

This is a preliminary draft of the index and the first four chapters of an Agreement-in-Principle as tabled by Canada for discussion during negotiations in Yellowknife the first week of June 2007. The drafts presented here provide an outline of the key elements of these AIP chapters. The text of each of these chapters will change in future drafts as new chapters of an Agreement-in-Principle are presented by Canada for consideration. In particular, the future completion of a draft governance chapter will affect the draft General Provisions chapter presented here. The future completion of draft chapters on access, land and water regulation and similar chapters will affect the draft Lands chapter presented here. Future drafts will also include a proposed definitions chapter which will be relevant to each of the draft chapters presented here.

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CHAPTER 2 GENERAL PROVISIONS

The purpose of the General Provisions chapter is to describe matters of general importance sufficient to prevail over the provisions of other chapters of this Agreement where there is a conflict with other chapters of this Agreement.

Nature of Agreement-in-Principle (AIP) and Final Agreement

1. The purpose of this Agreement is to set out the basis for concluding a Final Agreement by setting out the principles the parties agree should guide negotiation of a Final Agreement.
2. This Agreement is without prejudice to the legal positions of the Parties and does not create legally binding obligations. This Agreement and any communications during AIP negotiations will be not be used against any Party in court proceedings or in other forums and do not create, abrogate, deny, recognize define or amend any rights or obligations of the Parties.
3. The Final Agreement will provide for certainty and predictability with respect to Dehcho rights, title and obligations.
4. The Final Agreement will not come into force, nor create legally binding obligations until ratified by a vote of the Dehcho First Nations and approval by legislation enacted by Parliament and the Legislative Assembly of the Northwest Territories.
5. On the Effective Date, the Final Agreement will replace this Agreement.
6. On the Effective Date, 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.

Constitution of Canada

7. The Final Agreement will not alter the Constitution of Canada, including the distribution of law making authority under the Constitution, the identity of the Dehcho Dene as aboriginal people of Canada, and sections 25 and 35 of the *Constitution Act*, 1982.
8. The Final Agreement will provide that the *Canadian Charter of Rights and Freedoms* applies to Dehcho Government.
9. Nothing in the Final Agreement is intended to affect, recognize or provide any rights under section 35 of the *Constitution Act*, 1982 for any Aboriginal peoples other than the Dehcho Dene.

Application of Federal and Territorial Laws

10. The Final Agreement will provide that Federal Law, Territorial Law and Dehcho Law will apply to the Dehcho Nation, Dehcho Government, Dehcho Public Institutions, Dehcho Citizens, Dehcho Lands.
11. The Final Agreement will specify which law prevails if there is a conflict between federal, territorial and Dehcho Government laws and other provisions to describe the relationship of laws.
12. Federal laws of overriding national importance will prevail in the event of a conflict of laws, and Federal laws of overriding national importance include laws in relation to peace, order and good government, criminal law, human rights laws, laws for the protection of the health and safety of all Canadians, and laws required to meet Canada's international legal obligations.
13. Dehcho law making authority will not include criminal law, criminal procedure, official languages of Canada, intellectual property, labour relations and occupational health and safety.
14. Subject to any specific exceptions in the Final Agreement, Dehcho laws would not be binding on the federal Crown, federal lands or federal interests in land.
15. The Final Agreement will provide that if there is an inconsistency or a conflict between the Final Agreement and the provisions of any Federal Law, Territorial Law and Dehcho Law, the Final Agreement will prevail to the extent of the inconsistency or conflict.

Rights, Benefits and Programs

16. Dehcho Dene who are Canadian citizens would continue to have all the rights and benefits of other Canadian citizens in accordance with the conditions for those rights and benefits in effect from time to time.
17. Unless a fiscal financing agreement provides for the transfer of programs responsibility to the Dehcho Government, nothing in a Final Agreement will affect the ability of Dehcho Dene to participate in or benefit from federal and territorial programs for Aboriginal people in accordance with conditions for those programs in effect from time to time.
18. Enrolment as a Dehcho Dene shall not confer any rights or benefits under the *Indian Act* nor a right of entry into Canada or of Canadian citizenship.

Consultation

19. The Final Agreement will set out agreed upon consultation arrangements with respect to lands and resource management in the Dehcho Region.
20. Once Canada and the NWT have consulted with the Dehcho Nation in accordance with obligations under a Final Agreement, and federal or territorial legislation, there would be no additional obligation to consult or provide information.

