lands and, for greater certainty, those mineral tenures will not be affected by the Nuu-chah-nulth First Nation's ownership of Subsurface and Mineral Resources and all Provincial Laws concerning those mineral tenures including access to them will continue to apply.
12. In accordance with the Final Agreement, the Nuu-chah-nulth Constitution, Nuu-chah-nulth First Nation Constitutions, and any Nuu-chah-nulth Law, a Nuu-chah-nulth First Nation may transfer interests in its Nuu-chah-nulth First Nation Lands without the consent of Canada or British Columbia.
13. The Final Agreement will contain provisions concerning the status of Nuu-chah-nulth First Nation Lands which are sold.
14. All methods of acquiring a right in or over land by prescription or by adverse possession, including the common law doctrine of prescription and the doctrine of the lost modern grant, are abolished in respect of Nuu-chah-nulth First Nation Lands.
15. If, at any time, any parcel of Nuu-chah-nulth First Nation Lands, or any estate or interest in a parcel of Nuu-chah-nulth First Nation Lands, finally escheats to the Crown, the Crown will transfer, at no charge, that parcel, estate or interest to that Nuu-chah-nulth First Nation.
16. The boundaries of Nuu-chah-nulth First Nation Lands will be surveyed at no cost to each Nuu-chah-nulth First Nation. Canada and British Columbia will, as agreed between them, pay the cost of surveys of the boundaries of Nuu-chah-nulth First Nation Lands.

17. The Final Agreement will set out the process under which Nuu-chah-nulth First Nation Lands or parcels of Nuu-chah-nulth First Nation Lands may be registered under the provincial land title system or may be registered in a Nuu-chah-nulth registry system.
18. Overlapping claims with other First Nations with respect to Nuu-chah-nulth First Nation Lands referred to in paragraph 1 should be resolved prior to conclusion of the Final Agreement.

Submerged Lands

19. British Columbia will own Submerged Lands within Nuu-chah-nulth First Nation Lands.
20. British Columbia will Consult with a Nuu-chah-nulth First Nation in respect of any proposal to dispose of or develop Submerged Lands within its Nuu-chah-nulth First Nation Lands.
21. British Columbia will obtain the consent of a Nuu-chah-nulth First Nation in respect of certain long-term dispositions and certain long-term authorized uses or occupations of Submerged Lands within its Nuu-chah-nulth First Nation Lands as set out in the Final Agreement and that Nuu-chah-nulth First Nation may not unreasonably withhold its consent.
22. Paragraphs 20 and 21 do not affect the riparian rights of the upland owners of Nuu-chah-nulth First Nation Lands adjacent to Submerged Lands.

Additions to Nuu-chah-nulth First Nation Lands

23. The Final Agreement will contain provisions which will allow each Nuu-chah-nulth First Nation to add a specified amount of land to its Nuu-chah-nulth First Nation Lands.
24. Any addition of lands to Nuu-chah-nulth First Nation Lands will:
 - a) require the consent of Canada and British Columbia;
 - b) be at no cost to Canada and British Columbia;
 - c) be in areas free from overlap with another First Nation unless that First Nation consents;
 - d) be outside of municipal boundaries unless the municipality consents;

- e) be contiguous to existing Nuu-chah-nulth First Nation Lands; and
 - f) be owned in fee simple by that Nuu-chah-nulth First Nation.
25. The Final Agreement will include provisions in respect of the status of any lands within a Nuu-chah-nulth First Nation's Lands acquired in fee simple by that Nuu-chah-nulth First Nation.

Other Nuu-chah-nulth First Nation Lands

26. The Final Agreement will contain provisions which may provide for a Nuu-chah-nulth First Nation owning lands other than as Nuu-chah-nulth First Nation Lands.
27. On the Effective Date, Canada will transfer to the Ucluelet First Nation, in fee simple, as Other Nuu-chah-nulth First Nation Lands, the following three parcels in Ucluelet, British Columbia:
- a) Lot 4, District lot 283, Clayoquot District, Plan 31775, PID 001-128-396;
 - b) Lot 6, District lot 283, Clayoquot District, Plan 31775, PID 001-128-400; and,
 - c) Lot 11, Block 1, section 21, Clayoquot District, Plan 9200, PID 005-569-427.
28. Nuu-chah-nulth First Nations will not own the Subsurface and Mineral Resources on the lands referred to in paragraphs 26 and 27.
29. The lands referred to in paragraphs 26 and 27 will not be Nuu-chah-nulth First Nation Lands.

Subsurface and Mineral Resources - Management and Administration

30. Subject to paragraphs 31 and 34 of this Chapter, each Nuu-chah-nulth First Nation, as owner, will have exclusive authority to set fees, rents and other charges, for development and extraction of Subsurface and Mineral Resources owned by that Nuu-chah-nulth First Nation.
31. No Nuu-chah-nulth First Nation will have the authority to set fees, rents and other charges in respect of those mineral tenures referred to in paragraph 11.

32. Any Nuu-chah-nulth First Nation and British Columbia may enter into agreements for management and administration by British Columbia of Subsurface and Mineral Resources owned by that Nuu-chah-nulth First Nation.
33. For greater certainty, nothing in the Final Agreement will limit or restrict the operation of Federal Laws with respect to atomic energy on Nuu-chah-nulth First Nation Lands.
34. Nothing in the Final Agreement will limit or restrict the operation of Federal or Provincial Laws in respect of mineral and subsurface energy exploration and development, including Federal or Provincial Laws specifically addressing petroleum and natural gas pool straddling, environmental protection, health and safety, and mine abandonment and reclamation, on Nuu-chah-nulth First Nation Lands.

Provincial Expropriation of Nuu-chah-nulth First Nation Lands

35. British Columbia acknowledges as a general principle that where it is reasonable to use other means, provincial expropriation of Nuu-chah-nulth First Nation Lands will be avoided.
36. Subject to paragraphs 37 to 39, any provincial expropriation of Nuu-chah-nulth First Nation Lands will be carried out in accordance with applicable provincial legislation and processes.
37. Any provincial expropriation of Nuu-chah-nulth First Nation Lands will be:
 - a) of the smallest estate or interest necessary, and for the shortest time required;
 - b) by and for the use of a provincial ministry or agent of the provincial Crown; and
 - c) with the consent of the Lieutenant Governor in Council.
38. If there is a provincial expropriation of Nuu-chah-nulth First Nations Lands under provincial legislation, British Columbia and that Nuu-chah-nulth First Nation will negotiate and attempt to reach agreement on Crown land as compensation. If there is no agreement, British Columbia will provide that Nuu-chah-nulth First Nation with other compensation.
39. Land provided by British Columbia to a Nuu-chah-nulth First Nation as compensation for a

provincial expropriation will, at the option of that Nuu-chah-nulth First Nation at the time of the negotiation of the compensation, become Nuu-chah-nulth First Nation Lands provided that land meets the criteria set out in paragraphs 24(c), (d), (e) and (f).

40. The Final Agreement will include provisions concerning the status of land that a Nuu-chah-nulth First Nation purchases with cash received as compensation for a provincial expropriation.
41. British Columbia and Nuu-chah-nulth will negotiate and attempt to reach agreement on the maximum amount of Nuu-chah-nulth First Nation Land that British Columbia may expropriate.
42. The Final Agreement will set out provisions under which British Columbia and Nuu-chah-nulth may negotiate terms that may allow a Nuu-chah-nulth First Nation to acquire land previously expropriated by British Columbia, if the land is no longer required by British Columbia.
43. The Final Agreement will contain provisions concerning the status of Nuu-chah-nulth First Nation Lands that are expropriated by British Columbia.

Federal Expropriation of Nuu-chah-nulth First Nation Lands

44. Canada acknowledges as a general principle that federal expropriation of Nuu-chah-nulth First Nation Lands will be avoided where reasonably practicable.
45. Notwithstanding paragraph 44, Canada may expropriate Nuu-chah-nulth First Nation Lands in accordance with the Final Agreement and Federal Laws.
46. Where Canada expropriates a fee simple estate in Nuu-chah-nulth First Nation Lands those lands will no longer be Nuu-chah-nulth First Nation Lands.
47. Any estate or interest in a parcel of Nuu-chah-nulth First Nation Lands may be expropriated by Canada if the Governor in Council determines in its opinion that:
 - a) the expropriation is justifiable and necessary; and
 - b) the amount of land is required by Canada.

48. Subject to paragraph 53, any cash compensation in respect of the value of the expropriated estate or interest will be determined in accordance with the federal *Expropriation Act*.
49. At the request of a Nuu-chah-nulth First Nation, Canada will make reasonable efforts to provide alternative parcels of land as full or partial compensation.
50. Land provided as compensation under paragraph 49 may become Nuu-chah-nulth First Nation Lands only with the agreement of that Nuu-chah-nulth First Nation, British Columbia and Canada, provided that the land meets the criteria set out in paragraphs 24(c), (d), (e) and (f). The limitation on the amount of lands that can be added as Nuu-chah-nulth First Nation Lands referred to in paragraph 23 does not apply to lands provided as full or partial compensation for any federal expropriation.
51. If, at a time after the expropriation, Canada is of the opinion that the land is no longer required for a public purpose and the land is suitable to offer for sale, Canada will first offer the Nuu-chah-nulth First Nation from which the land was originally expropriated an opportunity to reacquire the expropriated land at fair market value and on an as is basis.
52. A parcel of Nuu-chah-nulth First Nation Lands expropriated by Canada and reacquired by that Nuu-chah-nulth First Nation under paragraph 51 will become Nuu-chah-nulth First Nation Lands if:
 - a) that Nuu-chah-nulth First Nation requests that the parcel become Nuu-chah-nulth First Nation Lands at the time the parcel is reacquired; and
 - b) any lands that Canada may have provided under paragraph 49 as compensation for the expropriation did not become Nuu-chah-nulth First Nation Lands under paragraph 50.
53. Where Canada and a Nuu-chah-nulth First Nation do not reach agreement regarding compensation, Canada may proceed with the expropriation and the disagreement regarding the amount of compensation will be referred to arbitration under the dispute resolution process in the Dispute Resolution Chapter.
54. Where Canada and a Nuu-chah-nulth First Nation do not reach agreement regarding the price for that Nuu-chah-nulth First Nation to reacquire expropriated lands, the disagreement regarding the price for reacquisition will be referred to arbitration under the dispute resolution process in the Dispute Resolution Chapter.

Interim Protection Measures

55. When the Parties agree on all lands that are to become Nuu-chah-nulth First Nation Lands, the Parties will negotiate an interim protection measures agreement on proposed Nuu-chah-nulth First Nation Lands for a term of two years.

Nuu-chah-nulth Role Outside of Nuu-chah-nulth First Nation Lands

56. The Parties will negotiate and attempt to reach agreement on the Nuu-chah-nulth role outside of Nuu-chah-nulth First Nation Lands for the area set out in Appendix A.

Commercial Recreation Tenures

57. Prior to the Final Agreement, Nuu-chah-nulth and British Columbia will develop management plans for proposed commercial recreation tenures which set out the recreational activities, reflect the environmental values in the defined area, set out the boundaries of the operating areas, and set out phase-in periods for the operations.
58. Upon satisfactory application by Nuu-chah-nulth, British Columbia will issue commercial recreation tenures to Nuu-chah-nulth for the operating areas described in the management plans, that will not include Submerged Lands.
59. During the phase-in period for the commercial recreation tenures, British Columbia will not issue other commercial recreation tenures which would directly conflict with the management plans for the Nuu-chah-nulth Commercial Recreation Tenures.

Meares Island

60. The Final Agreement will include provisions for the establishment of a trust that will own all provincial Crown land on Meares Island, as referred to in Appendix B, in fee simple. The Final Agreement will set out the terms and conditions of the trust, including terms and conditions in respect of management of resources.
61. The parties to the trust will be British Columbia, Ahousaht and Tla-o-qui-aht First Nations.
62. Notwithstanding paragraph 60, the Parties acknowledge that they may agree to include certain parcels of provincial Crown land on Meares Island as part of the Nuu-chah-nulth First Nation Lands of Ahousaht and Tla-o-qui-aht First Nations.

CHAPTER 4 - WATER

Water Reservation

1. The Parties will negotiate and attempt to reach an agreement on a water reservation for each Nuu-chah-nulth First Nation from the rivers and streams wholly or partially within that Nuu-chah-nulth First Nation's Lands. In these negotiations, the Parties will take into account Available Flow from the particular river or stream.
2. If the Parties reach an agreement on a water reservation for a Nuu-chah-nulth First Nation, British Columbia will establish a water reservation for that Nuu-chah-nulth First Nation.
3. Water reserved pursuant to a Nuu-chah-nulth First Nation water reservation may be used for domestic, industrial and agricultural purposes.
4. Any water reservation for a Nuu-chah-nulth First Nation will take into account the volume from existing water licences held by that Nuu-chah-nulth First Nation.
5. The Final Agreement will provide that a Nuu-chah-nulth First Nation water reservation will have priority over all water licences except for existing water licences and applications for water licences as of a date to be determined.

Water Licences

6. Nuu-chah-nulth, a Nuu-chah-nulth First Nation or a Nuu-chah-nulth Citizen may, with the consent of the Nuu-chah-nulth First Nation holding the water reservation, apply to British Columbia for water licences for volumes of flow to be applied against that Nuu-chah-nulth First Nation's water reservation.
7. The Final Agreement will address the matter of whether provincial rentals, fees or charges will apply to water licences issued pursuant to paragraph 6.
8. If a water licence issued pursuant to paragraph 6 is cancelled, expires or otherwise terminates, the volume of flow in that licence will be added to the unlicensed volume of flow in that Nuu-chah-nulth First Nation's water reservation.

9. Water licences held by Nuu-chah-nulth will be subject to Available Flow and provincial regulatory requirements.
10. British Columbia and Nuu-chah-nulth may negotiate the Nuu-chah-nulth role in management and administration of water licences issued under Nuu-chah-nulth First Nation water reservations.
11. British Columbia will Consult with the respective Nuu-chah-nulth First Nation government respecting applications for water licences where the applicant may reasonably require access across or an interest in its Nuu-chah-nulth First Nation Lands.
12. British Columbia and Nuu-chah-nulth will negotiate and attempt to reach agreement on Consultation concerning applications for water licences in respect of rivers and streams wholly or partially within Nuu-chah-nulth First Nation Lands.
13. The Final Agreement will provide for access on, or an interest in, Nuu-chah-nulth First Nation Lands where reasonably required by a water licence holder.
14. The Final Agreement will provide for access on, or an interest in, provincial Crown land where reasonably required under a water licence held by Nuu-chah-nulth, a Nuu-chah-nulth First Nation, or a Nuu-chah-nulth Citizen.

Other

15. If Federal or Provincial Laws permit the sale of water, Nuu-chah-nulth First Nations may sell water in accordance with those laws.
16. The Final Agreement will not alter Federal or Provincial Laws in respect of proprietary interests in water.
17. If, prior to the Final Agreement, British Columbia introduces initiatives to regulate activities related to groundwater, British Columbia and Nuu-chah-nulth will discuss those initiatives.

CHAPTER 5 - FOREST RESOURCES

Forest Resources on Nuu-chah-nulth First Nation Lands

1. Each Nuu-chah-nulth First Nation will own Forest Resources on its Nuu-chah-nulth First Nation Lands.
2. Subject to paragraphs 3 and 4, each Nuu-chah-nulth First Nation, as owner, will have exclusive authority to determine, collect and administer any fees, rents, or other charges relating to the harvesting of Forest Resources on its Nuu-chah-nulth First Nation Lands.
3. For a period of 25 years from the Effective Date, Nuu-chah-nulth and British Columbia will share revenues from fees, rents or other charges relating to the harvesting of Timber from Nuu-chah-nulth First Nation Lands, excluding Nuu-chah-nulth Indian Reserves, on an equal basis.
4. The Final Agreement will set out the terms and conditions, including the total amount of Timber to be harvested over the 25 year term, in respect of the arrangements referred to in paragraph 3.

