

Treaty News

Federal Treaty Negotiation Office



*Providing general news and
Canada's views on BC treaty negotiations.*

March 1997

In this issue:

[A New Look!](#)

[Heiltsuk Nation Overwhelmingly Approves Framework Agreement](#)

[In brief](#)

[Talks underway for fisheries components of treaties](#)

[How fisheries agreements will be negotiated](#)

[Negotiator's News: Eric Denhoff](#)

[Policy: Certainty](#)

[Progress in negotiations](#)

[Consultation Review](#)

[You say ...](#)

[Economic development in action: An interview with BCTC Commissioner Miles G. Richardson](#)

[What is the difference between a framework agreement and an agreement-in-principle?](#)

[Credits](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



A new look!

Treaty News has a new look! In response to the Reader Survey printed in the December 1996 issue, the Federal Treaty Negotiation Office is introducing several new features to *Treaty News*. Check inside for the **In Brief** news summary column; **Negotiator's News** from Chief Federal Negotiators; a **Policy** section; **You Say ...**, a feature on readers' thoughts on the treaty process; our **Website** guide; and a **Question and Answer** panel on the last page.

Thank you to readers who took the time to participate in our survey. Your feedback is appreciated and valuable to the continued success of *Treaty News*!

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)

Treaty News

Federal Treaty Negotiation Office



Heiltsuk Nation Overwhelmingly Approves Framework Agreement

At the beginning of 1997, negotiators for the Heiltsuk Nation put the ratification of the First Nation's framework agreement to the people, and received an overwhelming vote of support.

Also known as the Bella Bella, the Heiltsuk Nation includes six tribal groups, and is located on the central coast of mainland BC. Bella Bella, the largest Heiltsuk community, is situated in the centre of their traditional territory, which stretches from Rivers Inlet northward to Milbanke Sound, and extends inland as far as the top of Dean Channel.

Although First Nations regularly ask their members to vote on framework agreements, the Heiltsuk implemented exceptionally stringent ratification requirements. For the framework agreement to pass, 75 per cent of all eligible

voters were required to participate, and at least 70 per cent of those voting were required to support the document.

The Heiltsuk population of approximately 1,900 includes 921 eligible voters living both on and off reserve. To achieve the 75 per cent voter turnout required, 690 members had to participate in the vote. Polling commenced in Bella Bella in early January, and as of Feb. 4th, some 700 voters had cast their ballots. More than 80 per cent of those who voted voiced strong support for the agreement.

Since approximately 41 per cent of Heiltsuk voters do not live on reserve, negotiators placed a special emphasis on involving Heiltsuk outside of the traditional territory. They held information sessions in various locations throughout the province to explain the contents of the framework agreement and the details of the ratification process. Armed with knowledge from the sessions, members could be more confident about making informed decisions about the agreement. The extra effort proved to be well worth it.

Encouraged by the success of the ratification vote, Edwin Newman, Chief Negotiator for the Heiltsuk Nation, acknowledged that a similarly high standard will be used for the approval of all future agreements. Citizen support, he feels, is the only way to achieve certainty and accountability.

Adoption of a ratification procedure is a key responsibility for each of the three negotiating parties during preparations for negotiations in stage 2 of the six-stage BC treaty process. Initialed by the negotiators in November 1996, the Heiltsuk framework agreement sets out the issues to be negotiated and how the three parties will conduct their negotiations during the agreement-in-principle stage (stage 4). With such great support from the Heiltsuk people, it is expected that the three parties will look for an early opportunity to sign the framework agreement.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



In brief

- **BC Select Standing Committee on Aboriginal Affairs**

In early March, the BC Select Standing Committee on Aboriginal Affairs wrapped up its hearings into the BC treaty process and subjects arising from the Nisga'a agreement-in-principle (AIP). From Sept. 1996 to early March of this year, the committee toured the province to gather public input at meetings in communities throughout BC. Most recently, the committee visited Atlin, Victoria, Prince George, Mackenzie, Fort St. John, Vancouver, Chilliwack, Nelson, Cranbrook and Port Hardy.

The Committee is expected to deliver its findings in a report to the provincial legislature this spring.

