

DEHCHO PROCESS MAIN TABLE
Negotiation Session Follow Up from
November 29 & 30, 2011 VIDEO CONFERENCE

SUBJECT MATTER	ISSUE / DESCRIPTION	RESPONSIBLE PARTY	STATUS
<p>1) DCRMA Outstanding item since June 3-4, 2009 session in YK</p>	<p>The DFN provided a paper on the DCRMA and tabled the document during the June 3-4, 2009 session in YK. The DFN have requested that Canada respond with a similar document, outlining the federal view of the DCRMA.</p>	<p>Canada</p>	<p>Canada has committed to providing a paper on the DCRMA although when Canada will be in a position to respond remains unclear.</p> <p>May 18, 2010 – Canada indicates that they are without instructions on the DCRMA but will take it back to see where it fits between the Main Table and John Pollard’s mandates.</p> <p>February 8, 2011 – Canada indicated that Mr. Pollard has met with all the groups and is formulating an approach to his report</p>
<p>2) Dehcho Paper on Jurisdiction on and off Dehcho Ndehe Outstanding item since Sept 1-3, 2009 session in Trout Lake</p>	<p>The DFN tabled a paper on Dehcho Jurisdiction on and off Dehcho Ndehe.</p> <p>In June of 2010 the parties had a discussion on the non-land and resource sections of the paper.</p>	<p>Canada</p>	<p>Canada has committed to responding to the land and resource sections of the Dehcho’s paper although when Canada will be in a position to respond remains unclear.</p>

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<p>3) DFN Treaty 11 rights in the Yukon Outstanding item since Jan 14. 10 video conference</p> <p>DFN Treaty 8 rights in Alberta. Outstanding item since the May 18.10 session in Ottawa.</p>	<p>The DFN asked what Canada's position was with respect to DFN Treaty 11 rights in the Yukon</p> <p>The DFN asked what Canada's position was with respect to DFN Treaty 8 rights in Alberta.</p>	<p>Canada</p>	<p>Canada committed to seeking instruction, which may require Cabinet approval.</p> <p>Same as above.</p>
<p>4) Harvesters Compensation Outstanding item since Jan 14. 10 video conference</p>	<p>DFN would like Canada to respond to whether it will support the creation of a Traditional Activities Advocate and contribute to the cost of the position.</p> <p>Canada provided response during May 31-June 2.11 session, explained that this creating the position by virtue of the Agreement was not a possibility but that nothing would prevent the Dehcho Govt from creating the position post Effective Date.</p> <p>Item was discussed again during Oct 12-14.11 video conference and GNWT proposed alternative language that the advocate 'may make representation'</p>	<p>DFN / Canada</p>	<p>Canada and DFN to consider new language and to be discussed during Nov 29-30.11 video conference.</p> <p>Canada and DFN still considering language.</p>

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	GNWT tabled new language during Nov 15-17.11 video conference.		
5) Harvesters Compensation Outstanding item since January 14, 2010 video conference	Canada explained that the chapter, in its current draft, is still problematic because compensation still includes the Dehcho being compensated for a loss of harvesting of plants. The issue is that the absolute liability model is to apply only to wildlife harvesting. Canada requested the section that includes plants be removed and the DFN agreed to take this back to give it some further thought.	DFN	After hearing back from Canada, DFN committed to seeking instruction on this proposed revision to the chapter. February 8, 2011 – DFN indicated their willingness to make a deal if there can be a compromise.
6) Eligibility and Enrolment March 2011 Session in Fort Simpson	Canada examining the Eligibility Criteria and the necessity of including being registered on a Dehcho Band List as part of the criteria (i.e. spouses with acquired rights issue) Item was discussed during Nov 29-30.11 video conference and DFN committed to consider item further.	Canada	Canada to respond & DFN to consider further

