

## CHAPTER 2: GENERAL PROVISIONS

- 2.1 PURPOSE AND SCOPE OF THE AGREEMENT-IN-PRINCIPLE
  - 2.2 NATURE OF THE DEHCHO AGREEMENT
  - 2.3 ACCESS TO PROGRAMS AND SERVICES
  - 2.4 TERRITORIAL APPLICATION
  - 2.5 CONSTITUTION OF CANADA
  - 2.6 RELATIONSHIP OF LAWS
  - 2.7 APPLICATION AND RELATIONSHIP OF FEDERAL LAW, TERRITORIAL LAW AND DEHCHO AND DEHCHO COMMUNITY LAW
  - 2.8 RELATIONSHIP OF GENERAL PROVISIONS TO THE DEHCHO AGREEMENT
  - 2.9 CANADIAN HUMAN RIGHTS ACT
  - 2.10 APPLICATION OF THE INDIAN ACT
  - 2.11 REGULATION OF PROFESSIONS
  - 2.12 NWT SUPREME COURT
  - 2.13 APPLICATION OF FEDERAL LAW RELATING TO FIREARMS
  - 2.14 CONSULTATION ON LEGISLATION
  - 2.15 INTERGOVERNMENTAL AGREEMENTS
  - 2.16 CORE PRINCIPLES AND OBJECTIVES
  - 2.17 STATUS OF DEHCHO NDEHE
  - 2.18 DEVOLUTION
  - 2.19 COMING TO EFFECT
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### 2.1 PURPOSE AND SCOPE OF THE AGREEMENT-IN-PRINCIPLE

- 2.1.1 This Agreement-in-Principle sets out the basic principles guiding the negotiation of the Dehcho Agreement. It is not legally binding on the parties. For greater certainty, it does not create, define or recognize any legal duties or obligations, nor does it abrogate, derogate from or recognize any Aboriginal, Treaty or other rights.

### 2.2 NATURE OF THE DEHCHO AGREEMENT

- 2.2.1 As of the Effective Date the Dehcho Agreement will be a treaty and give rise to treaty rights under sections 25 and 35 of the *Constitution Act, 1982*.

### 2.3 ACCESS TO PROGRAMS AND SERVICES

- 2.3.1 Nothing in the Dehcho Agreement will prevent a Dehcho First Nation community or their Citizens from participating in the programs of the governments of Canada and the NWT or from benefiting from them in accordance with the general criteria established for these programs, except where the Dehcho Agreement provides otherwise.
- 2.3.2 Nothing in the Dehcho Agreement will prevent the Dehcho Government or a Dehcho Community Government from participating in the programs of the

governments of Canada and the NWT or from benefiting from them in accordance with the general criteria established for these programs, except where the Dehcho Agreement provides otherwise.

## **2.4 TERRITORIAL APPLICATION<sup>1</sup>**

**2.4.1** The provisions of the Dehcho Agreement will apply in the Northwest Territories, except where otherwise provided in the Agreement.<sup>2</sup>

**2.4.2** Neither the Dehcho Agreement nor the implementation legislation will have the effect of infringing on the rights of the Dehcho Dene as regards land located outside of the limits of the Northwest Territories.<sup>3</sup>

**2.4.3** The status of Dehcho Dene rights and interests in the Yukon Territory, British Columbia and Alberta will be addressed prior to the signing of the Dehcho Agreement.<sup>4</sup>

**2.4.4** The boundary and overlap issues between the Dehcho First Nations and the Acho Dene Koe, Sahtu, Akaitcho and Dene Tha' will be considered prior to the signing of the Dehcho Agreement.

## **2.5 CONSTITUTION OF CANADA**

**2.5.1** The Dehcho Agreement does not alter the Constitution of Canada, including:

- a) the identity of the Dehcho Dene as an aboriginal people of Canada within the meaning of the *Constitution Act, 1982*; and
- b) sections 25 and 35 of the *Constitution Act, 1982*.

**2.5.2** The *Canadian Charter of Rights and Freedoms* will apply to the Dehcho Government in respect of all matters within its authority.