- **Royal Commission on Aboriginal Peoples final report**

The Royal Commission on Aboriginal Peoples released its final report in November 1996. Now, an electronic version of the five volume, 3,500 page report is available in both English and French through the Indian and Northern Affairs Canada Website at "<http://www.inac.gc.ca/rcap/index.html>".

The report can also be accessed in Folio-searchable text through the Libraxis Website at "<http://www.libraxis.com>".

- **Study predicts that Nisga'a treaty will have positive impact**

A socio-economic study carried out by several provincial Ministries has found that a treaty with the Nisga'a Tribal Council will have positive effects in the long term, even if there is some minor short term job loss. The *Regional Socio-Economic Assessment of the Nisga'a AIP* says that a treaty with the Nisga'a could benefit tourism and mining, with only minor effects on the fishing and forest industries.

For more information on the study, contact the BC Ministry of Aboriginal Affairs.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



Talks underway for fisheries components of treaties

Almost one half of the 46 First Nations involved in the BC treaty process are now engaged in agreement-in-principle (AIP) negotiations with Canada and BC. Fisheries are an important subject at many of these talks, and negotiators must come to terms with some basic questions about the fisheries resource. What kinds of access should First Nations have to fish? How will treaties affect other users of the fisheries? In general, how should fish be allocated?

In 1997, federal negotiators are entering into exploratory discussions on fisheries issues with First Nations and provincial negotiators. Part of the course of regular negotiating sessions, these talks will allow the parties to exchange information about their interests in fisheries. The outcome of the talks will pave the way for work on final fisheries agreements later in the negotiating process.

The federal approach to talks

As fisheries talks advance throughout the province, a number of issues may arise. Federal negotiators will coordinate the progress of discussions and the federal response to issues by applying a consistent approach to talks across the board.

For example, wherever fisheries talks occur in BC, federal negotiators will stress the overall authority and responsibility of the Minister of Fisheries and Oceans for the management of the fisheries. They will also emphasize Canada's commitment to consult with third party users of the fisheries resource.

To facilitate discussions, federal representatives will review information on such matters as the health of present salmon stocks, run sizes and catch levels. This data will be studied and used to assess proposals that the parties to negotiations bring forward during fisheries discussions.

What negotiators will talk about

One of the topics for discussion is First Nations' harvesting of fish for food, social and ceremonial purposes. In discussions on this subject, also known as the "domestic fisheries harvest," federal negotiators will aim for arrangements that meet First Nations needs, ensure the conservation of fish stocks, and provide certainty to non-Aboriginals by clearly describing First Nations' entitlements.

A second area of discussion is First Nations' interests in economic activities in the fisheries. Where this topic arises, consideration will be given to matters such as benefits to First Nations, and other resource users, as well as the economic viability of the overall fishery.

A third topic is regional approaches to coordinating the planning and conduct of fisheries. Efforts to harmonize plans for how several fisheries activities are carried out in one area are of special interest

because they emphasize the overriding need to ensure sustainable fisheries and meet conservation requirements. They also highlight the importance of meeting the interests of all fisheries user groups including multiple First Nations and the commercial and recreational fishing sectors.

Consultation

Third party consultation is fundamental to ensuring workable fisheries arrangements. As federal negotiators engage in discussion with First Nations, they will consult with non-Aboriginal interests.

One of the main goals of consultation is to seek to ensure that third party interests are taken into account throughout the negotiation process. Consequently, as fisheries discussions continue through the negotiation of AIPs, Canada will continue to consult with third parties and others with interests in the fisheries.

At its heart, the federal approach to fisheries negotiations is about developing workable treaty settlements that meet the needs of First Nations and non-Aboriginal communities. Good research, extensive consultation and discussion are the only means by which workable solutions will be developed.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



How fisheries agreements will be negotiated

1. Framework agreements concluded at the end of stage 3 list the topics that First Nations, Canada and BC will discuss in AIP negotiations (stage 4). If fisheries issues are included in a framework agreement, they will be discussed at the AIP stage.
2. AIP fisheries talks begin on an exploratory basis. The parties discuss their interests in fisheries, but do not negotiate final agreements.
3. After the exploratory talks, federal negotiators will seek specific instructions from the government of Canada to negotiate final fisheries arrangements. The agreements they reach with First Nations and BC will stand alongside other elements of final treaties.