Forest Practices and Standards on Nuu-chah-nulth First Nation Lands

5. Nuu-chah-nulth Government may make laws in respect of the management of Forest Resources on Nuu-chah-nulth First Nation Lands.
6. Nuu-chah-nulth Government will not have law-making authority in relation to timber marking and scaling, manufacture in British Columbia of products from Forest Resources in accordance with Part 10 of the *Forest Act* (British Columbia) on Nuu-chah-nulth First Nation Lands, and export of Forest Resources removed from Nuu-chah-nulth First Nation Lands.
7. Nuu-chah-nulth may apply to British Columbia to export Timber harvested from Nuu-chah-nulth First Nation Lands.
8. Prior to Final Agreement, the Parties will negotiate and attempt to reach agreement on the issue of the export of Timber from Nuu-chah-nulth Indian Reserves.
9. Nuu-chah-nulth Laws in respect of Timber under paragraph 5 will provide for forest practices

and standards that meet or exceed those established under provincial legislation.

10. Nuu-chah-nulth Laws in respect of Non-timber Resources under paragraph 5 will provide for practices and standards that meet or exceed those established under federal and provincial legislation.
11. In the event of a Conflict between a Federal or Provincial Law and a Nuu-chah-nulth Law made under paragraph 5, the Federal or Provincial Law prevails to the extent of the Conflict.
12. The Final Agreement will set out arrangements between British Columbia and Nuu-chah-nulth for the management and control of forest health on Nuu-chah-nulth First Nation Lands and for forest fire protection and suppression on Nuu-chah-nulth First Nation Lands.
13. The Final Agreement will provide for information sharing in relation to forest activities on Nuu-chah-nulth First Nation Lands and on provincial Crown land immediately adjacent to Nuu-chah-nulth First Nation Lands.

Transition Provisions on Nuu-chah-nulth First Nation Lands

14. Subject to paragraphs 3 and 4, the Final Agreement will set out measures for the transition to Nuu-chah-nulth First Nation authority and management of Forest Resources on Nuu-chah-nulth First Nation Lands, including silviculture obligations and road de-activation.

Nuu-chah-nulth Forest Tenure

15. If annual allowable cut or forest tenure, of approximately 250,000 cubic metres, is acquired outside of Nuu-chah-nulth First Nation Lands, on behalf of Nuu-chah-nulth, British Columbia will issue to Nuu-chah-nulth area-based forest tenures under Provincial Law of approximately 250,000 cubic metres of annual allowable cut.

CHAPTER 6 - ACCESS

Public Access on Nuu-chah-nulth First Nation Lands

1. Each Nuu-chah-nulth First Nation will allow reasonable public access on its Nuu-chah-nulth First Nation Lands for temporary recreational and non-commercial purposes, including reasonable opportunities for the public to hunt and fish on Nuu-chah-nulth First Nation Lands, provided that this access does not interfere with uses authorized by that Nuu-chah-nulth First Nation or the ability of that Nuu-chah-nulth First Nation to authorize uses or dispose of its Nuu-chah-nulth First Nation Lands.
2. Reasonable public access does not include the harvesting or extraction of resources owned by a Nuu-chah-nulth First Nation, or causing damage to Nuu-chah-nulth First Nation Lands or resources owned by a Nuu-chah-nulth First Nation.
3. The Final Agreement will include provisions with respect to access, where reasonably required, to legal interests within, contiguous or in close proximity to Nuu-chah-nulth First Nation Lands, identified in the Final Agreement.
4. Subject to paragraphs 1 and 3, a Nuu-chah-nulth First Nation may designate portions of its Nuu-chah-nulth First Nation Lands as Nuu-chah-nulth First Nation Private Lands.
5. Subject to paragraphs 1 and 3, Nuu-chah-nulth Government may make laws regulating public access on Nuu-chah-nulth First Nation Lands for the:
 - a) prevention of harvesting or extracting of resources owned by a Nuu-chah-nulth First Nation; and
 - b) protection of Nuu-chah-nulth cultural sites.
6. In the event of a Conflict between a Federal or Provincial Law and a Nuu-chah-nulth Law made under paragraph 5, the Nuu-chah-nulth Law will prevail to the extent of the Conflict.

7. Subject to paragraphs 1 and 3, Nuu-chah-nulth Government may make laws regulating public access on Nuu-chah-nulth First Nation Lands for:
 - a) purposes of public safety;
 - b) prevention of nuisance or damage, including forest fire prevention; and
 - c) protection of sensitive habitat.
8. In the event of a Conflict between a Federal or Provincial Law and a Nuu-chah-nulth Law made under paragraph 7, the Federal or Provincial Law will prevail to the extent of the Conflict.
9. Nuu-chah-nulth liability for public access to Nuu-chah-nulth First Nation Lands, other than Nuu-chah-nulth First Nation Private Lands, will be comparable to the liability of the Crown for public access to unoccupied Crown lands.

Navigable Waters

10. Nothing in the Final Agreement will affect the public right of navigation on navigable waters.

Crown Access to Nuu-chah-nulth First Nation Lands

11. Employees, agents and other representatives of the Crown, Public Utilities, and police will have access, at no cost, to Nuu-chah-nulth First Nation Lands in order to enforce laws, respond to emergencies, deliver programs and services and for other specified purposes as set out in the Final Agreement.
12. The Final Agreement will not limit the authority of Canada or the Minister of National Defence to carry out activities related to national defence and security on Nuu-chah-nulth First Nation Lands, without payment of any fees or other charges to Nuu-chah-nulth except as provided for under Federal Laws.
13. The Final Agreement will set out notice provisions regarding access under paragraphs 11 and 12 to Nuu-chah-nulth First Nation Lands.

Nuu-chah-nulth Access to Crown Land

14. Employees, agents and other representatives of Nuu-chah-nulth Government will have access, at no cost, to provincial Crown land to enforce Nuu-chah-nulth Laws, deliver programs and services, and for other specified purposes as set out in the Final Agreement, in accordance with Federal and Provincial Laws.
15. The Final Agreement will set out notice provisions regarding access under paragraph 14 to provincial Crown lands.
16. Nuu-chah-nulth Citizens will have reasonable access to provincial Crown land to allow for the exercise of Nuu-chah-nulth rights set out in the Final Agreement, including use of resources for purposes incidental to the normal use of those rights, provided that this access and incidental use of resources are in accordance with federal and provincial legislation and do not interfere with authorized uses or the ability of the Crown to authorize uses or dispose of Crown land.

CHAPTER 7 - CROWN CORRIDORS AND ROADS

Crown Corridors

1. Crown Corridors will not be part of Nuu-chah-nulth First Nation Lands and will be owned by British Columbia. The widths of Crown Corridors will be 30 metres unless otherwise specified in the Final Agreement.
2. The Final Agreement will identify all Crown Corridors within Nuu-chah-nulth First Nation Lands.
3. British Columbia will Consult with Nuu-chah-nulth regarding new uses or major road construction within Crown Corridors.

Entry on Nuu-chah-nulth First Nation Lands Outside Crown Corridors

4. In addition to the provisions of the Access Chapter, British Columbia or any Public Utility, their employees, agents, contractors, or representatives may enter on Nuu-chah-nulth First Nation Lands outside Crown Corridors for the purpose of undertaking works, including:
 - a) constructing drainage works;
 - b) maintaining slope stability; or
 - c) removing dangerous trees or other hazards,as required for the protection, care, maintenance, or construction of road or Public Utility works.
5. Before commencing any work referred to in paragraph 4, British Columbia will deliver a written work plan describing the effect and extent of the proposed work on Nuu-chah-nulth First Nation Lands to the affected Nuu-chah-nulth First Nation for approval which will not be unreasonably withheld.

6. If British Columbia and that Nuu-chah-nulth First Nation do not agree on a work plan submitted by British Columbia within 30 days of receipt by that Nuu-chah-nulth First Nation, either British Columbia or Nuu-chah-nulth may refer the disagreement to be finally determined by arbitration under the Dispute Resolution Chapter.
7. In undertaking works referred to in paragraph 4, British Columbia will minimize the damage to, and time spent on, Nuu-chah-nulth First Nation Lands.
8. British Columbia will pay compensation for any interference with, or damage to, Nuu-chah-nulth First Nation Lands resulting from works by, or on behalf of, British Columbia, referred to in paragraph 4. British Columbia or Nuu-chah-nulth may refer a disagreement in respect of compensation to be finally determined by arbitration under the Dispute Resolution Chapter.
9. Notwithstanding any other provision of the Final Agreement, British Columbia may undertake works and take steps on Nuu-chah-nulth First Nation Lands that are urgently required in order to protect works constructed on Crown Corridors, or to protect persons or vehicles using Crown Corridors.
10. British Columbia will, as soon as practicable, notify the affected Nuu-chah-nulth First Nation in writing that it has undertaken works on its Nuu-chah-nulth First Nation Lands under paragraph 9.
11. The Final Agreement will include provisions for Public Utility access to Nuu-chah-nulth First Nation Lands, including provisions allowing a Public Utility to operate, maintain, replace, upgrade or extend their works on Nuu-chah-nulth First Nation Lands.

Consultation Regarding Traffic Regulation

12. Upon request of a Nuu-chah-nulth First Nation, British Columbia will Consult with that Nuu-chah-nulth First Nation with respect to existing regulation of traffic and transportation on a Crown Corridor that is adjacent to a settled area on its Nuu-chah-nulth First Nation Lands.

Access and Safety Regulation

13. British Columbia will retain the authority to regulate all matters relating to:
 - a) the location and design of intersecting roads giving access to Crown Corridors from Nuu-chah-nulth First Nation Lands, including:
 - i) regulating or requiring signs, signals, or other traffic control devices on Crown Corridors,
 - ii) regulating or requiring merging lanes, on ramps and off ramps, or
 - iii) requiring contributions to the cost of the matters referred to in paragraphs 13(a)(i) and 13(a)(ii); and
 - b) the height and location of structures on Nuu-chah-nulth First Nation Lands immediately adjacent to Crown Corridors, only to the extent reasonably required to protect the safety of the users of Crown Corridors.
14. Subject to provincial requirements, including those set out in paragraph 13, British Columbia will not unreasonably deny Nuu-chah-nulth access to a Provincial Road from Nuu-chah-nulth First Nation Lands.
15. Subject to provisions of the Final Agreement, British Columbia will not zone or otherwise regulate land use on Nuu-chah-nulth First Nation Lands adjacent to Crown Corridors.
16. Each Nuu-chah-nulth First Nation will Consult with British Columbia on land use decisions relating to the development of its Nuu-chah-nulth First Nation Lands adjacent to Crown Corridors.

Roads

17. Provincial Roads will not be part of Nuu-chah-nulth First Nation Lands and are owned by British Columbia.
18. Roads on Nuu-chah-nulth First Nation Lands will be Nuu-chah-nulth First Nation Roads.

19. In accordance with the Access Chapter, each Nuu-chah-nulth First Nation will allow public use of its Nuu-chah-nulth First Nation Roads.
20. Each Nuu-chah-nulth First Nation will be responsible for maintenance and repair of its Nuu-chah-nulth First Nation Roads.

Gravel

21. Each Nuu-chah-nulth First Nation will have reasonable access at no cost, other than the cost of extraction, refinement and transportation, to sufficient quantities of Gravel and related aggregate materials from existing Gravel on provincial Crown lands in the vicinity of its Nuu-chah-nulth First Nation Lands to fulfil any obligations it may have to construct, maintain or repair roads or rights-of-way on its Nuu-chah-nulth First Nation Lands.
22. British Columbia will have reasonable access at no cost, other than the cost of extraction, refinement and transportation, to sufficient quantities of Gravel and related aggregate materials from existing Gravel on Nuu-chah-nulth First Nation Lands. Gravel and related aggregate materials extracted from those sites will be used to fulfil any obligations British Columbia may have to construct, maintain or repair roads and public rights-of-way.
23. The Final Agreement will contain provisions for Nuu-chah-nulth First Nations and British Columbia to prepare gravel management plans in respect of paragraphs 21 and 22 respectively.

CHAPTER 8 - FISHERIES

General

3. Nuu-chah-nulth will have a right to harvest, in accordance with the Final Agreement, Fish and Aquatic Plants for Domestic Purposes in the Nuu-chah-nulth Domestic Fishing Area set out in Appendix C.
4. The Nuu-chah-nulth Fishing Right will be limited by:
 - a) measures necessary for conservation; and
 - b) measures necessary for the purposes of public health or public safety.
5. Where practicable, the Minister will, in advance, discuss with, or give notice to, the Joint Fisheries Committee of proposed conservation, public health or public safety measures which would require the Nuu-chah-nulth Fish Licence to be amended.
6. Nuu-chah-nulth Citizens will not be required to have federal or provincial licences or pay any fees, charges or royalties relating to the Nuu-chah-nulth Fishing Right to Canada or British Columbia.
7. Harvesting under the Nuu-chah-nulth Fishing Right will be conducted in accordance with the provisions of the Nuu-chah-nulth Fish Licence.
8. The Final Agreement will include provisions to address the implications for the amount of Fish and Aquatic Plants that Nuu-chah-nulth may harvest, including any implications for overages and underages, in any year where there is not enough abundance of a stock or species of Fish or Aquatic Plants to meet all allocations from that stock or species for other British Columbia First Nations for Domestic Purposes.
9. The Nuu-chah-nulth Fishing Right is held by Nuu-chah-nulth and cannot be alienated.
10. The Minister will retain authority for managing and conserving Fish, Aquatic Plants, and Fish habitat.
11. Fish and Aquatic Plants harvested under the Nuu-chah-nulth Fishing Right cannot be sold.

12. The Final Agreement will not alter Federal or Provincial Law in respect of proprietary interests in Fish and Aquatic Plants.
13. Nuu-chah-nulth Citizens will have the right to Trade and Barter any Fish or Aquatic Plants harvested under the Final Agreement among themselves or with other aboriginal people of Canada resident in British Columbia.
14. The Nuu-chah-nulth Fishing Right will be exercised within the Nuu-chah-nulth Domestic Fishing Area unless otherwise agreed by the Minister.
15. The Nuu-chah-nulth Domestic Fishing Area is the area described on the map in Appendix C.
16. The Final Agreement will not preclude Nuu-chah-nulth Citizens from harvesting Fish and Aquatic Plants under a licence, permit, or document issued under Federal or Provincial Laws.

Documentation

17. The Final Agreement will provide for Nuu-chah-nulth Tribal Government issuing documentation to Nuu-chah-nulth Citizens or vessels used by Nuu-chah-nulth Citizens, to harvest Fish and Aquatic Plants under the Nuu-chah-nulth Fishing Right.
18. Where Allocations for Fish or Aquatic Plants have been established under the Final Agreement, the Nuu-chah-nulth Tribal Government may issue documentation to persons who are not Nuu-chah-nulth Citizens or to vessels used by persons who are not Nuu-chah-nulth Citizens, to harvest those Fish or Aquatic Plants under the Nuu-chah-nulth Fishing Right. This provision is not intended to alter the application of Federal or Provincial Laws in respect of foreign fishing vessels in Canadian waters.
19. All persons or vessels used by persons who harvest or attempt to harvest Fish or Aquatic Plants under the Nuu-chah-nulth Fishing Right will be required to carry documentation issued by Nuu-chah-nulth Tribal Government and to produce that documentation on request by an authorized person.
20. Documentation issued by Nuu-chah-nulth to a person or to a vessel used by a person who

harvests or attempts to harvest Fish or Aquatic Plants under the Nuu-chah-nulth Fishing Right will:

- a) be in the English language, and, at the discretion of Nuu-chah-nulth, in the Nuu-chah-nulth language;
 - b) include the name and address of the person;
 - c) if appropriate, include vessel identification; and
 - d) meet any requirements set out in the applicable Nuu-chah-nulth Fish Licence.
21. The Final Agreement will not preclude Nuu-chah-nulth Citizens from being designated by a First Nation to harvest Fish and Aquatic Plants under federal or provincial arrangements with that First Nation.
22. Unless the Parties otherwise agree prior to Final Agreement, Nuu-chah-nulth may not document persons or vessels used by persons who are not Nuu-chah-nulth Citizens to harvest Fish or Aquatic Plants under the Nuu-chah-nulth Fishing Right where there is no Allocation established under the Final Agreement.

Nuu-chah-nulth Fishing Right Allocations

23. The Nuu-chah-nulth Fishing Right Allocations for sockeye salmon, chinook salmon, herring, halibut, and Dungeness crab are set out in Appendix D.
24. Prior to the Final Agreement, the Parties will establish Nuu-chah-nulth Fishing Right Allocations for coho salmon, chum salmon, sablefish, groundfish, prawns and other Fish and Aquatic Plants as agreed to by the Parties.
25. The Final Agreement will set out that Canada or British Columbia, in respect of any species within their respective management authority, or Nuu-chah-nulth may propose the establishment of a Nuu-chah-nulth Fishing Right Allocation for Fish and Aquatic Plants not included in paragraphs 21 and 22.