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7) Community Government – CG4.3 (taken from RoC as an outstanding item)	Canada expressed preference that this provision be in the negative form and that it was also better suite in the General Provision chapter <i>For greater certainty, the Government of Canada will have the exclusive authority to enact laws that are criminal laws or in relation to criminal procedures</i>	DFN	DFN removed provision from Community Lands and committed to reinserting in the General Provisions chapter. DFN committed to making the change for the December 13-15.11 session.
8) Forest Management May 31-June 2.11 session in YK & June 22-23.1 Video Conference	Parties reviewed GNWT paper on Forest Management from 2008. DFN requested that the paper be transformed into a chapter GNWT informed parties during June 22-23.11 video conference that the chapter will not be provided until the parties discuss DCRMA	GNWT	GNWT to provide chapter when DCRMA is discussed.
9) Treaties 8 & 11 May 31-June 2.11 session in YK	Parties discussed how the ongoing relationship between Canada and the DFN in relation to Treaties 8 & 11 would continue in a Final Agreement	DFN	DFN to draft language
10) Culture, Heritage and Language – Dividing the chapters June 22-23.11 Video	GNWT proposed the option of splitting the Culture, Heritage and Language chapter into 2 separate chapters, one on Culture & Language and the other on Heritage Resources. DFN committed to considering this	DFN	DFN agreed and committed to working on splitting the chapters for a future session.

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Conference			
11) Certainty & Self Determination Oct 6-7.11 Video Conference	DFN propose to include self determination as an inherent right (RC 1.5). Canada requires more information on what this means.	DFN	DFN to provide information
12) Expropriation - 2.12 b) Oct 6-7.11 Video Conference	Canada had raised concern that about double compensation. The market value of the land will include the market value of the improvements, with depreciation. DFN pointed out that it market value doesn't always include replacement value, and that was why they chose to have b) in the section. Canada to discuss internally	Canada	Canada to follow up
13) Expropriation - 2.13 d) Oct 6-7.11 Video Conference	Canada asked what the blank should be "Subject to ____" and recommended it read "Subject to market value".	DFN	DFN to consider
14) Administration of	In reviewing the chapter, Canada recognized the need for additional language for penalties	Canada	Canada to propose new language for Dec 13-15.11

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Justice – Penalties and Environmental Fractions Oct 6-7.11 Video Conference	associated to environmental fractions, a new AJ 3.2 d)		video conference
15) Administration of Justice – AJ 3.2 c) Oct 6-7.11 Video Conference	DFN raised concern with locking in \$10 K as the maximum when, with time, that amount should increase. Canada proposed to include language to reflect that concern by allowing for the possibility of matching existing fines set by other governments.	Canada	Canada to propose new language for Dec 13-15.11 video conference
16) Administration of Justice and establishment of a court Oct 6-7.11 Video Conference	DFN had previously requested information from government if this was a possible option GNWT confirmed that it has the mandate to negotiate Canada to confirm but has made it clear already that it would not be in a position to fund a court system	Canada	Canada to confirm GNWT committed to having something for December or January.
17) Wildlife Harvesting Footnotes Oct 12-14.11 Video	The parties reviewed the footnotes in the Wildlife Harvesting chapter and, in an attempt to clean up the chapter, identified which footnotes could be deleted.	Canada	Canada to follow up

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Conference	Canada to verify if footnote #4 could be deleted		
18) Wildlife Harvesting – W. 2.3 and W.2.4 Oct 12-14.11 Video Conference	The parties discussed if these two provisions need to be in the Wildlife Harvesting Chapter or moved to General Provisions. DFN agreed to verify	DFN	DFN to follow up
19) Financial Payments Oct 12-14.11 Video Conference	1) DFN asked for examples of negotiation loan payment schedules. 2) DFN also asked for additional information on FDDIPI 3) DFN asked if the negotiation loans get readjusted should negotiations stop and then restart 10-20 years later 4) DFN requested information regarding how much they own from the Dene/Métis loans and how much of what is owing is in interest 5) DFN questioned why the reference to the Norman Wells Proven Area (Nov 29-30.11 video conference)	Canada	1) Answer provided: see Tliche Agreement, page 198. For 2)-5), Canada to provide information

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20) Inclusion of Begae Shuhagont'ine ('Mountain Dene') Oct 12-14.11 Video Conference	<p>Parties need to consider how those Mountain Dene who choose to sign onto the Dehcho Agreement would be addressed the agreement. For example, the DFN question if the Mountain Dene would be able to select open Crown Lands in the Sahtu Settlement Area.</p> <p>Canada requires more information on this group of people, ex: how many, etc.</p>	DFN	DFN to follow up
21) Dehcho Government – DG 1.2 Oct 12-14.11 Video Conference	<p>Canada raised concern with the language <i>“<u>In addition to anything else necessary in relation to the Dehcho Government, the Dehcho Constitution shall provide for ...</u>”</i></p> <p>DFN proposed to modify the provision to add “consistent with the Dehcho Agreement”.</p>	Canada	Canada to consider. Item to be discussed when General Provisions is on the agenda.
22) Contaminated Sites Oct 12-14.11 Video Conference	<p>DFN proposed the option of creating a chapter on Contaminated Sites in which all contaminated site issues would be discussed. Parties to consider</p>	All	All parties to consider
23) Implementation	1) I.5.2 says that Canada will be responsible for publishing the annual report. DFN asked if Canada would pay	Canada	Canada to follow up