[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



Negotiator's News: Eric Denhoff

One of the most important aspects of the treaty negotiation process is its openness. This essential element allows British Columbians to participate in negotiations, as they occur, in communities throughout the province.

Quite simply, the BC treaty process is as open as any in history, a fact that is paramount to the successful negotiation of fair, honorable and affordable treaties.

From my perspective as a Chief Federal Negotiator, openness is important because it helps to foster an inclusive environment. Openness means that community members and media have access to negotiators from the federal and provincial governments, and First Nations. It also gives me the valuable opportunity to hear directly from the people that are affected by treaty negotiations.

At the end of the day, the nature of the treaty process will be just as important as the contents of finalized treaties. After all, treaties will only be workable if people who have to live with their content are part of the process that creates them.

Eric Denhoff has extensive experience in Aboriginal affairs, much of it as a senior official. Currently, Mr. Denhoff works on negotiations with First Nations in north-central BC and on Vancouver Island.



[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



Policy: Certainty

Achieving certainty regarding ownership and use of land and resources is one of Canada's major objectives in treaty negotiations. Clearly, securing a social and economic climate that enhances investment and encourages development opportunities is of major importance.

Essentially, certainty means that all parties will respect, implement and continue to accept the terms of a treaty. Certainty will bring predictability about the future by clearly outlining First Nation's ownership rights to lands and resources, and by providing clear jurisdictional responsibilities with regard to the application of laws.

In treaties concluded prior to 1986, certainty was secured through federal legislation, which extinguished all of the Aboriginal party's rights over a certain territory. Commonly called "blanket extinguishment," this took place following the claimant group's surrender of those rights.

In 1986, Canada began to look for a workable alternative to absolute surrender. It introduced a revised comprehensive claims policy that does not demand blanket extinguishment. According to the new policy, the claimant group will receive defined rights in specified or reserved areas in exchange for a surrender of their Aboriginal rights to use of, and title to, lands and resources.

Active consultation with First Nations, governments, third parties and other interested citizens on mechanisms to achieve certainty is ongoing. Through continuing consultation, Canada will ensure that any policy on certainty is based on fairness, equity, mutual respect and the recognition of rights.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



Progress in Negotiations

The following provides an update on the status of BC treaty negotiations as of March 1997.

6 Stage Treaty Negotiation Process:

- Stage 1 - Statement of Intent
- Stage 2 - Preparation for Negotiations
- Stage 3 - Negotiation of a Framework Agreement
- Stage 4 - Negotiation of an Agreement-in-Principle
- Stage 5 - Negotiation to Finalize a Treaty
- Stage 6 - Treaty Implementation

North-Central

Chief Federal Negotiators:

Eric Denhoff
Wendy Porteous
Pauline LaMothe

Senior Negotiator:

Bill Zaharoff

**Public Information and
Consultation Advisor:**

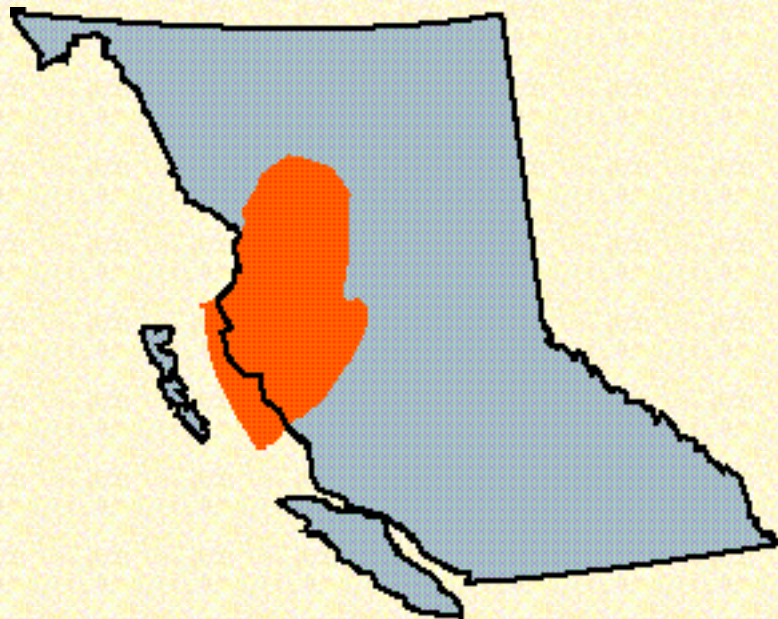
Nola Landucci

Status report:

Stage 3: Lake Babine Nation

Stage 4: Gitanyow Hereditary Chiefs

First Nation
'suwet'en First Nation
(Kitimaat) First Nation
First Nation



North-Coast

Chief Federal Negotiators:

Tim Koepke
Pauline LaMothe
Wendy Porteous

Senior Negotiator:

Bill Megill

Public Information and Consultation Advisor:

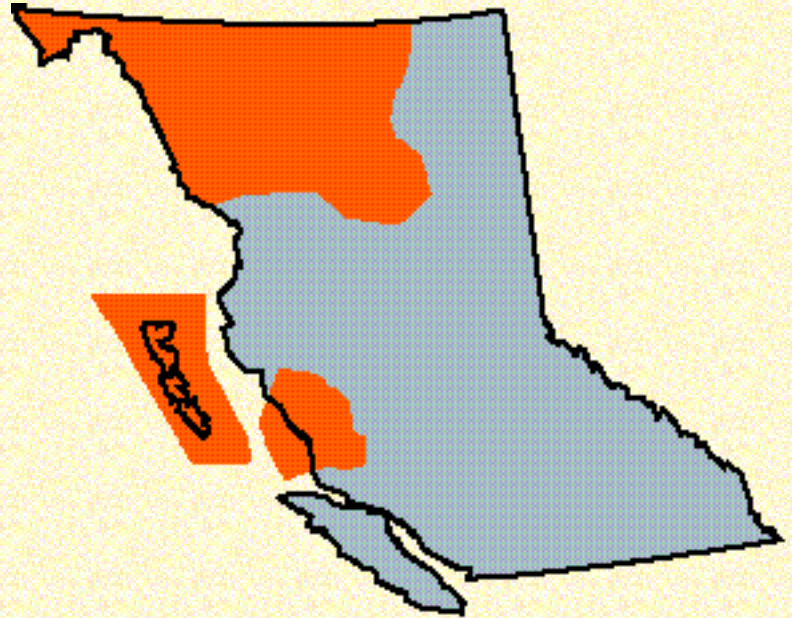
Mark Podlasly

Status report:

Stage 2: Haida Nation

Stage 3: Heiltsuk Nation
Nation

Stage 4: Taku River Tlingit First Nation
and Aishihik First Nations
Tlingit Council
Dena Council



North-East

Chief Federal Negotiator:

Eric Denhoff

Senior Negotiator:

Bill Zaharoff

Public Information and Consultation Advisor:

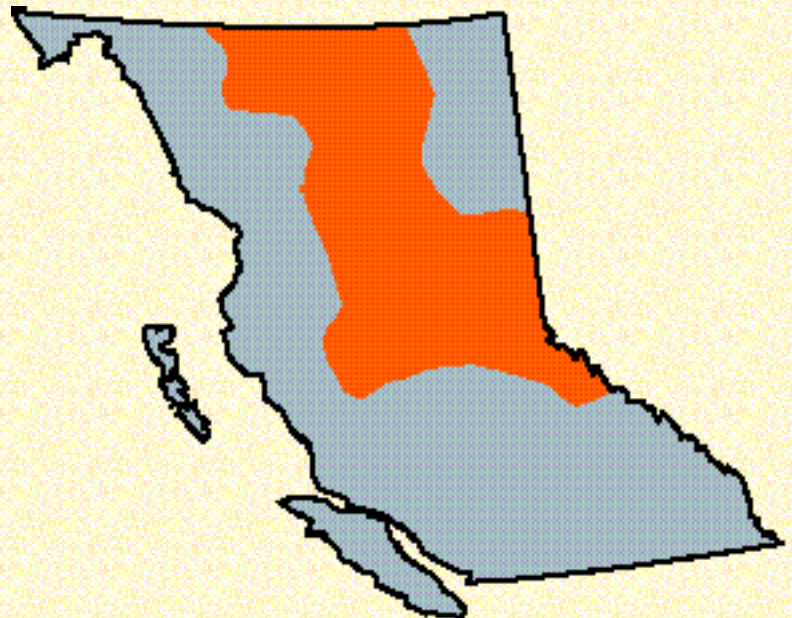
Nola Landucci

Status report:

Stage 2: Cheslatta Carrier Nation

Stage 3: Carrier Sekani Tribal Council

Stage 4: Tsay Keh Dene Band
-Lit'en Nation
First Nation



South #1

Chief Federal Negotiators:

Eric Denhoff
Robin Dodson

Senior Negotiator:

Mike Sakamoto

Public Information and Consultation Advisors:

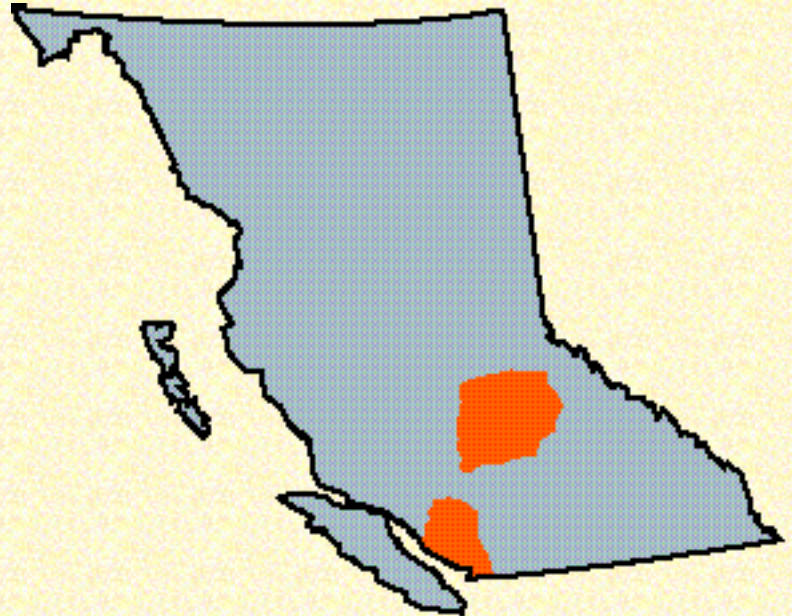
Diane Gielis
Chris Corrigan
Jonathan Rayner

Status report:

Stage2: Katzie First Nation

Stage 3: Esketemc (Alkali Lake) Nation
First Nation
Tribal Council
-Waututh (Burrard) First Nation
Nation

Stage 4: Sechelt Indian Band



South #2

Chief Federal Negotiators:

Robin Dodson
Wendy Porteous

Senior Negotiator:

Mike Sakamoto

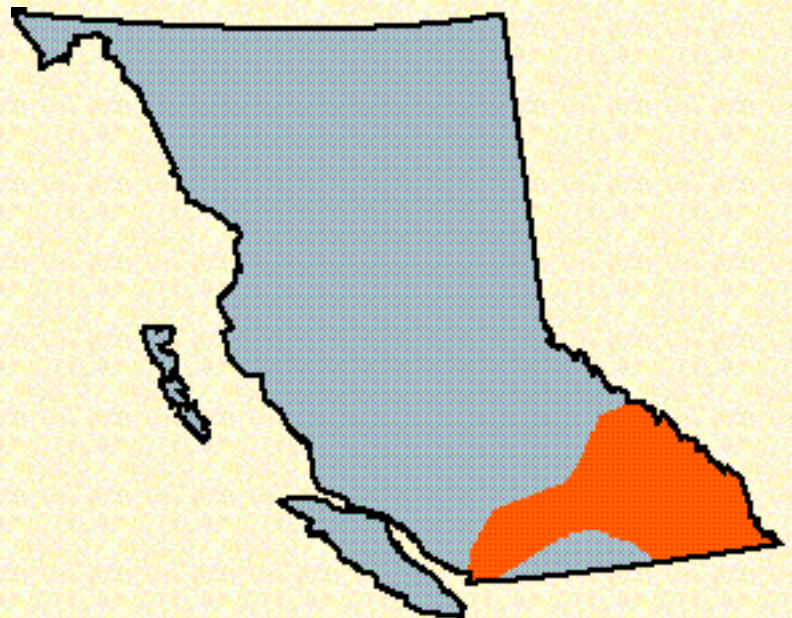
Public Information and Consultation Advisor:

Chris Corrigan

Status report:

Stage 2: Sto:Lo First Nation

Stage 3: Ktunaxa-Kinbasket First Nation
First Nation
'p First Nation (Fountain Band)



First Nation

Stage 4: In-SHUCK-ch/N'Quatqua

'kw'aylaxw First Nation (Pavilion)

First Nation

First Nation

Vancouver Island

Chief Federal Negotiators:

John Langford

Eric Denhoff

Wendy Porteous

Senior Negotiator:

Ross McKinnon

Public Information and

Consultation Advisors:

Jonathan Rayner

Ileana Lang

Status report:

Stage 2: Comox First Nation

Laich-Tach Nations Treaty Society

First Nations Pacheenaht Band

Stage 3: Hul'qumi'num Treaty Group

Stage 4: Te'mexw Treaty Association

First Nation

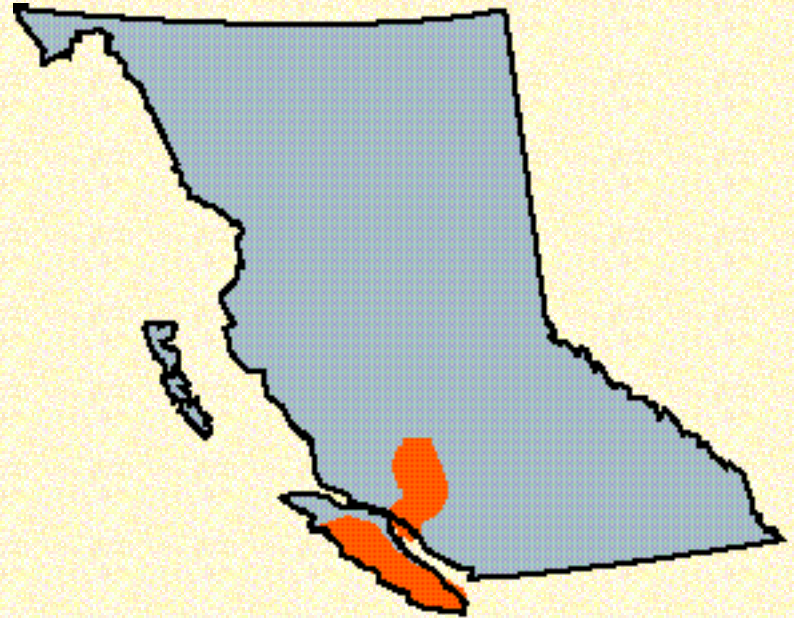
First Nation

First Nation

-chah-nulth Tribal Council

First Nation

First Nation



Nisga'a

Chief Federal Negotiators:

Tom Molloy

Florence Roberge

Acting Senior Negotiator:

Jim Barkwell

Public Information and Consultation Advisor

Joseph Whiteside

Status report:

Agreement-in-principle concluded March 1996. Negotiations toward a final agreement now underway.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



Consultation Review

Consultation with members of the public and third party interests that may be directly affected by treaty settlements with First Nations is an integral part of the treaty negotiation process.

Consultation allows the federal and provincial governments to listen to, and take into account, the concerns and interests of those who will be affected by treaties with First Nations.

During preparations for negotiations, governments take on the responsibility to provide an effective means to consult with non-Aboriginal interests in areas where negotiations are occurring. The establishment of an effective consultation plan is considered essential to the negotiation process, since consultations continue through the negotiation of framework agreements and agreements-in-principle.