Indemnities, Representation and Warranty

21. The Dehcho Nation warrants that it represents the Dehcho Dene and will indemnify Canada in respect of claims of the Dehcho Dene relating to any aboriginal rights, including aboriginal title, as well as claims in respect of treaties 8 and 11.
22. The Final Agreement will provide that the Dehcho Nation represents and warrants that it represents all persons who may be eligible for enrolment under the Final Agreement.

Certainty

23. Dehcho Citizens will not exercise or assert any aboriginal or treaty rights, other than any right set out in the Agreement. Those Dehcho Citizens who are beneficiaries under Treaties 11 and 8 before the Effective Date will continue to have treaty rights respecting annual payments as provided for in those Treaties.
24. The Final Agreement will comprehensively set out Dehcho Dene section 35 land rights, section 35 self government land rights in respect of matters set out in the Final Agreement and other section 35 rights in respect of matters set out in the Final Agreement.
25. The Final Agreement will modify any
 - (a) aboriginal land right;
 - (b) aboriginal self government land right in respect of matters set out in the Final Agreement; and
 - (c) other aboriginal rights in respect of matters set out in the Final Agreement that the Dehcho Dene may have into the rights set out in the Final Agreement.
26. The Final Agreement will represent the full and final settlement of any
 - (a) aboriginal land right;
 - (b) aboriginal self government land right in respect of matters set out in the Final Agreement; and
 - (c) other aboriginal rights in respect of matters set out in the Final Agreement that the Dehcho Dene may have.

Other Aboriginal People

27. The Dehcho Dene agree to resolve overlapping claims with neighbouring aboriginal groups before the Effective Date.
28. Should Canada or the NWT enter into a treaty or land claim agreement with aboriginal people other than the Dehcho Dene which adversely affects the Dehcho Nation rights set out in a Final Agreement, Canada or NWT would negotiate with the Dehcho Nation to put in place replacement rights or other appropriate remedies.
29. If a court determines that a provision of the Final Agreement adversely affects aboriginal or treaty rights of another aboriginal group, that provision will not operate to the extent of the adverse effect and the Parties will make best efforts to remedy or replace that provision.

Freedom of Information and Privacy

30. The Final Agreement will provide for sharing of information and provide that Canada and the NWT will not disclose any information that they are required to withhold under laws.

Official Languages

31. There shall be an English, French and Slavey version of the Final Agreement.
32. The only authoritative versions of the Final Agreement would be the versions in the English and French languages signed by all parties, and the English and French versions will be equally authoritative.

Application of the *Indian Act*

33. The Final Agreement will provide that, subject to transitional provisions, the *Indian Act* will not apply to the Dehcho Nation, Dehcho Government, or Dehcho Dene, except for the purpose of determining whether an individual is an "Indian" within the meaning of the *Indian Act*.

International Obligations

34. The Final Agreement will provide for the consistency of Dehcho laws and other exercises of power with Canada's international legal obligations.
35. The Dehcho Government agrees to exercise the powers set out in the Final Agreement in a manner consistent with the international legal obligations binding

on Canada under international law, including those obligations that are in force, before, on or after the Effective Date.

36. Where Canada and the Dehcho Government disagree over whether a Dehcho law or other exercise of power by the Dehcho Government is inconsistent with an international legal obligation, the dispute will be resolved pursuant to the dispute resolution provisions set out in the Final Agreement.
37. Notwithstanding the resolution of a dispute, if an international tribunal concludes that a Dehcho law or other exercise of power by the Dehcho Government is inconsistent with an international legal obligation, the Dehcho Government will, at the request of Canada, remedy the law or other exercise of power consistent with the compliance of Canada with respect to the international legal obligation.

Interpretation

38. There will be no presumption that doubtful expressions, terms or provisions in the Final Agreement are to be resolved in favor of any particular Party.

Devolution

39. Nothing in this Agreement and the Final Agreement shall prejudice the devolution or transfer of responsibilities or powers from the government of Canada to the government of the Northwest Territories.
40. After the Effective Date, notwithstanding a provision of the Final Agreement which sets out a responsibility or power of Canada, federal legislation or a devolution agreement may provide that the responsibility or power is transferred to the government of the Northwest Territories and then Canada will have no obligation in respect of that responsibility or power.