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<p>Oct 12-14.11 Video Conference</p> <p>and</p> <p>Nov 15-14.11 Video Conference</p>	<p>for publishing the report in Dene Zhatie as well.</p> <p>2) Parties discussed Canada’s contracting policies and Canada committed to providing the presentations and the data roll up for the contracting</p> <p>3) Parties discussed the annual reports and Canada committed to providing an example of an older annual report and the recent Inuvialuit annual report, which reflects the current approach to annual reporting.</p>		
<p>24) Expropriation</p> <p>Oct 6-7 and 12-14 Video Conferences</p> <p>(taken from RoC as an outstanding item)</p>	<p>During Oct 6-7 Video Conference</p> <ul style="list-style-type: none"> • <u>Definition of Expropriating Authority:</u> Canada requested a footnote on the definition to remove “...the Dehcho Government, or an Act giving legal effect to the Dehcho Agreement” • <u>EX 1.1 (e):</u> There was previous agreement to not define Public Purpose • <u>EX 2.3 c):</u> Canada requested a footnote on “Traditional Value” and that the DFN are considering to define the term • <u>EX 2.8 and 2.9:</u> Agreement that 	<p>DFN</p>	<p>DFN to make modifications to chapter</p> <p>Canada agreed to insert changes into new rolling draft for December 13-15.11</p>

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	<p>expropriating authority should be capitalized</p> <ul style="list-style-type: none"> • <u>Footnote #7</u>: Agreement to remove • <u>Footnote #11</u>: Agreement to remove • <u>Footnote #16, 21 and 24</u>: Agreement to remove <p>During Oct 12-14 Video Conference <u>EX 1.1a</u>): Agreement to be consistent with the rest of the agreement and not use future form, so remove “will have” and replace with “has</p>		
<p>25) Certainty</p> <p>Oct 6-7 and 12-14 Video Conferences</p> <p>(taken from RoC as an outstanding item</p>	<p><u>RC 1.3 b</u>): Agreement this should read “Dehcho Government”, so remove reference to “Regional”</p>	DFN	DFN to make modifications to chapter
<p>26) Culture, Heritage and Language</p> <p>Oct 6-7 and 12-14 Video Conferences</p> <p>(taken from RoC as</p>	<ul style="list-style-type: none"> • <u>CLH 1.1</u>: Canada would like a footnote that the provisions references “Dehcho Dene language” and to be consistent it should be “Dene Zhatie” • <u>CLH 1.2</u>: Canada would like a footnote that it has some concern with the transfer of programs • <u>CLH 2.1 and 2.2</u>: Canada would like a 	DFN	DFN to make modifications to chapter

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<p>an outstanding item)</p>	<p>footnote that it cannot agree to exclusive jurisdiction</p> <ul style="list-style-type: none"> • <u>CLH 2.4</u>: Canada pointed out that the section is missing Heritage and Burial Sites. Right now, the definition of Heritage Resource does not include those two, unlike other agreements. Would like a footnote. • <u>CLH 2.6 and 2.7</u>: would like a footnote that clarification is required on what these “authorizations” are. • <u>CLH 2.9</u>: Canada would like a footnote that it has no authority with respect to collections beyond federal authority. Canada can look at language to help facilitating access but that would only be in Canada, not foreign. • <u>CLH 2.10 and 2.11</u>: Canada would like a footnote that this is linked to DCRMA and will likely only be able to provide feedback when DCRMA is discussed. • <u>CLH 3.1</u>: Canada would like a footnote to clarify that the recognition of and commitment to Dene Zhatie neither implies nor creates any additional funding obligations for Canada. • <u>CLH 3.2</u>: Canada would like a footnote that the scope of jurisdiction will only be on 		