Area	RAC/LAC name	Consults on negotiations with
South 1	Lower Mainland	Tsleil Waututh, Musqueam, Squamish, Tsawwassen and Katzie First Nations
	Cariboo-Chilcotin	Cariboo Tribal Council, Nazko and Esketemc First Nation
	Sunshine Coast	Sechelt First Nation
South 2	Pemberton	In-SHUCK-Ch/N'Quatqua
	Lillooet-Fraser	Xaxli'p and Ts'kw'aylaxw First Nations
	Okanagan	Westbank First Nation
	Fraser Valley	Yale and Sto:Lo First Nations
	Kootenay	Ktunaxa-Kinbasket First Nation
North Coast	Atlin	Taku River Tlingit First Nation
	Central Coast	Heiltsuk and Oweekeno First Nations
	Northern	Champagne and Aishihik, Teslin Tlingit, and Taku River Tlingit First Nations; Kaska Dena Council
North East	Northern Interior	Carrier Sekani Tribal Council, Tsay Keh Dene Band, Cheslatta Carrier Nation, Lheit- Lit'en and Yekootche First Nations
North Central	Kitimat-Skeena	Haisla and Tsimshian First Nations, Gitanyow Hereditary Chiefs
	Bulkley-Skeena	Gitxsan and Wet'suwet'en First Nations
	Babine	Lake Babine First Nation

**Vancouver West Island
Island**

Nuu-chah-nulth Tribal Council, Ditidaht First Nation

South Island

Te'mexw Treaty Association, Hul'qumi'num Treaty Group,
Nanaimo First Nation

Desolation Sound

Homalco, Sliammon and Klahoose First Nations

For more information on consultation, telephone 1-800-665-9320

At the local level, consultation largely occurs through Regional and Local Advisory Committees (RACs and LACs). RACs and LACs represent the interests of key social and economic sectors to the federal and provincial governments. Through the RAC and LAC structure, local interests advise federal and provincial negotiators about issues which should be taken into consideration in negotiations.

Province-wide interests are consulted through the Treaty Negotiation Advisory Committee (TNAC). TNAC advises the federal and provincial Ministers responsible for negotiations on matters which affect treaty-making in the province as a whole.

TNAC's members represent the interests of business, labour, environmental, recreation, fish and wildlife groups, and municipalities.

Treaties must be fair, honorable and affordable for all Canadians, so as negotiations progress, the governments of Canada and BC will continue to consult with affected interests throughout the province. If you would like further information on province-wide consultation, or consultation in your area, contact the Federal Treaty Negotiation Office toll-free at 1-800-665-9320.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



You say ...

In 1996 an agreement-in-principle (AIP) was signed between the Nisga'a Tribal Council, the federal government, and the provincial government. This agreement follows 20 years of negotiations and 200 years of claims. Real progress was made after the third and essential partner, the provincial government, stepped into the process.

The Nisga'a Tribal Council has shown outstanding statesmanship in agreeing to major compromises to reach an agreement as the basis for a treaty which for the first time will provide an opportunity for them to sustain themselves with pride and integrity.



**W.D. (Win) Stothert
Chair, Stothert Group**

It is difficult for three independent-thinking parties, each with their own agendas, to compromise sufficiently to reach an Agreement which is acceptable to all three parties. In the process there are other interests which are affected. This is unavoidable. To the extent that third party interests are adversely affected it will be necessary, outside of the treaty negotiations, for reasonable compensation to be made to the third parties. There may be some relatively intangible aspects which may prejudice some third parties against the Agreement but these must be balanced against the tangible and intangible adverse circumstances which have been imposed on the Nisga'a over two centuries.

In addition, there is an opportunity between the signing of the AIP and a final treaty, to address outstanding issues and conflicts. Third parties should make good use of this time.

All citizens of British Columbia need to recognize the great opportunity presented through the remarkable achievement of the three parties who have arrived at this AIP and to realize that this is truly an opportunity of a lifetime to support a just, rational, and reasonable settlement.

W.D. (Win) Stothert is chair of the Stothert Group Inc., which is engaged in projects throughout the world. A Professional Engineer, Mr. Stothert founded and co-chaired the B.C. chapter of the Canadian Council for Aboriginal Business. Among other activities, Mr. Stothert is currently working with the Tahltan Nation on a hydroelectric project near Dease Lake.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



Economic development in action: An interview with BCTC Commissioner Miles G. Richardson



**BCTC Commissioner
Miles G. Richardson**

Miles G. Richardson is one of two First Nations Summit appointees to the BC Treaty Commission and a past President of the Council of the Haida Nation. Mr. Richardson was also a member of the BC Claims Task Force and a signatory to the task force report, delivered in 1991. In the fall of 1996, Miles Richardson addressed the Aboriginal Business Club in Vancouver on the subject of treaties and economic development. *Treaty News* caught up with Mr. Richardson and asked him to follow up on his remarks for the benefit of readers throughout the province.