## **2.6 RELATIONSHIP OF LAWS**

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<sup>5</sup> Dehcho raised a concern with respect to criminal law in relation to the accommodation of Dehcho culture in criminal procedures

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- 2.6.1 Subject to the Dehcho Agreement, Federal Law and Territorial Law will apply to Dehcho First Nations, Dehcho Government, Dehcho Community Government, Dehcho Ndehe and Dehcho Citizens. In the event of a conflict between a Dehcho Law or Dehcho Community Law and a Federal Law or Territorial Law, priority shall be determined in accordance with the Dehcho Agreement.
- 2.6.2 In the Dehcho Agreement, the Parties shall address the issue of consistency of Dehcho Laws and Dehcho Community Laws and Dehcho Government actions with Canada's international legal obligations.
- 2.6.3 The *Statutory Instruments Act* (Canada) does not apply to Dehcho or Dehcho Community Law.
- 2.6.4 Notwithstanding any other rule of priority in the Dehcho Agreement, a Federal Law in relation to peace, order and good government, criminal law<sup>5</sup>, human rights, the protection of the health and safety of all Canadians, or other matters of overriding national importance, prevails to the extent of a conflict with a Dehcho Law or Dehcho Community Law.
- 2.6.5 Notwithstanding any other rule of priority in the Dehcho Agreement, Federal Law and Territorial Law prevails to the extent of a conflict with a Dehcho Law or Dehcho Community Law that has an incidental impact on a subject matter for which Dehcho Government or Dehcho Community Government:
- (a) has no power to make laws; or
  - (b) has the power to make laws but in respect of which federal and Territorial Laws prevail in the event of a conflict.<sup>6</sup>
- 2.6.6 Notwithstanding any other rule of priority in the Dehcho Agreement, Federal Law and Territorial Law prevails to the extent of a conflict with a Dehcho Law or Dehcho Community Law that has a double aspect with any federal or territorial legislative jurisdiction for which Dehcho Government or Dehcho Community Government:
- (a) has no power to make laws; or
  - (b) has the power to make laws but in respect of which Federal and Territorial Laws prevail in the event of a conflict<sup>7</sup>

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<sup>5</sup> Dehcho raised a concern with respect to criminal law in relation to the accommodation of Dehcho culture in criminal procedures

<sup>6</sup> Dehcho is considering provision

- 2.6.7 The Dehcho Government or Dehcho Community Government is bound by the provisions of the *Canadian Charter of Rights and Freedoms* and the rights and freedoms guaranteed by the *Charter* are enforceable in respect of the Dehcho Government or Dehcho Community Government.<sup>8</sup>
- 2.6.8 In the event of a conflict between the Dehcho Agreement or the Settlement Legislation, or both, and other Federal Law or Territorial Law, the Dehcho Agreement or the Settlement Legislation, or both, shall prevail to the extent of the Conflict.
- 2.6.9 Where there is any inconsistency or conflict between the Settlement Legislation and the Dehcho Agreement, the Dehcho Agreement will prevail to the extent of the inconsistency or conflict.
- 2.6.10 Any Dehcho Law or Dehcho Community Law that is inconsistent or in conflict with the Dehcho Agreement is of no force or effect to the extent of the inconsistency or conflict.
- 2.6.11 The operation of the Dehcho Agreement shall not limit the authority of Canada or the Minister of National Defence to carry out activities related to national defence, security and public safety.<sup>9</sup>
- 2.6.12 In the event of a conflict between a Federal Law relating to species at risk, Migratory Birds, Fish and Fish Habitat<sup>10</sup>, federal buildings and federal undertakings with Dehcho Law or Dehcho Community Law, the Federal Law shall prevail to the extent of the conflict.
- 2.6.13 In the event of a conflict between Federal Law or Territorial Law setting out obligations with respect to the collection of statistics and reporting on natural resources in Canada and Dehcho Law or Dehcho Community Law, the Federal Law or Territorial Law shall prevail to the extent of the conflict.
- 2.16.14 For greater certainty, the powers of the Dehcho Government to make laws, set out in this Agreement, do not include the power to make laws in respect to : ~~Jurisdictions to be~~

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<sup>7</sup> Dehcho is considering provision

<sup>8</sup> Dehcho have raised the possibility of a second Charter clause indicating that Dehcho Citizens continue to be able to rely upon and be protected by the Charter

<sup>9</sup> Dehcho asked whether it's necessary to reference the Minister of National Defence if Canada is already referenced. Canada to consider

<sup>10</sup> Dehcho would like to flag Fish Habitat for future discussion

~~exercised by Dehcho Government or Dehcho Community Government set out in the Dehcho Agreement do not extend to matters not specifically addressed in the Dehcho Agreement including:~~<sup>11</sup>

- (a) criminal law, including the procedure in criminal matters;
- (b) protection of the health and safety of all Canadians;
- (c) intellectual property<sup>12</sup>; and
- (d) labour relations and working conditions.

## **2.7 Application and Relationship of Federal Law, Territorial Law and Dehcho and Dehcho Community Law**

2.7.1 Except as otherwise provided in this Agreement, Dehcho Law or Dehcho Community Law does not apply to Canada or the GNWT.