26. The Final Agreement will include provisions describing how Nuu-chah-nulth Fishing Right Allocations for Fish and Aquatic Plants that are not set out in the Final Agreement will be determined, taking into account factors that the Parties agree are relevant.
27. The Final Agreement may set out areas in the Nuu-chah-nulth Domestic Fishing Area where the Minister will not permit commercial harvesting of bi-valve shellfish in the inter-tidal zone.
28. Fish and Aquatic Plants for which there is no Nuu-chah-nulth Fishing Right Allocation established under the Final Agreement may be harvested for Domestic Purposes under the Nuu-chah-nulth Fishing Right in accordance with a Nuu-chah-nulth Fish Licence.
29. The Final Agreement will describe when and how subsequent adjustments in respect of overages and underages are made to a Nuu-chah-nulth Fishing Right Allocation to account for salmon and, with the agreement of the Parties, other harvests that exceed or fail to meet the Nuu-chah-nulth Fishing Right Allocation in any year. Any adjustment will take into account the actions of the Minister and Nuu-chah-nulth in the conduct of the fishery. The Minister and Nuu-chah-nulth will endeavour to minimize any overages or underages in each year and to minimize the accumulation of overages and underages in successive years.
30. Notwithstanding paragraph 1, the Parties agree that the issue of the Nuu-chah-nulth Fishing Right as it applies to marine mammals will be addressed prior to the Final Agreement.

Aquaculture Tenures

31. Prior to the Final Agreement, the Parties will negotiate and attempt to reach agreement on provisions for the implementation of aquaculture tenures held by Nuu-chah-nulth First Nations on the Effective Date.

Nuu-chah-nulth Participation in the Commercial Fishery

32. On the Effective Date, at the request of Nuu-chah-nulth, Canada will issue any licence listed in Appendix E to Nuu-chah-nulth as a commercial fishing licence.
33. Nuu-chah-nulth commercial fishing licences and vessels will be subject to Federal and Provincial Laws.
34. Prior to the Final Agreement and subject to the agreement of the Parties, licences referred to in paragraph 30 may be converted into capacity for inclusion in any Nuu-chah-nulth Harvest

Agreement.

Nuu-chah-nulth Harvest Agreement

35. On the Effective Date, Canada and Nuu-chah-nulth may enter into a Nuu-chah-nulth Harvest Agreement in respect of Fish.
36. Any Nuu-chah-nulth Harvest Agreement and paragraphs 35 to 43 and Appendix F will not be part of the Final Agreement, will not be a treaty or land claims agreement and will not recognize or affirm any rights.
37. Prior to the Final Agreement, Canada and Nuu-chah-nulth will address the issue of whether some or all of the commercial fishing capacity of any Nuu-chah-nulth Harvest Agreement is transferable.
38. In this part of this Chapter:
 - a) “Compensable Share” means the share of the commercial fishing capacity included in a Nuu-chah-nulth Harvest Agreement to which compensation provisions will apply; and
 - b) “Maximum Share” means the maximum share of the commercial fishing capacity that may be included in a Nuu-chah-nulth Harvest Agreement.
39. The Maximum Share and the Compensable Share for sockeye salmon, chinook salmon, herring, halibut and Dungeness crab is set out in Appendix F.
40. Any Nuu-chah-nulth Harvest Agreement:
 - a) will set out the Maximum Share for any fishery included in that Nuu-chah-nulth Harvest Agreement;
 - b) will set out the Compensable Share for any fishery included in that Nuu-chah-nulth Harvest Agreement;
 - c) may set out the period of time within which the Maximum Share and the Compensable Share included in that Nuu-chah-nulth Harvest Agreement may be acquired;

- d) will be for a term of 25 years and be renewable on the same terms at the discretion of Nuu-chah-nulth every 15 years for a further 25 years;
 - e) will include provisions for the harvest and disposition of Fish, harvest monitoring, and fisheries management;
 - f) will include a dispute resolution process and a process for termination of that Nuu-chah-nulth Harvest Agreement including a requirement for fair compensation for any reduction in the Compensable Share; and
 - g) will include a process allowing for the addition of new species of Fish to any Nuu-chah-nulth Harvest Agreement within a period of time to be determined prior to the Final Agreement.
41. Any Nuu-chah-nulth Harvest Agreement will be established under federal settlement legislation.
42. The Minister will implement any Nuu-chah-nulth Harvest Agreement by:
- a) issuing licences to Nuu-chah-nulth; or
 - b) other means under Federal or Provincial Laws.
43. Fisheries under any Nuu-chah-nulth Harvest Agreement will have the same priority as commercial and recreational fisheries in fisheries management decisions made by the Minister.
44. Where the Nuu-chah-nulth and the Minister have agreed to a Nuu-chah-nulth Harvest Agreement that provides a share of the total allowable catch for a stock or species of Fish, there will be a Nuu-chah-nulth Harvest Agreement fishery for that stock or that species in a year when the following conditions have been met:

- a) there is:
 - i) a commercial fishing opportunity for that stock or that species in the area described in the Harvest Agreement in that year; or
 - ii) a directed commercial harvest of that stock or that species within the Nuu-chah-nulth Domestic Fishing Area in that year; and
- b) the Minister has not imposed conservation restrictions on recreational fisheries for that stock or that species in the Nuu-chah-nulth Domestic Fishing Area in that year,

unless otherwise determined by the Minister.

45. The Parties acknowledge that the Minister may authorize selective terminal salmon fishing opportunities in the Nuu-chah-nulth Domestic Fishing Area for Nuu-chah-nulth and other harvesters. Prior to the Final Agreement, the Parties will negotiate and attempt to agree on selective terminal salmon fishing opportunities for the Nuu-chah-nulth.

Harvest of Surplus Salmon

46. Each year the Minister may determine whether there is a surplus of a species of salmon originating in the Nuu-chah-nulth Domestic Fishing Area, the size of the surplus, and access to that surplus.
47. The Joint Fisheries Committee may:
- a) recommend to the Minister procedures for the identification of a surplus and terms and conditions for the harvest of the surplus; and
 - b) provide advice to the Minister on the size and disposition of the surplus.
48. The Minister may permit Nuu-chah-nulth to harvest some or all of the surplus salmon that originate in the Nuu-chah-nulth Domestic Fishing Area, on reaching agreement with Nuu-chah-nulth in respect of:
- a) the terms and conditions of the harvest; and

- b) whether all or part of the harvest will be included in the determination of underages.

New and Emerging Fisheries

- 49. Where the Minister determines opportunities exist for development of a new and emerging commercial fishery, the Nuu-chah-nulth will be eligible to participate in accordance with the terms and conditions established by the Minister for entry into that fishery.
- 50. The extent of the participation referred to in paragraph 47 will be consistent with the development of a framework by Canada and British Columbia related to new and emerging fisheries. The framework may reflect, among other factors, the nature of the new and emerging fishery, any share to be set aside for the participation of other British Columbia First Nations, the location of the new and emerging fishery relative to any other British Columbia First Nations' harvest areas, and the interest of other British Columbia First Nations in participation in the fishery.
- 51. Prior to the Final Agreement, the Parties will negotiate and attempt to reach agreement on the process to determine the share to be set aside for Nuu-chah-nulth participation in any new and emerging fisheries authorized by the Minister, and the process for inclusion of that share in a Nuu-chah-nulth Harvest Agreement.

Law-Making Authority

- 52. Nuu-chah-nulth Tribal Government may make laws consistent with the Final Agreement on the following matters:
 - a) distribution of the Fish and Aquatic Plants harvested under the Nuu-chah-nulth Fishing Right among Nuu-chah-nulth Citizens;

- b) designating persons to harvest under the Nuu-chah-nulth Fishing Right; and
 - c) other Fish and Aquatic Plants matters as set out in the Final Agreement.
53. In the event of a Conflict between a Nuu-chah-nulth Law made under paragraph 50 and a Federal or Provincial Law, the Nuu-chah-nulth Law will prevail to the extent of the Conflict.
54. Nuu-chah-nulth Tribal Government may make laws consistent with the Final Agreement on the following matters:
- a) documenting those persons who may harvest Fish and Aquatic Plants under the Final Agreement; and
 - b) other Fish and Aquatic Plants matters as set out in the Final Agreement.
55. In the event of a Conflict between a Nuu-chah-nulth Law made under paragraph 52 and a Federal or Provincial Law, the Federal or Provincial Law will prevail to the extent of the Conflict.

Joint Fisheries Committee

56. Canada and the Nuu-chah-nulth will establish a Joint Fisheries Committee to facilitate cooperative planning of:
- a) Nuu-chah-nulth fisheries for Domestic Purposes under the Final Agreement;
 - b) Nuu-chah-nulth Enhancement Initiatives and Stewardship Activities;
 - c) Nuu-chah-nulth fisheries monitoring and enforcement activities;
 - d) Nuu-chah-nulth environmental protection activities associated with Fish and Fish habitat; and
 - e) other matters by agreement of the parties.
57. Subject to federal and provincial access to information and privacy legislation, Nuu-chah-nulth and Canada will provide each other with access to all information necessary to enable the Joint Fisheries Committee to carry out its responsibilities.

58. The Joint Fisheries Committee will be comprised of three members from Canada and three members from Nuu-chah-nulth, but with the agreement of the parties additional representatives of a party may participate in meetings to support or assist its member in carrying out that member's responsibilities on the Joint Fisheries Committee. The members of the Joint Fisheries Committee representing Nuu-chah-nulth and Canada are responsible for matters in respect of fisheries managed by Canada.
59. Prior to the Final Agreement, British Columbia will determine if it will participate in the Joint Fisheries Committee.
60. The Final Agreement may include provisions concerning the relationship between the Nuu-chah-nulth members of the Joint Fisheries Committee and British Columbia with respect to fisheries matters within the jurisdiction of British Columbia.
61. In facilitating cooperative planning, under paragraph 54, the responsibilities of the Joint Fisheries Committee are:
 - a) discussing information and plans that can be made available to the public for existing and proposed commercial and other fisheries that could significantly affect Nuu-chah-nulth fisheries for Domestic Purposes;
 - b) discussing information that can be made available to the public related to measures necessary for conservation, public health or public safety that could significantly affect Nuu-chah-nulth fisheries for Domestic Purposes;
 - c) discussing information that can be made available to the public related to proposed Enhancement Initiatives in the Nuu-chah-nulth Domestic Fishing Area;
 - d) arranging for collection and exchange of available fisheries-related data;
 - e) discussing possible provisions for a Nuu-chah-nulth Annual Fish Plan and Nuu-chah-nulth Fish Licence prior to Nuu-chah-nulth developing a Nuu-chah-nulth Annual Fish Plan;
 - f) reviewing Nuu-chah-nulth Annual Fish Plans;
 - g) recommending to the Minister provisions for a Nuu-chah-nulth Fish Licence, taking into account the Nuu-chah-nulth Annual Fish Plans, including

Nuu-chah-nulth preferences in respect of harvest methods, timing and locations, where they are submitted in a timely fashion;

- h) reviewing Nuu-chah-nulth proposals for Enhancement Initiatives and Stewardship Activities;
- i) providing advice to the Minister and Nuu-chah-nulth concerning:
 - i) Fish management and harvesting in the Nuu-chah-nulth Domestic Fishing Area,
 - ii) other Nuu-chah-nulth fisheries,
 - iii) the conduct of commercial and other fisheries outside the Nuu-chah-nulth Domestic Fishing Area that could significantly affect Nuu-chah-nulth fisheries for Domestic Purposes,
 - iii) Fish habitat management and protection,
 - iv) escapement goals for salmon stocks in the Nuu-chah-nulth Domestic Fishing Area,
 - v) Enhancement Initiatives and other Stewardship Activities conducted by Nuu-chah-nulth in the Nuu-chah-nulth Domestic Fishing Area,
 - vi) in-season amendments to Nuu-chah-nulth Fish Licences,
 - vii) overages and underages,
 - viii) the harvest of surplus salmon, and
 - ix) other matters provided for in the Final Agreement;
- j) communicating with other advisory bodies in respect of matters of mutual interest;
- k) making recommendations to the trustees of the *Tsuh-Tsuh-Thluk* Trust in respect of projects, programs and activities to be funded from expenditures from that Trust; and

- l) carrying out other responsibilities as the parties may agree.
62. The Joint Fisheries Committee will operate on a consensus basis. If there is no consensus, each party of the Joint Fisheries Committee may submit recommendations or advice to the Minister.
63. If special circumstances make it impracticable to receive advice or recommendations from the Joint Fisheries Committee, the Minister:
- a) may make the decision or take the action that the Minister considers necessary, without receiving advice from the Joint Fisheries Committee; and
 - b) will advise the Joint Fisheries Committee as soon as practicable of the special circumstances and the decision made or action taken.
64. In accordance with the amendment provisions of the Final Agreement, the parties may amend the role, membership, and responsibilities of the Joint Fisheries Committee.

Fisheries Advisory Processes

65. The Final Agreement will provide that:
- a) where a public fisheries advisory process exists, or may be established by Canada or British Columbia, which principally encompasses the Nuu-chah-nulth Domestic Fishing Area, Canada or British Columbia will provide for Nuu-chah-nulth participation in that process on the same basis as other participants;
 - b) where a public fisheries advisory process exists, or may be established by Canada or British Columbia, which involves a geographic area in British Columbia including but significantly larger than the Nuu-chah-nulth Domestic Fishing Area, Canada or British Columbia will provide for Nuu-chah-nulth representation in that process on the same basis as other First Nations; and
 - c) if a regional fisheries committee is established for integrating fisheries management processes, including those which apply to aboriginal fisheries, in an area which includes all or part of the Nuu-chah-nulth Domestic Fishing Area, and that committee has responsibilities similar to those of the Joint Fisheries Committee, the Parties may agree that some of the responsibilities of the Joint Fisheries Committee may be performed by

the regional fisheries committee.

Nuu-chah-nulth Annual Fish Plans

66. Each year, Nuu-chah-nulth will develop Nuu-chah-nulth Annual Fish Plans.
67. Nuu-chah-nulth Annual Fish Plans and any amendments will include, as appropriate:
- a) proposed harvest by category of species, species, or stock;
 - b) descriptions of Fish and Aquatic Plants that may be harvested;
 - c) location and timing of harvest;
 - d) method of harvest, including the size, type, identification, marking, and quantity of fishing gear and the manner in which it may be used;
 - e) monitoring of harvest, including notification, catch monitoring, identification and reporting of harvest;
 - f) distribution and transportation of Fish and Aquatic Plants harvested under the Nuu-chah-nulth Fishing Right;
 - g) enforcement of Nuu-chah-nulth fisheries; and
 - h) other matters.
68. Nuu-chah-nulth will provide Nuu-chah-nulth Annual Fish Plans to the Minister in a timely fashion.
69. Nuu-chah-nulth Annual Fish Plans will not be part of the Final Agreement.

Nuu-chah-nulth Fish Licence

70. Each year, the Minister will issue a Nuu-chah-nulth Fish Licence to Nuu-chah-nulth in respect of the Nuu-chah-nulth Fishing Right. The Nuu-chah-nulth Fish Licence will be consistent with the Final Agreement.

71. Except as otherwise provided in the Final Agreement, the Nuu-chah-nulth Fish Licence will provide for the harvest of all species of Fish and Aquatic Plants.
72. Where the Minister receives Nuu-chah-nulth Annual Fish Plans in a timely fashion, the Minister will take these plans into account prior to issuing a Nuu-chah-nulth Fish Licence.
73. The Minister will provide written reasons to Nuu-chah-nulth and the Joint Fisheries Committee if the Nuu-chah-nulth Fish Licence has significant changes from Nuu-chah-nulth preferences in respect of methods, timing and location of harvest, and from any other matter set out in the relevant Nuu-chah-nulth Annual Fish Plan.
74. Where the Minister makes changes to a Nuu-chah-nulth Fish Licence, the Minister will give notice and reasons, and where practicable, discuss those changes with Nuu-chah-nulth and the Joint Fisheries Committee in advance.