TN: *In your view, how do treaties and economic development relate?*

MR: I believe that as we move toward treaties, First Nations see the need to develop a strong economic base. First Nations must have strong economies as a foundation for self-sufficiency and a positive co-existence with others.

TN: *How do you define certainty and the role it plays in economic development?*

MR: As stated in the BC Claims Task Force Report, jurisdictional certainty is the primary purpose of treaty negotiations. So, I would define certainty as clearly and precisely stating in a treaty each party's rights, duties and jurisdictions, particularly with respect to governance, lands, seas and resources.

Certainty achieved through treaties will create the level of confidence and understanding between First Nations and non-Aboriginals that is required for constructive and cooperative economic development. For example, industry associations have related throughout the years that they need certainty for stable economic development, including joint ventures.



TN: *Speaking of joint ventures, how do you think they fit into the picture?*

MR: I see joint ventures as one form of economic development strengthened by the treaty process. Treaties bring about change and new opportunities. There are a lot of good cooperative business initiatives coming out of the changes that are happening now.

TN: *In your opinion, how do you see getting capital from the people who control it into the hands of First Nations at the community level, in order to develop their communities and establish a strong economic base?*

MR: First Nations people at the community level will need to possess or have access to the necessary skills and capacity to successfully conduct their chosen business activity. Business capital will respond to viable economic ventures that offer long term stability and which reflect the values and needs of all participants. Also, it is important for long term stability that individual businesses fit into the overall vision and objectives of their respective First Nations. A strong economic base will evolve as jurisdictional certainty is established. Once it is clear and agreed where the authority and responsibility for lands, seas and resources lie, then decisions can be made with confidence on their allocation in a way that maximizes their potential.

If an economic venture makes good business sense for all involved, then the capital will flow.

TN: *Can you comment on your personal observations of how First Nations are preparing for life after treaties are finalized?*

MR: First Nations have prepared for eventual treaties by accepting responsibility for their own fate. They are building their governance capacity, formulating their own contemporary vision in relation to Canada and the world. By educating their own people in different fields such as administration, finance, computer technology, health professions, resource management and the social services, First Nations have put in place strategies to heal their communities.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



What is the difference between a framework agreement and an agreement-in-principle?

At stage 3 of the six-stage BC treaty process, negotiators for Canada, British Columbia and a First Nation negotiate a **framework agreement** to outline the topics and timing for the next stage of negotiations. In essence, the framework agreement sets the agenda for the substantive negotiations that take place during stage 4.

While the precise terms of framework agreements vary from negotiation to negotiation, all framework agreements generally set out the issues the parties have agreed to negotiate, the parties' objectives for negotiations, and negotiation procedures and timetables. Some framework agreements also identify specific milestones for stage 4 negotiations.

By comparison, an **agreement-in-principle**, or AIP, is concluded when stage 4 negotiations are complete. The AIP describes the parties' agreements on substantive issues, like land, resources, self-government and financial benefits.

Concluding an AIP is an important step toward creating a treaty, since the contents of an AIP are the basis for a final agreement.

To date, only one AIP, the Nisga'a Agreement-in-Principle, has been reached in BC. However, almost one half of the negotiations are currently at the AIP negotiation stage.

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)



Credits

Treaty News is published by the Federal Treaty Negotiation Office. It is distributed to organizations and individuals interested in the progress of treaty negotiations in British Columbia. Readers are invited to reprint articles from Treaty News in other publications.

The Federal Treaty Negotiation Office of the Department of Indian Affairs and Northern Development represents all federal departments, agencies and the people of Canada in treaty negotiations with First Nations in British Columbia.

Treaty News

A quarterly publications of the Federal Treaty Negotiation Office

Federal Treaty Negotiation Office

PO Box 11576

2700-650 West Georgia Street

Vancouver, BC

V6B 4N8

Telephone (604) 775-7114 or 1-800-665-9320

[Table of Contents](#)



[\[Publications\]](#) [\[Back to List\]](#) [\[Français\]](#)