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	<p>Dehcho Community Lands and Dehcho Ndehe</p> <ul style="list-style-type: none"> • <u>CLH 4.0 and CLH 5.0</u>: Canada would like a footnote that there will likely be issues with the funding commitments in these two sections 		
<p>27) Implementation</p> <p>Oct 6-7 and 12-14 Video Conferences</p> <p>(taken from RoC as an outstanding item)</p>	<p><u>I.3.2</u>: Agreement to change “ratification” to “initialling”</p>	<p>Canada</p>	<p>Canada to make modification in chapter</p> <p>Modification made in new rolling draft for Dec 13-15.11 session.</p>
<p>28) Land Selection Criteria</p> <p>November 15-17.11 Video Conference</p>	<p>Following discussions, Canada committed to bringing forward a revised draft Land Selection Criteria paper.</p> <p>GNWT and DFN committed to providing feedback to draft.</p>	<p>Canada</p> <p>GNWT DFN</p>	<p>Canada to bring revised draft at December 13-15, 2011 session</p> <p>GNWT and DFN to respond.</p>
<p>29) Certainty - “Building and clarifying Treaties 8 & 11”</p>	<p>The parties discussed the DFN’s interest having this language in the Certainty chapter (RC 1.1).</p> <p>The parties also discussed the possibility of whether the language would be more</p>	<p>All parties</p>	<p>All parties to consider</p>

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November 15-17.11 Video Conference	appropriate for the Preamble.		
30) Relationship of Laws November 15-17.11 Video Conference	Canada made a presentation on the Relationship of Laws and the parties agreed that Canada should bring forward proposed language for the AIP	Canada	Canada committed to having the language for the Dec 13-15.11 video conference.
31) Community Governments - Jurisdiction in relation to taxation November 15-17.11 Video Conference	DFN asked what jurisdiction the Community Government would have in relation to taxation. For example, would the Community Government be able to decide that an Elder is exempt on property taxation?	GNWT	GNWT to follow up
32) Contaminated Sites November 15-17.11 Video Conference	In reviewing the Community Lands chapter, the parties discussed in detail contaminated sites. Canada suggested it may be more appropriate to bring in experts at a future date for this discussion	All parties	Parties to consider when they would like this discussion to take place and Canada to confirm if federal officials are available & when.
33) Appendix B in the Plant Harvesting	Parties discussed 18.1.2 and the reference to Appendix B and perhaps the necessity of instead saying what we mean (i.e. lands inside	All parties	Parties to consider

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Chapter November 15-17.11 Video Conference	the Dehcho Settlement Area, apart from Dehcho Ndehe). This will need to be reflected in the other harvesting chapters well		
34) Co-Management in the Harvesting Chapters November 15-17.11 Video Conference	The DFN requested more information regarding what the GNWT is offering in relation to co-management of renewable resources.	GNWT	GNWT to confirm what it can bring forward and when
35) Harmonizing the Harvesting Chapters November 15-17.11 Video Conference	The DFN questioned why the right to harvest plants is more restrictive than the right to harvest wildlife or trees (see 18.1.3). GNWT agreed to provide an overview of the rights the DFN has with respect to the harvesting of the renewable resources and will look at the possibility of harmonizing the harvesting chapters	GNWT	GNWT to provide for Dec 13-15.11 session
36) Harvesting for the purpose of Handicrafts November 15-17.11 Video Conference	The parties discussed whether there the right to harvest for the purpose of handicrafts or sale of handicrafts would be limited because of restrictions set out in the agreement with respect to commercial sale of those handicrafts. Parties agreed that the definition of Subsistence and Personal Use would need to	All Parties	Parties to discuss

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	be examined more closely to see if it includes small scale commercial activities		
37) Economic Measures November 15-17.11 Video Conference	DFN questioned what the GNWT's approach was to the EC Measures chapter.	GNWT	GNWT committed to bringing an official from their implementation office to discuss during Dec 13-15.11 session
38) Definition of Camps November 29-30.11 Video Conference	Canada presented its proposed definition of Camps. DFN asked what would happen to camps if a developer received a permit in the area where the camp is located (off Dehcho Ndehe but within the Dehcho Settlement Area)	Canada	Canada to follow up
39) Definition of Tree November 29-30.11 Video Conference	GNWT proposed to modify the definition by removing the reference to specific types of tree. Canada indicated it was ok with the modification.	DFN	DFN to provide feedback
40) New Language on Community Lands (24.2.1) November 29-30.11 Video Conference	GNWT indicated that the new wording still required some work to reference the inclusion of specified substances	GNWT	GNWT to provide wording