Treaty Related Measure and Interim Arrangements

75. Canada will acquire, as soon as practicable after the signing of this Agreement, on a willing buyer - willing seller basis, fishing capacity up to an amount to be agreed to by the Parties (the "Interim Fishing Capacity"), subject to a process agreed among the Parties. As set out in paragraph 5 of the Capital Transfer and Negotiation Loan Repayment Chapter, the cost of these acquisitions will be deducted from the Capital Transfer.
76. Under a Treaty Related Measure, the Nuu-chah-nulth will be able to utilize the Interim Fishing Capacity until the Effective Date or the termination of the Treaty Related Measure. On the Effective Date, the Interim Fishing Capacity will be provided to the Nuu-chah-nulth.
77. The Nuu-chah-nulth will utilize the Interim Fishing Capacity in accordance with licence conditions applicable to the commercial fishery, unless otherwise agreed to by the Parties.
78. Prior to the Final Agreement, the Parties will negotiate and attempt to reach agreement on what, if any, part of the Interim Fishing Capacity may be converted into capacity for inclusion in any Nuu-chah-nulth Harvest Agreement.

79. The Parties will, through interim arrangements, test provisions of this Agreement related to the Joint Fisheries Committee, any Nuu-chah-nulth Harvest Agreement, any Nuu-chah-nulth Annual Fishing Plan and licensing arrangements.
80. The Parties acknowledge that the activities contemplated in the Treaty Related Measure and any interim arrangements may inform the negotiation of Nuu-chah-nulth Harvest Agreements and of the Fisheries Chapter for the Final Agreement, including:
- a) the activities and responsibilities of the Joint Fisheries Committee;
 - b) Nuu-chah-nulth Annual Fish Plans;
 - c) the matters to be taken into account by the Minister in the issuance of the Nuu-chah-nulth Fish Licence; and
 - d) the identification of selective terminal salmon fishing opportunities.

Stewardship and Enhancement

81. Nuu-chah-nulth may conduct, with the approval of the Minister and in accordance with Federal and Provincial Law, Enhancement Initiatives and Stewardship Activities in the Nuu-chah-nulth Domestic Fishing Area.
82. Canada and Nuu-chah-nulth will establish a *Tsuh-tsuh-thluk* Trust as soon as practicable after the Effective Date.
83. The objects of the Trust will be consistent with the requirements of a charitable trust under Federal Law, and may include:
- a) promoting conservation and protection of Fish, Aquatic Plants and Fish habitat in the Nuu-chah-nulth Domestic Fishing Area;
 - b) facilitating sustainable management of Fish and Fish habitat in the Nuu-chah-nulth Domestic Fishing Area; and
 - c) promoting and supporting Nuu-chah-nulth participation in the stewardship of Fish and Fish habitat in the Nuu-chah-nulth Domestic Fishing Area,

for the benefit of all Canadians.

84. Canada will settle on the trustees up to \$10 million for the purposes of stock and habitat assessments, escapement monitoring, and estimation of seasonal abundance.
85. In pursuing the objects of the Trust, the trustees will seek and consider recommendations from the Canada and Nuu-chah-nulth members of the Joint Fisheries Committee regarding projects, programs and activities to be funded by the Trust.

Enforcement

86. The Parties may negotiate agreements concerning enforcement of Federal or Provincial Laws, or Nuu-chah-nulth Laws in respect of fisheries. Any of those agreements will not be part of the Final Agreement, will not be a treaty or land claims agreement and will not recognize or affirm any rights.
87. Nuu-chah-nulth Laws made in accordance with this Chapter may be enforced by persons authorized to enforce Federal or Provincial Laws, or Nuu-chah-nulth Laws in respect of Fish and Aquatic Plants, in British Columbia.
88. The Final Agreement may address other enforcement issues in respect of Nuu-chah-nulth fisheries.

CHAPTER 9 - WILDLIFE AND MIGRATORY BIRDS

General

1. Nuu-chah-nulth will have the right to harvest, in accordance with the Final Agreement, Wildlife and Migratory Birds for Domestic Purposes in the Wildlife and Migratory Birds Harvest Area set out in Appendix G.
2. The Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds will be limited by:
 - a) measures necessary for conservation; and
 - b) measures necessary for the purposes of public health or public safety.
3. The Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds is a right to harvest in a manner that:
 - a) is consistent with:
 - i) the communal nature of the Nuu-chah-nulth harvest for Domestic Purposes, and
 - ii) the traditional seasons of the Nuu-chah-nulth harvest; and
 - b) does not interfere with other authorized uses of Crown land.
4. The Crown may authorize uses of or dispose of Crown land, and any authorized use or disposition may affect the method, times and locations of harvesting Wildlife and Migratory Birds under the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds, provided that the Crown ensures that those authorized uses or dispositions do not deny Nuu-chah-nulth the reasonable opportunity to harvest Wildlife and Migratory Birds under the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds.
5. Nuu-chah-nulth Citizens will not be required to have federal or provincial licences or pay any fees, charges, or royalties to Canada or British Columbia relating to the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds.

6. Nothing in the Final Agreement will affect Canada's ability to require Nuu-chah-nulth Citizens to obtain licences for the use and possession of firearms under Federal Laws on the same basis as other aboriginal people of Canada.
7. The Final Agreement will not preclude Nuu-chah-nulth Citizens from harvesting Wildlife outside of the Wildlife and Migratory Birds Harvest Area throughout Canada in accordance with:
 - a) Federal and Provincial Laws;
 - b) any agreements, that are in accordance with Federal and Provincial Laws, between Nuu-chah-nulth and other aboriginal people; or
 - c) any arrangements between other aboriginal people and Canada or British Columbia.
8. The Final Agreement will not preclude Nuu-chah-nulth Citizens from harvesting Migratory Birds throughout Canada in accordance with:
 - a) Federal and Provincial Laws;
 - b) any agreements, that are in accordance with Federal and Provincial Laws, between Nuu-chah-nulth and other aboriginal people; or
 - c) any arrangements between other aboriginal people and Canada or British Columbia.
9. The Final Agreement will provide for Nuu-chah-nulth Tribal Government issuing documentation to Nuu-chah-nulth Citizens to harvest Wildlife and Migratory Birds under the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds.
10. All persons who harvest or attempt to harvest Wildlife or Migratory Birds under the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds will be required to carry documentation issued by Nuu-chah-nulth Tribal Government and to produce that documentation on request by an authorized person.

11. Documentation issued by Nuu-chah-nulth Tribal Government to a person who harvests or attempts to harvest Wildlife or Migratory Birds under the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds will:
 - a) be in the English language, and, at the discretion of Nuu-chah-nulth, in the Nuu-chah-nulth language;
 - b) include the name and address of the person; and
 - c) meet any other requirements set out in the Annual Wildlife Harvest Plan.
12. The Nuu-chah-nulth Right to Harvest Wildlife will be in accordance with an Annual Wildlife Harvest Plan.
13. The Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds is held by Nuu-chah-nulth and cannot be alienated.

Allocations

14. The Final Agreement will set out processes for determining Allocations for specified Wildlife species and specified Migratory Bird species.

Management

15. The Minister will retain authority for Wildlife and Migratory Birds, their management, conservation, and habitat.
16. The Final Agreement will not alter Federal or Provincial Law in respect of proprietary interests in Wildlife and Migratory Birds.

Annual Wildlife Harvest Plan

17. Each year Nuu-chah-nulth Government will:
 - a) develop an Annual Wildlife Harvest Plan for the harvest of:
 - i) Wildlife species for which there is an Allocation, and
 - ii) Wildlife species proposed by Nuu-chah-nulth or British Columbia; and
 - b) submit the Annual Wildlife Harvest Plan to the Minister for approval.
18. Notwithstanding paragraphs 3, 11(c), 12, 17, and 19 to 28, the Final Agreement will include provisions in respect of Wildlife Fish and the Parties will determine in the Final Agreement whether the Nuu-chah-nulth right to harvest Wildlife Fish will be provided for in the Wildlife Chapter as part of Wildlife or in another Chapter of the Final Agreement.
19. An Annual Wildlife Harvest Plan will include provisions consistent with the Final Agreement in respect of:
 - a) designating and documenting of Nuu-chah-nulth harvesters;
 - b) methods, timing, and locations of the Nuu-chah-nulth harvest;
 - c) as appropriate, the sex and age of the composition of the Nuu-chah-nulth harvest;
 - d) monitoring and reporting of the Nuu-chah-nulth harvest; and
 - e) other matters as set out in the Final Agreement.
20. An Annual Wildlife Harvest Plan will take into account management concerns identified by the Minister.
21. The Final Agreement will set out provisions in respect of the review of the proposed Annual Wildlife Harvest Plan by British Columbia and Nuu-chah-nulth prior to it being forwarded to the Minister for decision.

22. The Final Agreement will set out factors the Minister will take into account in making a decision about a proposed Annual Wildlife Harvest Plan.
23. If a proposed Annual Wildlife Harvest Plan is consistent with the Final Agreement, the Minister will, subject to the factors referred to in paragraph 22, approve, or vary and approve, that Annual Wildlife Harvest Plan, and the Minister will provide written reasons to Nuu-chah-nulth for any significant changes between the proposed Annual Wildlife Harvest Plan and the approved Annual Wildlife Harvest Plan. An approved Annual Wildlife Harvest Plan will be consistent with the Final Agreement.
24. If there is a Conflict between a provision of the approved Annual Wildlife Harvest Plan and Provincial Laws, the approved Annual Wildlife Harvest Plan will prevail to the extent of the Conflict.

Law-Making Authority

25. Nuu-chah-nulth Tribal Government may make laws, in respect of the Nuu-chah-nulth Right to Harvest Wildlife, that are consistent with the Final Agreement and an approved Annual Wildlife Harvest Plan for:
 - a) the methods, timing, and location of the harvest of Wildlife included in the Annual Wildlife Harvest Plan, under the Nuu-chah-nulth Right to Harvest Wildlife;
 - b) the distribution among Nuu-chah-nulth Citizens of Wildlife harvested by Nuu-chah-nulth under the Nuu-chah-nulth Right to Harvest Wildlife;
 - c) designating Nuu-chah-nulth Citizens to harvest Wildlife; and
 - d) other matters as set out in the Final Agreement.
26. In the event of a Conflict between a Nuu-chah-nulth Law made under paragraph 25 and a Federal or Provincial Law, the Nuu-chah-nulth Law will prevail to the extent of the Conflict.
27. Nuu-chah-nulth Tribal Government may make laws, in respect of the Nuu-chah-nulth Right to Harvest Wildlife, that are consistent with the Final Agreement and an approved Annual Wildlife Harvest Plan, for:

- a) documenting Nuu-chah-nulth Citizens who harvest Wildlife under the Nuu-chah-nulth Right to Harvest Wildlife;
 - b) Wildlife not included in the Annual Wildlife Harvest Plan, the methods, timing, and location of harvesting those species of Wildlife under the Nuu-chah-nulth Right to Harvest Wildlife; and
 - c) other matters as set out in the Final Agreement.
28. In the event of a Conflict between a Nuu-chah-nulth Law made under paragraph 27 and a Federal or Provincial Law, the Federal or Provincial Law will prevail to the extent of the Conflict.
29. The Final Agreement will set out Nuu-chah-nulth law-making authority for the regulation of the Nuu-chah-nulth Right to Harvest Migratory Birds.
30. Nuu-chah-nulth will have the right to participate in any Wildlife advisory management processes established by British Columbia, in respect of the Wildlife and Migratory Birds Harvest Area.

Trade, Barter and Sale

31. Nuu-chah-nulth Citizens will have the right to Trade and Barter among themselves, or with other aboriginal people of Canada resident in British Columbia, any Wildlife, Wildlife parts, including meat and furs, Migratory Birds, and the eggs or inedible by-products or down of Migratory Birds, harvested under the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds.
32. Any sale of Wildlife, Wildlife parts, including meat and furs, Migratory Birds, and the eggs or the inedible by-products or down of Migratory Birds, harvested under the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds will be in accordance with any Federal and Provincial Laws that permit sale.

Enforcement

33. The Parties may negotiate agreements concerning enforcement of Federal or Provincial Laws, or Nuu-chah-nulth Laws in respect of Wildlife and Migratory Birds. Any of those agreements will not be part of the Final Agreement, will not be a treaty or land claims agreement and will

not recognize or affirm any rights.

34. Nuu-chah-nulth Laws made in accordance with this Chapter may be enforced by persons authorized to enforce Federal or Provincial Laws, or Nuu-chah-nulth Laws in respect of Wildlife or Migratory Birds in British Columbia.
35. The Final Agreement will address enforcement issues in respect of the harvest of Wildlife or Migratory Birds by Nuu-chah-nulth Citizens under the Nuu-chah-nulth Right to Harvest Wildlife and Migratory Birds.

CHAPTER 10 - ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL PROTECTION

Environmental Assessment

1. Nuu-chah-nulth may participate in established federal or provincial environmental assessment processes for proposed projects that may have adverse effects on Nuu-chah-nulth First Nation Lands or on Nuu-chah-nulth interests set out in the Final Agreement in the area set out in Appendix A.

Environmental Protection

2. Nuu-chah-nulth may make environmental protection laws, applicable on Nuu-chah-nulth First Nation Lands, as set out in the Final Agreement.
3. In the event of a Conflict between a Nuu-chah-nulth Law made under paragraph 2 and a Federal or Provincial Law, the Federal or Provincial Law will prevail to the extent of the Conflict.
4. If there is an environmental emergency or natural disaster that affects Nuu-chah-nulth or Nuu-chah-nulth First Nation Lands, the Party responding will notify the other Parties as soon as practicable.

CHAPTER 11 - PARKS AND PROTECTED AREAS

Provincial Parks and Protected Areas

1. Prior to the Final Agreement, British Columbia and Nuu-chah-nulth First Nations will negotiate and attempt to reach agreement regarding arrangements for Nuu-chah-nulth First Nation participation in the management of specific provincial protected areas.
2. British Columbia and Nuu-chah-nulth First Nations will negotiate and attempt to reach agreement on provisions to be included in specific park management plans regarding Nuu-chah-nulth First Nation activities in provincial parks.
3. Nuu-chah-nulth First Nations may make proposals to British Columbia to establish new provincial protected areas.
4. Nothing in the Final Agreement will obligate British Columbia to establish any new provincial protected areas.
5. British Columbia will Consult with the Nuu-chah-nulth regarding the creation of new provincial parks and protected areas in the Nuu-chah-nulth Area.
6. Any agreement reached pursuant to paragraphs 1 or 2 will not be part of the Final Agreement.
7. British Columbia and Nuu-chah-nulth First Nations will address potential economic opportunities, consistent with park management plans, outside of the Final Agreement.

Pacific Rim National Park

8. In this Chapter:
 - a) “Cultural Heritage Sites” means an area within Pacific Rim National Park which has heritage value to a group, including aboriginal people, communities and other Canadians. Cultural Heritage Sites may include traditional use sites, archaeological sites, burials and sacred sites;

- b) “National Marine Park” means the federal Crown lands and water column which are established as national marine parks in the schedules to the *Canada National Parks Act* or in other Federal Law;
- c) “National Park” means federal Crown lands described as a National Park in the schedules to the *Canada National Parks Act*;
- d) “Nuu-chah-nulth First Nations of Pacific Rim” means the Huu-ay-aht First Nation, the Tla-o-qui-aht First Nations, Tseshaht, and the Ucluelet First Nation;
- e) “Pacific Rim National Park” means federal Crown lands described as Pacific Rim National Park in the schedules to the *Canada National Parks Act* that lie within the Nuu-chah-nulth Area; and
- f) “Pacific Rim National Park Reserve” means the federal Crown lands described as Pacific Rim National Park Reserve in the schedules to the *Canada National Parks Act*, subject to the finalization of treaties or land claims with the Nuu-chah-nulth Tribal Council and other First Nations.

National Park and National Marine Park Establishment

- 9. On the Effective Date, Canada will establish all of Pacific Rim National Park Reserve lying within the Nuu-chah-nulth Area as part of Pacific Rim National Park, a map of which is attached in Appendix H.
- 10. No area forming part of Pacific Rim National Park within the Nuu-chah-nulth Area will be removed from Pacific Rim National Park without the consent of the Nuu-chah-nulth Tribal Government.
- 11. Canada will Consult with Nuu-chah-nulth Tribal Government prior to the proclamation of any new National Park or National Marine Park within the Nuu-chah-nulth Area.
- 12. If Canada conducts impact studies prior to enlarging Pacific Rim National Park, Nuu-chah-nulth Tribal Government will be invited to participate in the design and conduct of the studies and will be provided with the results.