## **2.8 Relationship of General Provisions to the Dehcho Agreement**

2.8.1 In the event of a conflict between a provision of this Chapter and any other provision in the Dehcho Agreement, the provision of this Chapter shall prevail to the extent of the conflict.

## **2.9 Canadian Human Rights Act**

2.9.1 Nothing in the Dehcho Agreement restricts the operation of the *Canadian Human Rights Act* or the territorial *Human Rights Act*.<sup>13</sup>

## **2.10. APPLICATION OF INDIAN ACT**

**2.10.1** The *Indian Act* will not apply to Dehcho Citizens, except for the purpose of determining whether or not a Dehcho Citizen is an “Indian” under that Act

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<sup>11</sup> Dehcho would like to make references to excluded subject matters a closed list. Canada will consider but will likely require a redraft of the opening of clause.

<sup>12</sup> Dehcho considering the effect of “intellectual property” on “traditional knowledge”

<sup>13</sup> Dehcho have asked whether there would be a limitation on the choice of an individual to pursue a Human Rights complaint under federal, territorial, or Dehcho Human Rights statutes.

and for the administration of the property of any person where it was being administered by the Minister of Indian Affairs and Northern Development under that Act before the effective date.

## **2.11 REGULATION OF PROFESSIONS**

2.11.1 The Dehcho Government has no Jurisdiction in relation to the certification, licensing, or regulation of occupations, trades, professions, professionals, professional organizations and societies except as otherwise provided in the Agreement.

## **2.12 NWT SUPREME COURT**

2.12.1 Nothing in the Final Agreement affects the inherent jurisdiction of the Supreme Court of the NWT, including its jurisdiction with respect to children or legally incompetent persons.

## **2.13 APPLICATION OF FEDERAL LAW RELATING TO FIREARMS**

2.13.1 Nothing in the Dehcho Agreement affects the application of Federal Law in respect of the possession, use or regulation of firearms.<sup>14</sup>

## **2.14 CONSULTATION ON LEGISLATION**

2.14.1 Canada and the Government of the Northwest Territories will consult the Dehcho First Nation or, when it is established, the Dehcho Government, in the planning of the institutions established by or under the Dehcho Agreement and the preparation of the settlement legislation and other legislation proposed to implement the provisions of the Agreement, including the preparation of any amendments to such legislation.<sup>15</sup>

## **2.15 INTERGOVERNMENTAL AGREEMENTS**

2.15.1 Nothing in the Dehcho Agreement will be interpreted so as to limit or extend any authority of the Parties to negotiate and enter into international, national, interprovincial, and inter-territorial agreements, but this will not prevent the Dehcho Government from entering into agreements with a federal, provincial, territorial or Aboriginal government for the provision of specific programs and services.

**2.16 CORE PRINCIPLES AND OBJECTIVES**

2.16.1 In consultation with the Dehcho Government, the Government of the Northwest Territories shall develop and may amend NWT core principles and objectives in relation to:

- a) Early childhood education;
- b) Child and Family Services;
- c) Social Housing;
- d) Income Assistance;
- e) Trusteeship
- f) Guardianship; and
- g) Adoption.

2.16.2 NWT core principles and objectives in relation to:

- a) Early childhood education;
- b) Child and Family Services;
- c) Social Housing;
- d) Income Assistance;
- e) Trusteeship
- f) Guardianship; and
- g) Adoption

reflect the fundamental characteristics of social programs and services in these areas.

2.16.3 The NWT Core principles and objectives will be broad in nature.

2.16.4 Governments in the NWT setting standards compatible with NWT core principles and objectives may take into account the circumstances and conditions that exist for that government.

2.16.5 For greater certainty, standards established by the Dehcho Government referred to in (reference the specific sections in jurisdictions chapters) may take into account the circumstances and conditions that exist in the Dehcho Settlement Area.

2.16.6 For greater certainty, standards established by the Dehcho Government referred to in (reference the specific sections in jurisdictions chapters) may differ from standards established by the Government of the Northwest Territories or other governments in the NWT and still be compatible with NWT core principles and objectives.

## **2.17 STATUS OF DEHCHO NDEHE**

2.17.1 Dehcho Ndehe are not “Lands reserved for the Indians” within the meaning of section 91(24) of the *Constitution Act, 1867* or reserves within the meaning of the *Indian Act*.

## **2.18 DEVOLUTION**

2.18.1 Nothing in the Dehcho Agreement shall prejudice the devolution or transfer of responsibility or powers from the Government of Canada to the Government of the Northwest Territories.<sup>16</sup>

## **2.19 COMING TO EFFECT**

2.19.1 The Dehcho Agreement comes into effect upon its ratification by all Parties as set out in the Ratification Chapter.