13. Any National Park or National Marine Park established within the Nuu-chah-nulth Area will be subject to the provisions of the Final Agreement relating to Pacific Rim National Park.
14. Canada will protect and manage Pacific Rim National Park, including Cultural Heritage Sites and cultural resources within Pacific Rim National Park, in accordance with the Final Agreement and applicable Federal Laws and policies.
15. Canada will fund Pacific Rim National Park in accordance with appropriations for National Parks made by Parliament.
16. Canada will Consult the Nuu-chah-nulth Tribal Government in respect of any proposed amendments to the standards of protection and management of Pacific Rim National Park.
17. Nuu-chah-nulth Citizens will have access, without charge, to and within Pacific Rim National Park as set out in the Final Agreement.

Special Marine Management Areas

18. The Parties may negotiate and attempt to reach agreement with respect to special marine management areas, with the following goals:
 - a) enhancing the protection of marine resources;
 - b) sustaining marine resources;
 - c) proposing research projects in any special marine management areas, including exchange of and respect for research information and traditional knowledge; and
 - d) other matters as agreed.

Nuu-chah-nulth Renewable Resource Harvesting

19. Nuu-chah-nulth may carry out renewable resource harvesting activities in Pacific Rim National Park, limited by measures necessary for conservation, public health and public safety.

20. Unless otherwise provided in the Final Agreement, renewable resource harvesting activities means:
- a) gathering of traditional foods;
 - b) fishing;
 - c) gathering of Forest Resources for medicinal, ceremonial, or artistic purposes;
 - d) trapping of fur-bearing mammals; and
 - e) hunting of birds and land mammals.
21. The Final Agreement will set out provisions respecting how the renewable resource harvesting activities referred to in paragraphs 19 and 20 will be carried out.
22. For greater certainty, the use of selected trees included in paragraph 20 (c) will not include commercial Timber harvests.
23. Nuu-chah-nulth and Canada may negotiate and attempt to reach agreement on a renewable resource harvest management plan within Pacific Rim National Park. The details of the proposed harvest management plan will be set out in a side agreement which will not form part of the Final Agreement.
24. Unless Canada and Nuu-chah-nulth agree, and subject to the Final Agreement, there will be no extraction or harvesting by Nuu-chah-nulth of the resources of the lands and non-tidal waters of Pacific Rim National Park for commercial purposes except for the trapping of fur-bearing mammals or for the making of traditional crafts and artistic objects.

Cooperation in Planning and Management

25. The Minister retains authority for the management and administration of Pacific Rim National Park.
26. Canada and the Nuu-chah-nulth First Nations of Pacific Rim will establish a planning and management process for Pacific Rim National Park to provide advice to the Minister. This

process will be detailed in a renewable side agreement which will not form part of the Final Agreement.

27. Representation of the Nuu-chah-nulth First Nations of Pacific Rim in the process referred to in paragraph 26 will consist of one representative from each of the Nuu-chah-nulth First Nations of Pacific Rim.
28. In considering the advice provided pursuant to paragraph 26, the Minister will take into account the following:
 - a) the protection of Cultural Heritage Sites;
 - b) the interpretation and presentation of natural and cultural heritage;
 - c) the involvement of Nuu-chah-nulth First Nations of Pacific Rim in the identification, protection, interpretation and presentation of Cultural Heritage Sites, natural history and cultural resources of Pacific Rim National Park; and
 - d) the consideration of traditional ecological knowledge.
29. The planning and management process for Pacific Rim National Park within the Nuu-chah-nulth Area will be undertaken cooperatively by Canada and the Nuu-chah-nulth First Nations of Pacific Rim. The planning and management process will outline:
 - a) roles and responsibilities, including:
 - i) park management planning,
 - ii) zoning,
 - iii) annual planning,
 - iv) budgeting,
 - v) administration of programs or operational agreements,

- vi) research,
 - vii) resource use,
 - viii) Nuu-chah-nulth language use,
 - ix) employment and training,
 - x) recruitment and staffing, and
 - xi) economic opportunities;
- b) scheduling;
 - c) dispute resolution;
 - d) consensus seeking approach; and
 - e) other matters as agreed.

Dispute Resolution

30. The Final Agreement will identify a process for the resolution of disputes arising with respect to the matters described in this Chapter.

CHAPTER 12 - GOVERNANCE

Nuuchah-nulth Self-Government

31. Nuuchah-nulth will have the right to self-government, and the authority to make laws, as set out in the Final Agreement.
32. Under the Final Agreement, the *Indian Act* will not apply to Nuuchah-nulth, Nuuchah-nulth Tribal Government, Nuuchah-nulth First Nations, Nuuchah-nulth First Nation Governments, and Nuuchah-nulth Citizens except as set out in the *Indian Act* Transition and Taxation Chapters.

Nuuchah-nulth Government

33. Nuuchah-nulth Tribal Government, as provided for under the Nuuchah-nulth Constitution and the Final Agreement, will be the government of Nuuchah-nulth.
34. Nuuchah-nulth First Nation Governments, as provided for under the Nuuchah-nulth Constitution and the Final Agreement, will be the governments of the Nuuchah-nulth First Nations, respectively.

Legal Status and Capacity

35. Nuuchah-nulth, and each Nuuchah-nulth First Nation, will each be a separate and distinct legal entity with the capacity, rights, powers, and privileges of a natural person including the ability to:
 - a) enter into contracts and agreements;
 - b) acquire, hold, own, buy, and sell property and interests in property;
 - c) raise, spend, invest, and borrow money;
 - d) sue and be sued; and
 - e) do other things ancillary to the exercise of its rights, powers and privileges.

36. Nuu-chah-nulth will act through Nuu-chah-nulth Tribal Government in accordance with:
- a) the Final Agreement; and
 - b) Nuu-chah-nulth Laws, including the Nuu-chah-nulth Constitution.
37. Each Nuu-chah-nulth First Nation will act through its Nuu-chah-nulth First Nation Government in accordance with:
- a) the Final Agreement; and
 - b) Nuu-chah-nulth Laws, including the Nuu-chah-nulth Constitution.
38. The Final Agreement will include provisions to address the scope of immunity and liability of Nuu-chah-nulth, Nuu-chah-nulth Tribal Government, elected members of the Nuu-chah-nulth Tribal Government, Nuu-chah-nulth First Nations, Nuu-chah-nulth First Nation Governments, elected members of the Nuu-chah-nulth First Nation Governments, and Nuu-chah-nulth public officers. Where appropriate, the scope of immunity and liability will be similar to that for municipalities under provincial legislation.

Nuu-chah-nulth Constitution

39. Nuu-chah-nulth will have a Constitution, consistent with the Final Agreement, which will provide:
- a) for a democratically elected Nuu-chah-nulth Tribal Government, including its duties, composition, and membership;
 - b) that Nuu-chah-nulth Tribal Government will be democratically accountable with elections at least every five years;
 - c) for financial administration comparable to standards generally accepted for governments in Canada;
 - d) for conflict of interest rules comparable to those generally accepted for governments in Canada;

- e) for recognition and protection of rights and freedoms of Nuu-chah-nulth Citizens;
 - f) that every individual who is enrolled under the Final Agreement is entitled to be a Nuu-chah-nulth Citizen;
 - g) that the Final Agreement sets out the authority of Nuu-chah-nulth Tribal Government to make laws;
 - h) for the assignment to Nuu-chah-nulth Tribal Government and Nuu-chah-nulth First Nation Governments the rights, powers, privileges, and responsibilities under the Final Agreement that are not specifically assigned to Nuu-chah-nulth Tribal Government under the Final Agreement;
 - i) the process for the enactment of laws by Nuu-chah-nulth Tribal Government;
 - j) for challenging the validity of Nuu-chah-nulth Laws;
 - k) that the Nuu-chah-nulth Constitution prevails over other Nuu-chah-nulth Laws to the extent of any Conflict;
 - l) for the establishment of Nuu-chah-nulth Public Institutions;
 - m) for conditions under which Nuu-chah-nulth First Nations may dispose of lands or interests in lands;
 - n) for Nuu-chah-nulth Tribal Government from the Effective Date until the first elected Nuu-chah-nulth Tribal Government takes office;
 - o) for amendment of the Nuu-chah-nulth Constitution; and
 - p) for other provisions.
40. Each Nuu-chah-nulth First Nation will have a Constitution, consistent with the Final Agreement and consistent with the Nuu-chah-nulth Constitution, which will provide:
- a) for a democratically elected Nuu-chah-nulth First Nation Government, including their duties, composition, and membership;

- b) that Nuu-chah-nulth First Nation Government will be democratically accountable with elections at least every five years;
 - c) for financial administration comparable to standards generally accepted for governments in Canada;
 - d) for conflict of interest rules comparable to those generally accepted for governments in Canada;
 - e) that the Final Agreement sets out the authority of Nuu-chah-nulth First Nation Government to make laws;
 - f) the process for the enactment of laws by Nuu-chah-nulth First Nation Government;
 - g) for challenging the validity of Nuu-chah-nulth First Nation Laws;
 - h) that the Nuu-chah-nulth First Nation Constitution prevails over other Nuu-chah-nulth First Nation Laws to the extent of any Conflict;
 - i) for the establishment of Nuu-chah-nulth Public Institutions;
 - j) for conditions under which Nuu-chah-nulth First Nations may dispose of lands or interests in lands;
 - k) for Nuu-chah-nulth First Nation Government from the Effective Date until the first elected Nuu-chah-nulth First Nation Government takes office;
 - l) for amendment of the Nuu-chah-nulth First Nation Constitution; and
 - m) for other provisions.
41. The Nuu-chah-nulth Constitution, and each Nuu-chah-nulth First Nation Constitution, once ratified in accordance with the Final Agreement, will come into force on the Effective Date.

Nuu-chah-nulth Government Structure

42. The Final Agreement will contain provisions setting out the structure of Nuu-chah-nulth Tribal

Government and Nuu-chah-nulth First Nation Governments.

Nuu-chah-nulth Elections

43. Elections for Nuu-chah-nulth Government will be held in accordance with the Nuu-chah-nulth Constitution, the Nuu-chah-nulth First Nation Constitutions, and Nuu-chah-nulth Laws.

Appeal and Review of Administrative Decisions

44. Nuu-chah-nulth Government will establish processes for appeal or review of administrative decisions made by Nuu-chah-nulth Public Institutions exercising a statutory power of decision under Nuu-chah-nulth Law.
45. The Supreme Court of British Columbia will have jurisdiction to hear appeals or judicial reviews of administrative decisions of Nuu-chah-nulth Government or Nuu-chah-nulth Public Institutions exercising a statutory power of decision under Nuu-chah-nulth Law.

Registry of Laws

46. Nuu-chah-nulth Tribal Government will:
 - a) maintain a public registry of Nuu-chah-nulth Laws in the English language and, at the discretion of Nuu-chah-nulth Tribal Government, in the Nuu-chah-nulth language; and
 - b) provide Canada and British Columbia with copies of Nuu-chah-nulth Laws.

Individuals who are not Nuu-chah-nulth Citizens

47. The Final Agreement will provide opportunities or processes for participation by individuals who are not Nuu-chah-nulth Citizens, residing on or having a property interest in Nuu-chah-nulth First Nation Lands, in decisions of Nuu-chah-nulth Government and Nuu-chah-nulth Public Institutions that affect them.
48. Nuu-chah-nulth Government will Consult with individuals who are not Nuu-chah-nulth Citizens, residing on or having a property interest in Nuu-chah-nulth First Nation Lands, regarding

proposed Nuu-chah-nulth Government decisions that may directly and significantly affect them.

49. Nuu-chah-nulth Government will provide that individuals who are not Nuu-chah-nulth Citizens, residing on or having a property interest in Nuu-chah-nulth First Nation Lands, will have access to the appeal and review procedures under paragraphs 14 and 15.

Transitional Provisions

50. The Final Agreement will include provisions for the transition from Nuu-chah-nulth Indian Bands and Nuu-chah-nulth Tribal Council to Nuu-chah-nulth Government.

Nuu-chah-nulth Law-Making Authority

51. The Parties will negotiate the nature and scope of each Nuu-chah-nulth Government law-making authority to be set out in the Final Agreement, including to whom Nuu-chah-nulth Laws apply, and where and when Nuu-chah-nulth Laws apply. The Final Agreement will also address the distribution of law-making authority between the Nuu-chah-nulth Tribal Government and the Nuu-chah-nulth First Nation Governments.
52. In negotiating Nuu-chah-nulth Government law-making authorities, the Parties will consider the particular circumstances of Nuu-chah-nulth and Nuu-chah-nulth First Nations, including the population and location of the Nuu-chah-nulth First Nations.
53. Federal and Provincial Laws will apply concurrently with Nuu-chah-nulth Laws and the Final Agreement will set out which law prevails where a Nuu-chah-nulth Law Conflicts with a Federal or Provincial Law.
54. In addition to the law-making authorities otherwise provided for in other Chapters of this Agreement, Nuu-chah-nulth Tribal Government will have law-making authority with respect to:
- a) pre-school, elementary, and secondary education provided by Nuu-chah-nulth Tribal Government that meet provincial standards for:
 - i) curriculum, examination, and other standards that allow for transfers of students between school systems at a similar level of achievement and permit admission of students to the provincial post-secondary education systems, and

- ii) certification of teachers;
 - b) child and family services provided by Nuu-chah-nulth Tribal Government that include standards comparable to provincial standards for the safety and well-being of children and families;
 - c) adoption of Nuu-chah-nulth children that include provisions to ensure the best interests of the child are paramount;
 - d) Nuu-chah-nulth culture and Nuu-chah-nulth language, but not the official languages of Canada; and
 - e) Nuu-chah-nulth citizenship provided that Nuu-chah-nulth Laws do not deal with Canadian citizenship, entry into Canada, or registration under the *Indian Act*.
55. In addition to the law-making authorities otherwise provided for in other Chapters of this Agreement, Nuu-chah-nulth Government, as specified in the Final Agreement, will have law-making authority with respect to:
- a) regulation, administration, and expropriation of Nuu-chah-nulth First Nation Lands by Nuu-chah-nulth Government;
 - b) Nuu-chah-nulth assets and Nuu-chah-nulth First Nation assets on Nuu-chah-nulth First Nation Lands;
 - c) zoning and land use planning of Nuu-chah-nulth First Nation Lands, including standards consistent with Federal and Provincial Laws; and
 - d) management, operation, and financial administration of Nuu-chah-nulth Government.
56. In the event of a Conflict between a Nuu-chah-nulth Law made under paragraph 24 or 25 and a Federal or Provincial Law, the Nuu-chah-nulth Law will prevail to the extent of the Conflict.
57. In addition to the law-making authorities otherwise provided for in this Agreement, Nuu-chah-nulth Tribal Government will have law-making authority with respect to:
- a) aspects of administration of justice provided by Nuu-chah-nulth Tribal Government;

- b) solemnization of marriages;
 - c) social services provided by Nuu-chah-nulth Tribal Government;
 - d) income support provided by Nuu-chah-nulth Tribal Government;
 - e) health services provided by Nuu-chah-nulth Tribal Government; and
 - f) post-secondary education provided by Nuu-chah-nulth Tribal Government on Nuu-chah-nulth First Nation Lands, that includes standards comparable to provincial standards, including the establishment of post-secondary institutions that have the ability to grant diplomas but not degrees.
58. In addition to the law-making authorities otherwise provided for in this Agreement, Nuu-chah-nulth Government, as specified in the Final Agreement, will have law-making authority with respect to:
- a) buildings, structures, and public works on Nuu-chah-nulth First Nation Lands;
 - b) emergency preparedness provided by Nuu-chah-nulth Government on Nuu-chah-nulth First Nation Lands;
 - c) fire protection provided by Nuu-chah-nulth Government on Nuu-chah-nulth First Nation Lands;
 - d) traffic and transportation on Nuu-chah-nulth First Nation Lands; and
 - e) regulation, control, or prohibition of any actions, activities, or undertakings on Nuu-chah-nulth First Nation Lands that constitute, or may constitute, a nuisance, a trespass, a danger to public health, or a threat to public order, peace, or safety.
59. Nuu-chah-nulth Government law-making authority will not include criminal law, criminal procedure, or Intellectual Property.
60. In the event of a Conflict between a Nuu-chah-nulth Law made under paragraph 27 or 28 and a Federal or Provincial Law, the Federal or Provincial Law will prevail to the extent of the Conflict.

61. The Parties may negotiate Nuu-chah-nulth Government law-making authorities with respect to other matters as agreed to by the Parties in the Final Agreement.
62. For greater certainty, the authority of Nuu-chah-nulth Government to make laws in respect of a subject matter, as set out in the Final Agreement, will include the authority to make laws and to do other things as may be necessarily incidental to exercising its authority.
63. Nuu-chah-nulth Government may make laws and do other things that may be necessary to enable Nuu-chah-nulth and Nuu-chah-nulth Government to exercise its rights, or to carry out its responsibilities, under the Final Agreement.

CHAPTER 13 - MUNICIPAL AND REGIONAL GOVERNMENT RELATIONSHIPS

1. The Final Agreement will address the relationship that Nuu-chah-nulth Government will have with the Alberni-Clayoquot and Comox-Strathcona Regional Districts, including member Municipalities of these Regional Districts within the Nuu-chah-nulth Area, on matters such as the delivery of and payment for services, coordination between the governments for common areas of responsibility, and representation of Nuu-chah-nulth Government and residents of Nuu-chah-nulth First Nation Lands on the Alberni-Clayoquot and Comox-Strathcona Regional Districts.

CHAPTER 14 - INDIAN ACT TRANSITION

1. The *Indian Act* will not apply to Nuu-chah-nulth, Nuu-chah-nulth First Nations, Nuu-chah-nulth Government, and Nuu-chah-nulth Citizens except for:
 - a) determining registration as an Indian under the *Indian Act*;
 - b) determining qualification for the temporary remission of taxes under the Taxation Chapter;
 - c) the estates of Nuu-chah-nulth individuals, who die prior to the Effective Date, that are administered under the *Indian Act* as of the Effective Date; and
 - d) the estates of Nuu-chah-nulth children or other Nuu-chah-nulth individuals whose property is administered under the *Indian Act* as of the Effective Date.
2. The Final Agreement set out transitional provisions in respect of the bylaws of each Nuu-chah-nulth Indian Band.
3. The Final Agreement will set out transitional provisions for the operation of Nuu-chah-nulth Government from the Effective Date until the first elections are held in accordance with the Final Agreement, the Nuu-chah-nulth Constitution, and the Nuu-chah-nulth First Nations' Constitutions.
4. On the Effective Date, all of the rights, titles, interests, assets, obligations, and liabilities of the following *Indian Act* Bands vest in the following Nuu-chah-nulth First Nations:
 - a) the Ahousaht vest in Ahousaht;
 - b) the Ehattesaht vest in Ehattesaht;
 - c) the Ka:'yu:'k't'h'/Che:k'tles7et'h' vest in the Ka:'yu:'k't'h'/Che:k'tles7et'h' Nation;
 - d) the Hesquiaht vest in the Hesquiaht First Nation;
 - e) the Huu-ay-aht First Nations vest in the Huu-ay-aht First Nation;

- f) the Mowachaht/Muchalaht vest in Mowachaht/Muchalaht;
- g) the Nuchatlaht vest in the Nuchatlaht First Nation;
- h) the Toquaht vest in the Toquaht Nation;
- i) the Tla-o-qui-aht First Nations vest in the Tla-o-qui-aht First Nations;
- j) the Tseshahat vest in Tseshahat;
- k) the Uchucklesaht vest in the Uchucklesaht Tribe; and
- l) the Ucluelet First Nation vest in the Ucluelet First Nation

and those Indian Bands cease to exist.

5. The Final Agreement will set out how the rights, titles, interests, assets, obligations, and liabilities of the Nuu-chah-nulth Tribal Council will be addressed.

CHAPTER 15 - CAPITAL TRANSFER AND NEGOTIATION LOAN REPAYMENT

Capital Transfer

1. The Capital Transfer from Canada and British Columbia to Nuu-chah-nulth will be \$205.8 million and will be paid in accordance with the provisions of this Chapter.
2. A provisional schedule of payments will be negotiated prior to the initialing of the Final Agreement such that:
 - a) the timing and amounts of payments in the provisional schedule of payments will provide for a first payment to Nuu-chah-nulth on the Effective Date and subsequent payments on each anniversary of the Effective Date;
 - b) the net present value of the amounts listed in the provisional schedule of payments will equal the amount set out in paragraph 1; and
 - c) the net present value of the amounts listed in the provisional schedule of payments will be calculated using as a discount rate the most recent and appropriate Consolidated Revenue Fund Lending Rate available prior to the initialing of the Final Agreement from the Department of Finance, Canada, less one eighth of one percent.
3. A final schedule of payments will be determined approximately one month prior to the Effective Date in accordance with the following formula:

$$\text{Final Amount} = \text{Provisional Amount} \times \left[\max \left(1, \frac{\text{Effective Date FDDIPI}}{\text{3rdQ 2000 FDDIPI}} \right) \right]$$

Where,

“Final Amount” refers to each amount in the final schedule of payments;

“Provisional Amount” refers to the corresponding amount in the provisional schedule of payments;

“Effective Date FDDIPI” refers to the value of the Canada Final Domestic Demand Implicit Price Index (FDDIPI) for the quarter prior to the Effective Date;

“3rd Q 2000 FDDIPI” refers to the value of the Canada FDDIPI for the third quarter of the year 2000;

“max” means 1, or Effective Date FDDIPI divided by 3rd Q 2000 FDDIPI, whichever is greater; and

the Effective Date FDDIPI and 3rd Q 2000 FDDIPI values used will be the latest published values available from Statistics Canada one month prior to the Effective Date.

4. British Columbia and, subject to paragraph 11, Canada will make payments to Nuu-chah-nulth in accordance with the final schedule of payments determined in accordance with paragraph 3.
5. Notwithstanding paragraph 1, if, prior to the Final Agreement, as a result of a Treaty Related Measure among the Parties, Canada or British Columbia acquires annual allowable cut or forest tenures outside of Nuu-chah-nulth First Nation Lands on behalf of Nuu-chah-nulth under paragraph 15 of the Forest Resources Chapter, or acquires commercial fishing capacity on behalf of Nuu-chah-nulth under paragraph 73 of the Fisheries Chapter, the Capital Transfer amount in paragraph 1 will be reduced by the cost of any acquisition.
6. Canada and British Columbia will, on the Effective Date, pay to the Ucluelet First Nation a Capital Transfer of \$6.0 million. This amount will be adjusted in the same manner as set out in paragraph 3. This amount is in addition to the amount set out in paragraph 1. This Capital Transfer is in lieu of lands.

Negotiation Loan Repayment

7. On the date of the initialing of the Final Agreement, Canada will determine the outstanding amount of negotiation loans made by Canada to Nuu-chah-nulth, including any interest that may have accrued to that date, in accordance with First Nation Funding Agreements.
8. At the same time, Canada will prepare a provisional schedule for the repayment of the outstanding negotiation loan amount referred to in paragraph 7, such that the repayments will be proportional to the provisional schedule of payments referred to in paragraph 2.

9. This provisional schedule will use an interest rate equal to the discount rate referred to in paragraph 2(c).
10. A final schedule of loan repayment amounts will be determined approximately one month prior to the Effective Date by:
 - a) determining the amount of any additional negotiation loans made by Canada to Nuu-chah-nulth after the initialing of the Final Agreement and prior to the Effective Date, and any further interest that may have accrued in respect of any negotiation loans, in accordance with First Nation Funding Agreements; and
 - b) prorating the additional amount in paragraph 10 (a) over the provisional repayment schedule.
11. Canada may deduct any amounts due pursuant to the final schedule of loan repayments referred to in paragraph 10 from Capital Transfer payments payable to Nuu-chah-nulth in accordance with paragraph 4.
12. Nuu-chah-nulth may pay to Canada, in advance and on account, without bonus or penalty, amounts that will be credited against the loan repayment amounts set out in paragraph 10. The details of how prepayment amounts will be credited, including interest adjustments based on the rate set out in paragraph 9, and when prepayment amounts may be made, will be set out in the Final Agreement.

CHAPTER 16 - FISCAL RELATIONS

Fiscal Agreements

1. Every five years, or other periods as agreed, the Parties will negotiate and attempt to reach agreement on Nuu-chah-nulth fiscal agreements which will set out how funding will be provided to Nuu-chah-nulth to support the provision of agreed-upon programs and services to Nuu-chah-nulth Citizens and, where applicable, non-Nuu-chah-nulth occupants of Nuu-chah-nulth First Nation Lands.
2. In negotiating Nuu-chah-nulth fiscal agreements in respect of the agreed-upon programs and services, the Parties will take into account the following:
 - a) the financial resources necessary to provide agreed-upon programs and services at a level reasonably comparable to the level of programs and services available in First Nation and non-First Nation communities of similar size and circumstances in southwest British Columbia;
 - b) existing levels of federal and provincial funding provided to Nuu-chah-nulth;
 - c) affordability in relation to prevailing federal, provincial, and Nuu-chah-nulth fiscal policies;
 - d) efficiency and effectiveness in providing agreed-upon programs and services;
 - e) Nuu-chah-nulth and Nuu-chah-nulth First Nation revenue capacity determined in accordance with this Chapter;
 - f) the costs of operating Nuu-chah-nulth Government which may include adjustments to base funding such as price and volume considerations; and
 - g) any other matters set out in the Final Agreement.

3. In negotiating the first Nuu-chah-nulth fiscal agreement, the Parties will take into account the following:
 - a) the start-up costs of operating Nuu-chah-nulth Government; and
 - b) the level and condition of agreed-upon physical community infrastructure assets and the management, maintenance, and replacement costs of those assets over time.
4. If the Parties do not reach a further fiscal agreement by the expiry date of a fiscal agreement, the fiscal agreement will continue in effect for two years from its original expiry date, or for any other period that the Parties may agree while they attempt to reach a further fiscal agreement.
5. Setting out Nuu-chah-nulth Government authorities, including law-making authorities in the Final Agreement, will not create or imply any financial obligations or service responsibility for any Party.
6. In negotiating fiscal agreements, the Parties will consider procedures for:
 - a) the collection and exchange of information, including statistical information, to facilitate the implementation of the fiscal agreements;
 - b) dispute resolution in relation to the fiscal agreements;
 - c) the accountability of the Nuu-chah-nulth Government to the funding governments; and
 - d) other procedures agreed to by the Parties.
7. Any amounts required for the purposes of a fiscal agreement will be paid out of appropriations as may be made by the Parliament of Canada or the Legislature of British Columbia for those purposes.
8. Unless the Parties otherwise agree, the Parties will initial the first fiscal agreement no later than the date at which the Final Agreement is initialed.
9. Any Nuu-chah-nulth fiscal agreements will not be part of the Final Agreement, will not be a

treaty or land claims agreement and will not recognize or affirm any rights.

Nuu-chah-nulth and Nuu-chah-nulth First Nation Revenue

10. Nuu-chah-nulth and Nuu-chah-nulth First Nations will contribute to the funding of Nuu-chah-nulth Government from their own revenue sources and it is the shared objective of the Parties that this contribution will be enhanced over time.
11. The fiscal arrangements between the Parties should provide a reasonable incentive for Nuu-chah-nulth and Nuu-chah-nulth First Nations to raise revenues from their own sources.
12. Prior to initialing the Final Agreement, the Parties will negotiate for each revenue source the manner in which Nuu-chah-nulth and Nuu-chah-nulth First Nation revenue capacity or revenue will be used in determining the funding amount provided by Canada or British Columbia.
13. In calculating Nuu-chah-nulth and Nuu-chah-nulth First Nation revenue capacity, all Nuu-chah-nulth and Nuu-chah-nulth First Nation revenue sources will be included except for the following:
 - a) capital transfer payments under the Final Agreement;
 - b) any federal or provincial payments under fiscal agreements or other agreements for programs and services;
 - c) proceeds from the sale of Nuu-chah-nulth First Nation Lands; and
 - d) any other matters set out in the Final Agreement.
14. The manner in which Nuu-chah-nulth and Nuu-chah-nulth First Nation revenue capacity will be used in determining the funding amount to be provided by Canada or British Columbia may be phased in over a number of years as negotiated and specified before the initialing of the Final Agreement.
15. Prior to the initialing of the Final Agreement, the Parties will address any issues concerning the

need for a reasonable degree of competitive equity between Nuu-chah-nulth Government commercial activities and commercial activities elsewhere in British Columbia.

Review

16. The Parties acknowledge that Canada, British Columbia and First Nations representatives may agree upon other approaches to taxation or fiscal relations for general use in negotiations with First Nations in British Columbia. Prior to the Final Agreement, the Parties will review the Taxation and Fiscal Relations Chapters to determine whether any of those approaches are appropriate for use in the Final Agreement or related agreements.

CHAPTER 17 - TAXATION

Direct Taxation

1. Nuu-chah-nulth Tribal Government may make laws in respect of direct taxation of Nuu-chah-nulth Citizens on Nuu-chah-nulth First Nation Lands in order to raise revenue for Nuu-chah-nulth purposes.
2. Nuu-chah-nulth Tribal Government powers provided for in paragraph 1 will not limit the powers of Canada or British Columbia to impose or levy tax or make laws in respect of taxation.

Other Taxation and Tax Administration Agreements

3. From time to time, Canada and British Columbia, together or separately, may negotiate with Nuu-chah-nulth and attempt to reach agreement on:
 - a) the extent, if any, to which Canada or British Columbia will provide to Nuu-chah-nulth Tribal Government direct taxation authority over persons, other than Nuu-chah-nulth Citizens, on Nuu-chah-nulth First Nation Lands; and
 - b) the coordination of taxation by Nuu-chah-nulth Tribal Government, of any person, with the existing federal or provincial tax systems including the extent, if any, to which Canada or British Columbia may agree to share tax room.
4. Prior to the Final Agreement, Canada and Nuu-chah-nulth may negotiate and attempt to reach agreement, in respect of sales tax and income tax, on:
 - a) the extent to which Canada will provide to Nuu-chah-nulth Tribal Government direct taxation authority over all persons on Nuu-chah-nulth First Nation Lands;
 - b) the manner in which taxation by Nuu-chah-nulth Tribal Government will be coordinated with the existing federal taxation system, including the extent, if any, to which Canada may agree to share federal tax room; and
 - c) such other taxation matters as may be agreed upon between Canada and

Nuu-chah-nulth.

Indian Act Section 87 Exemption

5. Subject to paragraph 6, section 87 of the *Indian Act* applies to Nuu-chah-nulth Citizens only to the extent that an Indian other than a Nuu-chah-nulth Citizen, or the property of that Indian, would be exempt from taxation in similar circumstances by reason of the applicability of section 87 of the *Indian Act*.
6. Section 87 of the *Indian Act* will cease to apply to Nuu-chah-nulth Citizens:
 - a) in respect of transaction taxes, only as of the first day of the first month that starts after the eighth anniversary of the Effective Date; and
 - b) in respect of all other taxes, only as of January 1 of the first calendar year that starts on or after the twelfth anniversary of the Effective Date.

Remission of Tax

7. Subject to paragraphs 8 and 9, as of the Effective Date, Canada and British Columbia will each remit federal and provincial tax imposed or levied by it in respect of:
 - a) the estate or interest of an Indian in lands identified in the Lands Chapter as Nuu-chah-nulth Indian Reserves that will cease to be Nuu-chah-nulth Indian Reserves on the Effective Date;
 - b) the personal property of an Indian situated on lands identified in the Lands Chapter as Nuu-chah-nulth Indian Reserves that will cease to be Nuu-chah-nulth Indian Reserves on the Effective Date; and
 - c) an Indian's ownership, occupation, possession or use of any property referred to in paragraph 7(a) or (b).
8. A remission of tax under paragraph 7 will only apply where the property referred to in paragraph 7(a) or (b), or the Indian in respect of the ownership, occupation, possession or use of the property referred to in paragraph 7(a) or (b) would, but for the Final Agreement, be

exempt from taxation by reason of the applicability of section 87 of the *Indian Act*.

9. The remissions of tax referred to in paragraph 7 will cease to be effective:
 - a) in respect of transaction taxes, as of the first day of the first month that starts after the eighth anniversary of the Effective Date; and
 - b) in respect of all other taxes, as of January 1 of the first calendar year that starts on or after the twelfth anniversary of the Effective Date.

Nuu-chah-nulth First Nation Lands

10. Nuu-chah-nulth and Nuu-chah-nulth First Nations will not be subject to capital taxation, including real property taxes and taxes on capital or wealth, in respect of the estate or interest of Nuu-chah-nulth or Nuu-chah-nulth First Nations in Nuu-chah-nulth First Nation Lands on which there are no improvements or on which there is an improvement which is used for a public purpose, and not for profit or gain.

Nuu-chah-nulth Capital

11. A transfer, or recognition of ownership, under the Final Agreement, of Nuu-chah-nulth Capital will not be taxable.
12. For purposes of the *Income Tax Act* and the *Income Tax Act (British Columbia)*, Nuu-chah-nulth Capital transferred to, or recognized as owned by, Nuu-chah-nulth or Nuu-chah-nulth First Nations under the Final Agreement will be deemed to have been acquired by Nuu-chah-nulth or Nuu-chah-nulth First Nations on the latest of the Effective Date, the date of transfer or the date of recognition, at a cost equal to its fair market value on that date.

Taxation Agreements

13. On the Effective Date, the Parties will enter into a Taxation Treatment Agreement.
14. Canada will recommend to Parliament that the provisions of the Taxation Treatment Agreement be given effect under Federal Law.

15. British Columbia will recommend to the Legislature legislation to give effect to the Taxation Treatment Agreement.
16. Any taxation, tax administration, or taxation treatment agreements negotiated pursuant to paragraphs 3, 4, and 13 will not form part of the Final Agreement, will not be a treaty or land claims agreement and will not recognize or affirm any rights.

Review

17. The Parties acknowledge that Canada, British Columbia and First Nations representatives may agree upon other approaches to taxation or fiscal relations for general use in negotiations with First Nations in British Columbia. Prior to the Final Agreement, the Parties will review the Taxation and Fiscal Relations Chapters to determine whether any of those approaches are appropriate for use in the Final Agreement or related agreements.

CHAPTER 18 - CULTURE AND HERITAGE

General

1. The Parties recognize the integral role of Nuu-chah-nulth artifacts in the continuation of Nuu-chah-nulth culture, values, and traditions, whether those artifacts are held by the Nuu-chah-nulth, a Nuu-chah-nulth First Nation, a Nuu-chah-nulth Corporation, a Nuu-chah-nulth Citizen, Parks Canada, the Canadian Museum of Civilization, or the Royal British Columbia Museum.
2. The Final Agreement will set out provisions for the sharing of or transfer to Nuu-chah-nulth of Nuu-chah-nulth Artifacts in the permanent collection of the Canadian Museum of Civilization.
3. The Final Agreement will set out provisions for the transfer to Nuu-chah-nulth of certain Nuu-chah-nulth Artifacts in the permanent collection of Parks Canada.
4. The Final Agreement will set out provisions for the sharing of or transfer to Nuu-chah-nulth of Nuu-chah-nulth Artifacts in the permanent collection of the Royal British Columbia Museum.
5. At the request of Nuu-chah-nulth, Canada or British Columbia, respectively, will make reasonable efforts to facilitate Nuu-chah-nulth access to Nuu-chah-nulth Artifacts, or other Nuu-chah-nulth heritage materials, in other collections.

Nuu-chah-nulth Ancient Human Remains

6. Subject to Federal and Provincial Laws, any Nuu-chah-nulth ancient human remains removed from Heritage Sites will be returned to Nuu-chah-nulth.

Heritage Sites

7. Nuu-chah-nulth Government may develop processes, comparable to British Columbia processes, to manage Heritage Sites on Nuu-chah-nulth First Nation Lands in order to preserve Nuu-chah-nulth and other heritage values associated with those sites from proposed land and resource activities that may affect those sites.

8. British Columbia and Nuu-chah-nulth will negotiate and attempt to reach agreement on a list of key sites of cultural and historic significance outside Nuu-chah-nulth First Nation Lands to be protected through provincial heritage site designation or through other measures agreed to by British Columbia and Nuu-chah-nulth.

Place Names

9. Nuu-chah-nulth and British Columbia will negotiate and attempt to reach agreement on a list of key geographic features, set out in the Final Agreement, to be named or renamed in the Nuu-chah-nulth language subject to provincial requirements.
10. After the Effective Date, Nuu-chah-nulth may propose that British Columbia name or rename other geographic features with Nuu-chah-nulth names, and British Columbia will consider those proposals in accordance with Provincial Laws.
11. At the request of Nuu-chah-nulth, British Columbia will record Nuu-chah-nulth names and historic background information submitted by Nuu-chah-nulth for inclusion in the British Columbia Geographic Names data base for the geographic features that are set out in the Final Agreement, in accordance with provincial policy and procedures.

CHAPTER 19 - DISPUTE RESOLUTION

1. The Final Agreement will set out a dispute resolution process for:
 - a) disputes over interpretation, application, implementation, and alleged breaches of the Final Agreement; and
 - b) other matters identified in the Final Agreement.
2. The Parties share the following objectives to avoid disputes:
 - a) to co-operate and develop respectful working relationships; and
 - b) to identify and resolve issues early, efficiently, and in a non-adversarial way.
3. Unless otherwise provided for in the Final Agreement, any disputes that arise among the Parties will progress, until resolved, through the following stages of the dispute resolution process:
 - a) informal discussions among the Parties;
 - b) formal negotiations among the Parties;
 - c) mediation or another non-binding process; and
 - d) a binding decision-making process, either by arbitration where agreed to in the Final Agreement, or by court proceedings.
4. Unless otherwise provided for in the Final Agreement, each Party will bear its own costs of participating in the dispute resolution process and the Parties will share common costs equally.

CHAPTER 20 - ELIGIBILITY AND ENROLMENT

Nuu-chah-nulth Eligibility Criteria

1. An individual will be eligible for enrolment under the Final Agreement if that individual:
 - a) is registered on a Nuu-chah-nulth Indian Band list as of the day before the Effective Date, provided that the eligibility for enrolment of an individual having no aboriginal ancestry but who is currently a member of a Nuu-chah-nulth Indian Band, having acquired membership prior to April 17, 1985 as a result of marriage to a member of a Nuu-chah-nulth Indian Band, will be addressed prior to the Final Agreement;
 - b) is of Nuu-chah-nulth ancestry;
 - c) was adopted as a child under laws recognized in Canada or by Nuu-chah-nulth custom by an individual eligible for enrolment; or
 - d) is a descendant of an individual eligible for enrolment.
2. Notwithstanding paragraph 1(d), where an individual having no aboriginal ancestry became a member of a Nuu-chah-nulth Indian Band prior to April 17, 1985 because of marriage to a Nuu-chah-nulth Indian Band member, and that individual having no aboriginal ancestry subsequently has a child with another individual having no Nuu-chah-nulth ancestry, that child will not be entitled to be enrolled.
3. Enrolment under the Final Agreement will not:
 - a) confer or deny rights of entry into Canada, Canadian citizenship, the right to be registered as an Indian under the *Indian Act*, or any of the rights or benefits under the *Indian Act*; or
 - b) except as set out in the Final Agreement, or in any Federal or Provincial Law, impose any obligation on Canada or British Columbia to provide rights or benefits.

Other Land Claims Agreements

4. An individual who is a member of an Indian Band that is a signatory to a treaty, or an individual who is enrolled under another treaty or land claims agreement in Canada, cannot be enrolled under the Final Agreement.

Nuu-chah-nulth Enrolment Committee

5. Nuu-chah-nulth will establish the Nuu-chah-nulth Enrolment Committee to be responsible for the Nuu-chah-nulth enrolment process as set out in the Final Agreement.
6. The Nuu-chah-nulth Enrolment Committee will:
 - a) consider and decide each enrolment application based on the eligibility criteria;
 - b) maintain an enrolment register;
 - c) amend the enrolment register to take into account decisions of the Nuu-chah-nulth Enrolment Appeal Board;
 - d) report on the enrolment process to the Parties; and
 - e) comply with other requirements as set out in the Final Agreement.

Nuu-chah-nulth Enrolment Appeal Board

7. The Parties will establish the Nuu-chah-nulth Enrolment Appeal Board with equal representation of each of the Parties to be responsible for the enrolment appeal process set out in the Final Agreement.
8. The Nuu-chah-nulth Enrolment Appeal Board will consider and decide appeals from decisions of the Nuu-chah-nulth Enrolment Committee.
9. Decisions of the Nuu-chah-nulth Enrolment Appeal Board are subject to judicial review in the Supreme Court of British Columbia.

Costs

10. Canada and British Columbia will provide an agreed amount of funding for the Nuu-chah-nulth Enrolment Committee and Enrolment Appeal Board.

Transition

11. The Final Agreement will set out the process for Nuu-chah-nulth to assume responsibility for the enrolment process.

CHAPTER 21 - IMPLEMENTATION

1. During the negotiation of the Final Agreement, the Parties will negotiate an Implementation Plan which will not be part of the Final Agreement, will not be a treaty or land claims agreement and will not recognize or affirm any rights.
2. Prior to ratifying the Final Agreement, the Parties will complete the Implementation Plan.
3. The Implementation Plan will identify the obligations set out in the Final Agreement to implement the Final Agreement and any activities required to implement those obligations.
4. The Implementation Plan will not be legally binding and will not alter any obligations set out in the Final Agreement.
5. On the Effective Date, the Parties will establish an Implementation Committee.

CHAPTER 22 - APPROVAL OF THE AGREEMENT-IN-PRINCIPLE

1. This Agreement will be submitted to the Parties for approval after it has been initialed by the Chief Negotiators for Canada and British Columbia and the Co-Chief Negotiators of the Nuu-chah-nulth Tribal Council.
2. Nuu-chah-nulth will have approved this Agreement when it is signed by the Co-Chief Negotiators of the Nuu-chah-nulth Tribal Council and the Chief Negotiator of each Nuu-chah-nulth First Nation after a community approval process.
3. Canada will have approved this Agreement when it is signed by a Minister authorized to do so by the federal Cabinet.
4. British Columbia will have approved this Agreement when it is signed by a Minister authorized to do so by the provincial Cabinet.
5. This Agreement is not legally binding.

CHAPTER 23 - RATIFICATION OF THE FINAL AGREEMENT

General

1. The Final Agreement will be legally binding once ratified by all of the Parties in accordance with the Ratification Chapter of the Final Agreement.
2. The Final Agreement will be submitted to the Parties for ratification as set out in the Final Agreement after it has been initialed by Chief Negotiators for Canada and British Columbia and the Co-Chief Negotiators for the Nuu-chah-nulth Tribal Council.

Ratification by Nuu-chah-nulth

3. The Parties will establish a Ratification Committee, with equal representation of each of the Parties, to be responsible for the Nuu-chah-nulth ratification process, including preparing a list of eligible voters, as set out in the Final Agreement.
4. An eligible voter will be a person who:
 - a) is enrolled under the Eligibility and Enrolment Chapter;
 - b) is not enrolled in any other land claims agreement; and
 - c) meets any other criterion set out in the Final Agreement.
5. The Final Agreement will set out the minimum age for an eligible voter on the day of voting.
6. Ratification of the Final Agreement by Nuu-chah-nulth requires:
 - a) that Nuu-chah-nulth voters have a reasonable opportunity to review the Final Agreement;
 - b) a vote, by way of a secret ballot;
 - c) that a majority of eligible voters vote in favour of the Final Agreement;

- d) ratification of the Nuu-chah-nulth Constitution through the process set out in the Final Agreement; and
 - e) the Final Agreement be signed by the authorized representative of Nuu-chah-nulth.
7. Notwithstanding paragraph 6, the Final Agreement will address the role in the ratification of the Final Agreement of each Nuu-chah-nulth First Nation.

Ratification by Canada

8. Ratification of the Final Agreement by Canada requires:
- a) that the Final Agreement be signed by a Minister authorized by the federal Cabinet; and
 - b) the coming into force of federal legislation giving effect to the Final Agreement.

Ratification by British Columbia

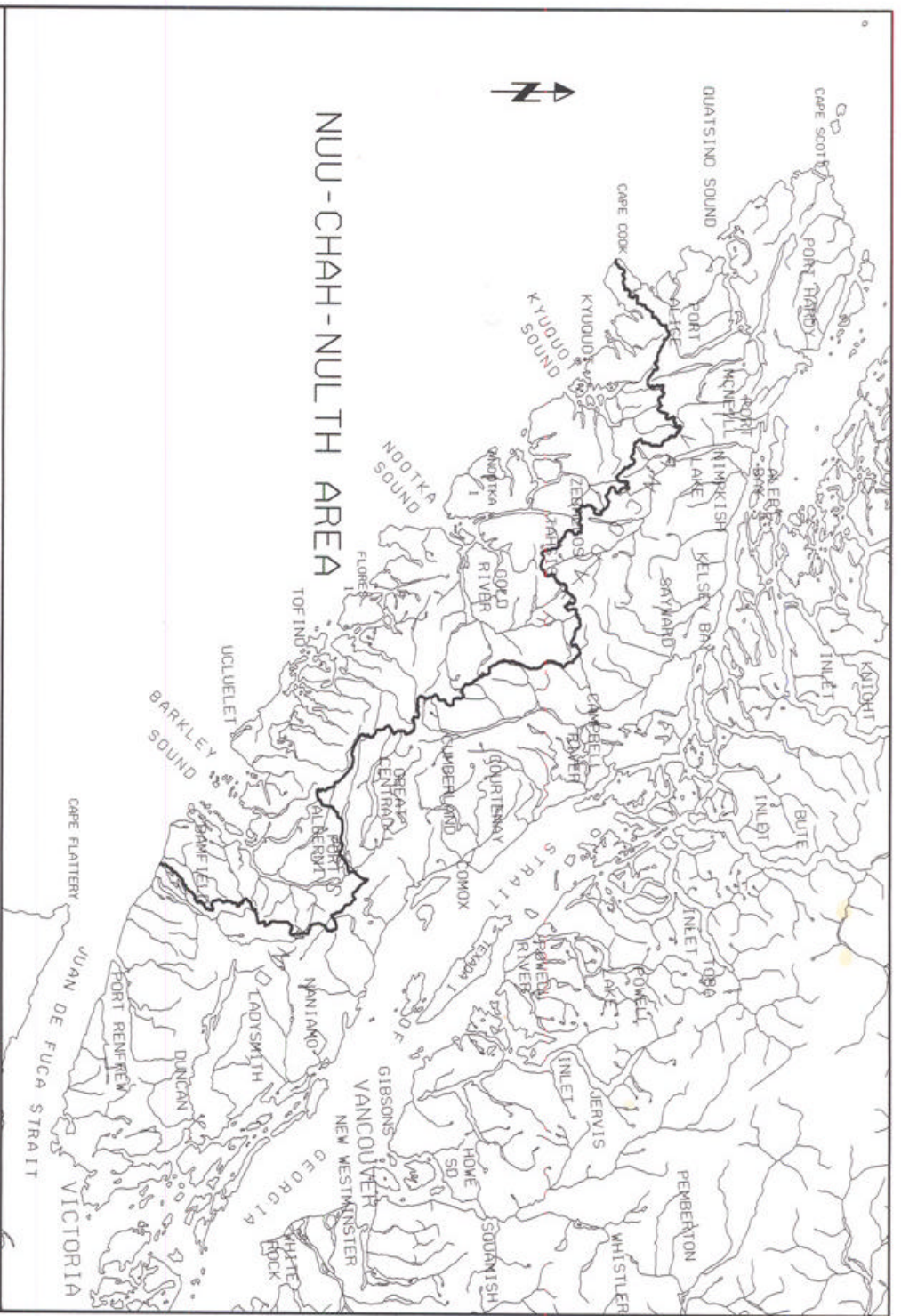
9. Ratification of the Final Agreement by British Columbia requires:
- a) that the Final Agreement be signed by a Minister authorized to do so; and
 - b) the coming into force of provincial legislation giving effect to the Final Agreement.

Ratification of the Nuu-chah-nulth Constitution

10. Ratification of the Nuu-chah-nulth Constitution by Nuu-chah-nulth requires:
- a) that Nuu-chah-nulth voters have a reasonable opportunity to review the Nuu-chah-nulth Constitution;
 - b) a vote, by way of a secret ballot; and
 - c) that a majority of eligible voters vote in favour of adopting the Nuu-chah-nulth Constitution.

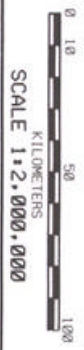
Ratification of the Nuu-chah-nulth First Nation Constitutions

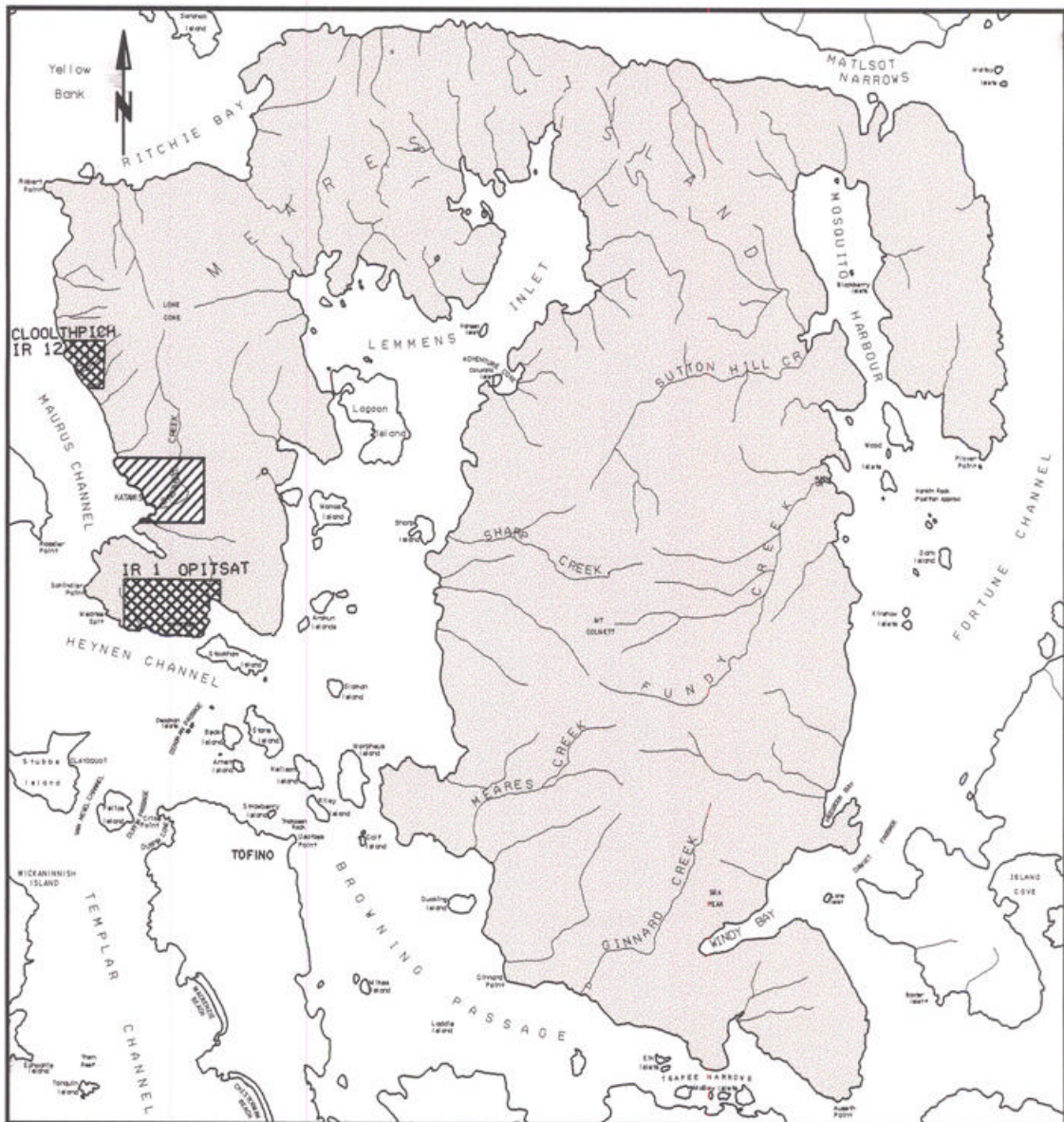
11. Ratification of the Nuu-chah-nulth First Nation Constitutions by each Nuu-chah-nulth First Nation requires:
 - a) that the voters of each Nuu-chah-nulth First Nation have a reasonable opportunity to review their Nuu-chah-nulth First Nation Constitution;
 - b) a vote, by way of a secret ballot; and
 - c) that a majority of the eligible voters in each Nuu-chah-nulth First Nation vote in favour of adopting their Nuu-chah-nulth First Nation Constitution.



NUU-CHAH-NULTH AREA

APPENDIX A - MAP OF NUU-CHAH-NULTH AREA





APPENDIX B - MAP OF MEARES ISLAND

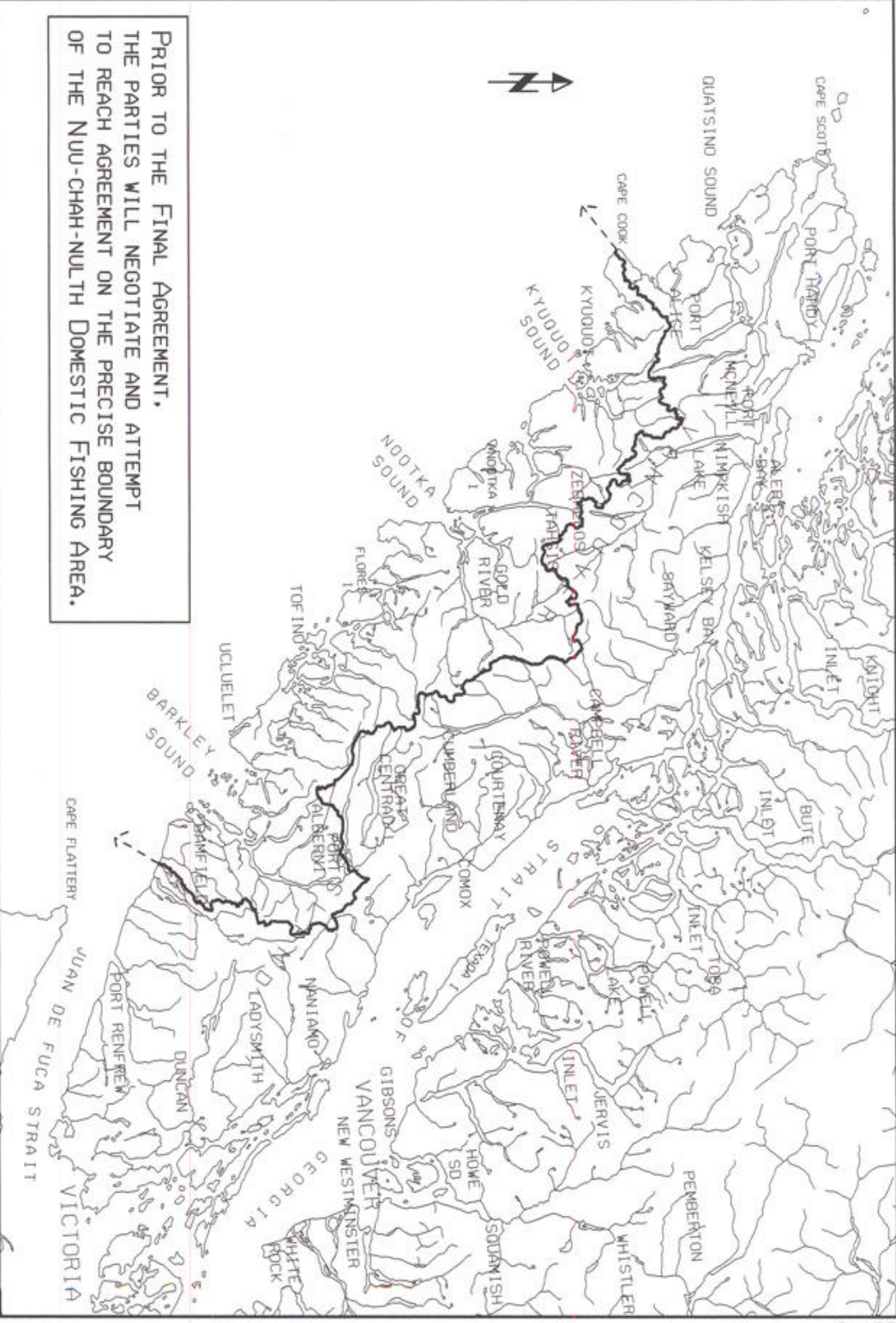
LEGEND

Indian Reserve	
Private Land	
Provincial Crown Land	

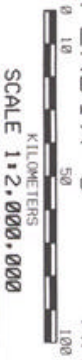


SCALE 1:75,000

PRIOR TO THE FINAL AGREEMENT,
 THE PARTIES WILL NEGOTIATE AND ATTEMPT
 TO REACH AGREEMENT ON THE PRECISE BOUNDARY
 OF THE NUU-CHAH-NULTH DOMESTIC FISHING AREA.



APPENDIX C - MAP OF NUU-CHAH-NULTH DOMESTIC FISHING AREA



Appendix D
Nuu-chah-nulth Fishing Right Allocations

Species	Fishing Right Allocation
Sockeye Salmon	<p><u>Area 23 Somass</u> Formula that, on average, yields 21,000 pieces based on years 1980 to 2000. [Technical committee to work on formula to meet food fish priorities prior to initialing of AIP.]</p> <p><u>Area 24 to 26</u> Allocation to be agreed to prior to Final Agreement, based on share of Terminal TAC. Interim Joint Fisheries Committee to provide advice to parties prior to Final Agreement.</p> <p><u>Fraser River</u> Formula that, on average, yields 25,000 pieces based on share of Fraser Canadian TAC for years 1982 to 1997. [Technical committee to work on formula prior to initialing of AIP.]</p>
Chinook Salmon	<p><u>Somass</u> Formula that, on average, yields 2,911 pieces based on years 1985 to 1999. [Technical committee to work on formula to meet food fish priorities prior to initialing of AIP.]</p> <p><u>Area 23 to 26 other than Somass</u> Allocation to be agreed to prior to Final Agreement, based on share of Terminal TAC. Interim Joint Fisheries Committee to provide advice to parties prior to Final Agreement.</p> <p><u>Ocean Mixed Stock</u> Base of 5,000 pieces plus 4.75% of the Canadian TAC</p>
Herring	<p>325 short tons per year OR Base of 175 short tons plus 2.25% of total WCVI TAC WCVI recommended yield</p>
Halibut	Base of 40,000 lbs (dressed, head off) plus 0.6% Canadian TAC
Dungeness Crab	Equivalent to 15% of the estimated commercial harvest in Areas 23 to 26. Parties will develop an allocation delivery approach prior to the Final Agreement which takes into account fluctuations in annual abundance. Set-aside harvest areas may be identified.

Appendix E

Nuu-chah-nulth Aboriginal Fisheries Strategy Commercial Fishing Licences

A list of licences issued to the Nuu-chah-nulth or their constituent First Nations as of the signing date of the Agreement-in-Principle.

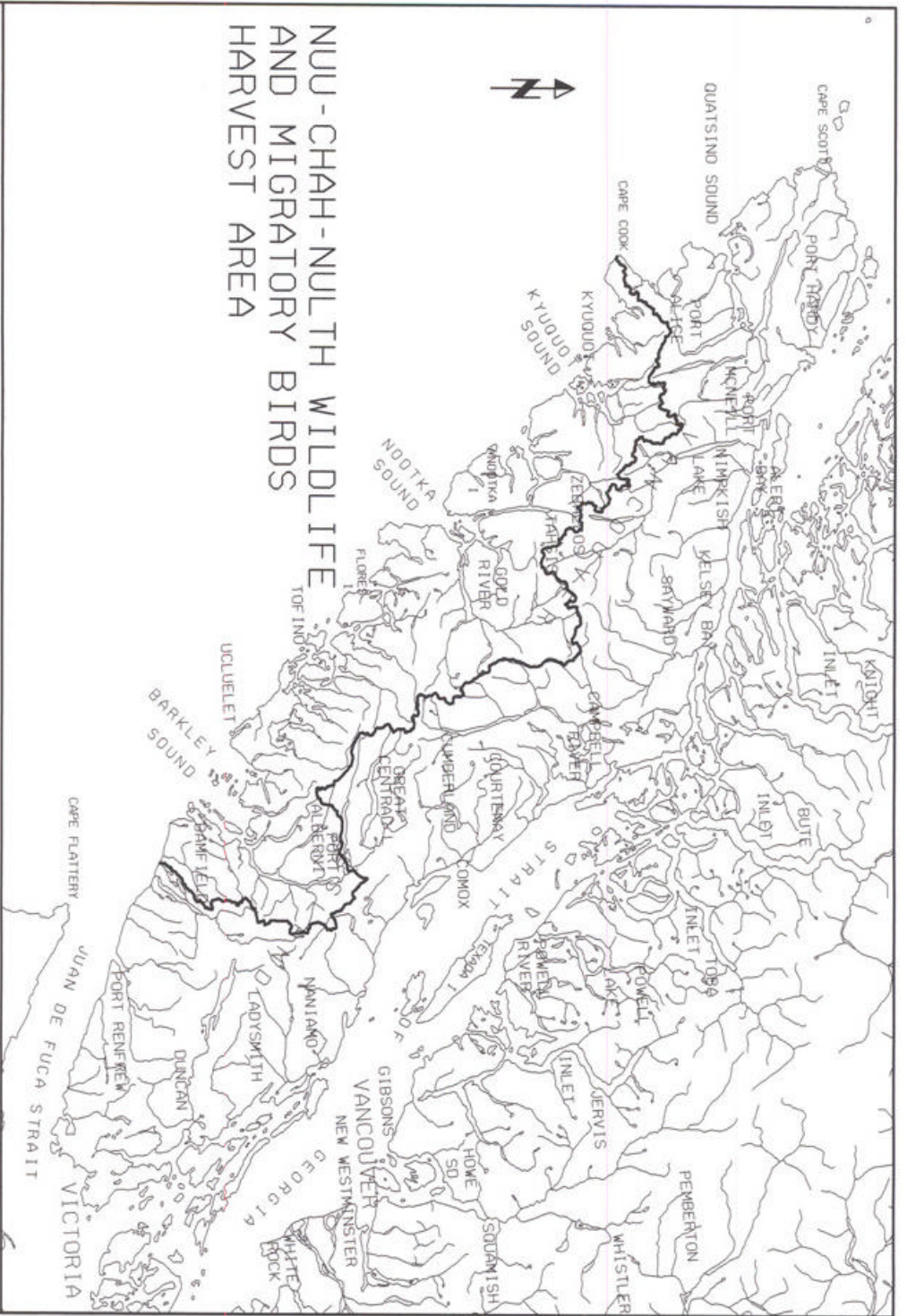
1. Four Category "A" Gillnet Licences Area D
2. One Category "A" Gillnet Licence No Area Selected
3. Four Category "A" Troll Licences "G" West Coast
4. One Category "A" Troll Licence No Area Selected
5. Four Category "H" Herring Gillnet Licences
6. Three Category "L" Halibut Licences and associated quota
7. ~~Three Two~~ Category "ZN (o)" Rockfish Outside Licences
8. One Category "W" Crab by Trap Licence
9. ~~Two One~~ Category Prawn by Trap Licences

Any other licences agreed to by the Parties between the Agreement in Principle and the Final Agreement.

Appendix F

Commercial Fishing Capacity in Nuu-chah-nulth Harvest Agreements

Species/Fishery	Maximum Share	Compensable Share	Time Period to Acquire
Somass Sockeye Area 23	20% of Somass Area 23 terminal commercial TAC. [Formula to be determined prior to initialing of AIP.]	20% of Somass Area 23 terminal commercial TAC. [Formula to be determined prior to initialing of AIP.]	
Non-Somass Sockeye Area 23 (Henderson)	Equivalent to 20% of non-Somass, Area 23 terminal commercial TAC.	Equivalent to 20% of non-Somass, Area 23 terminal commercial TAC	
Sockeye Areas 24 to 26	25% of identified terminal commercial TAC	25% of identified terminal commercial TAC	
Chinook Area 23	Equivalent of 20.8% of Total TAC minus FSC, subject to allocation policy. [Technical committee to review method of delivery prior to initialing of Agreement in Principle]	Equivalent of 20.8% of Total TAC minus FSC, subject to allocation policy. [Technical committee to review method of delivery prior to initialing of Agreement in Principle]	
Herring	4 existing J licences (unencumbered) Plus 100 gillnet equivalents	4 existing J licences (unencumbered) Plus 60 gillnet equivalents	
Halibut	8% of Canadian Commercial TAC	4% of Canadian Commercial TAC	
Dungeness Crab	8 licence equivalents	4 licence equivalents	



NUU-CHAH-NULTH WILDLIFE
AND MIGRATORY BIRDS
HARVEST AREA

APPENDIX G - MAP OF NUU-CHAH-NULTH WILDLIFE AND MIGRATORY BIRDS HARVEST AREA