Validity of Agreement

41. None of the Parties or the Dehcho Government shall challenge the validity of any provision of the Final Agreement and if a court of competent jurisdiction finds any provision of the Final Agreement to be invalid or unenforceable, none of the Parties or the Dehcho Government will have a claim based on such a finding.
42. If any provision of the Agreement is found by a court of competent jurisdiction to be invalid or unenforceable
 - (a) the Parties shall make best efforts to amend or replace the provision; and
 - (b) the provision will be severable from the Final Agreement to the extent of the invalidity or unenforceability and the remainder of the Final

Tabled by Canada June 2007

Without Prejudice

Draft for discussion purposes

Agreement will be applied to the extent possible to give effect to the intent of the Parties.

Amendment

43. The Final Agreement will contain provision for amendment on consent of the Parties.

CHAPTER 3 ELIGIBILITY & ENROLMENT

The purpose of this chapter is to describe persons who can be beneficiaries of rights under the Final Agreement.

Entitlement to enrolment

1. A person shall be eligible to be enrolled as a Dehcho Citizen in the Final Agreement if he or she is a Canadian Citizen who is:
 - (a) a descendant of the Dene and Métis who used and occupied the Dehcho Region area before July 17, 1922;
 - (b) registered, or entitled to be registered, as an Indian on a Dehch First Nation Band Membership List maintained by the Department of Indian Affairs and Northern Development on the Effective Date;
 - (c) of Aboriginal ancestry, ordinarily resident in the Dehcho Region, who is accepted as a Dehcho Citizen by a process to be set out in the Dehcho Nation Constitution;
 - (d) adopted as a child under laws recognized in Canada or by Dehcho Nation custom by an individual eligible for enrolment; or
 - (e) a direct descendant of an individual eligible for enrolment.
2. Applications for enrolment shall be made to an Enrolment Committee to be established by the Parties before the Final Agreement comes into force.
3. The Enrolment Committee may establish its own procedures and the time limits for applications. The burden of demonstrating eligibility will be on the applicant.
4. Appeals from final decisions of the Enrolment Committee will be made to an Enrolment Appeal Board to be established by the Parties before the Final Agreement comes into force.
5. The Enrolment Appeal Board may establish its own procedures and time limits for appeals.
6. A party may apply to the Supreme Court of the Northwest Territories for judicial review of decisions of the Enrolment Appeal Board.
7. The Government of Canada shall pay the reasonable and necessary costs of enrolment for the initial enrolment period, and the Dehcho Regional Government will be responsible for ongoing enrolment costs after the Effective Date.

8. After the Effective Date, the Dehcho Regional Government will be responsible for enrolment and enrolment procedures, including appeal procedures and will maintain an enrolment register and provide a copy to Canada or the Northwest Territories annually or as otherwise requested.

Beneficiaries of one agreement

9. A person may not be enrolled as a Dehcho Dene if they are already enrolled in a land claims agreement, unless they opt to be removed from that other agreement.
10. A Dehcho Dene may not enrol in another land claims agreement unless they cease to be a Dehcho Dene.

CHAPTER 4 RATIFICATION

The purpose of this chapter is to describe the approval process for the Agreement-in-Principle and the ratification process for the Final Agreement.

APPROVAL OF THE AGREEMENT IN PRINCIPLE

1. This Agreement in Principle will be submitted to the Parties for approval after it has been initialled by the Chief Negotiators for Canada, the Northwest Territories and the Dehcho Nation.
2. The Dehcho Nation will have approved this Agreement in Principle when it is signed by the Grand Chief of the Dehcho Nation after it has been authorized by a Special Assembly of the Dehcho Nation called for the purpose.
3. Canada will have approved this Agreement in Principle when it is signed by the federal Minister with cabinet approval to do so.
4. The Northwest Territories will have approved this Agreement in Principle when it is signed by the territorial Minister with Cabinet approval to do so.

RATIFICATION OF THE FINAL AGREEMENT

General

5. The Final Agreement will be legally binding once ratified by all Parties in accordance with the ratification provisions set out in the Final Agreement.
6. After the Final Agreement has been initialled by the Chief Negotiators for Canada, the Northwest Territories and the Dehcho Nation, it will be submitted to the Parties for ratification as set out in the Final Agreement.

Ratification by Dehcho Nation of the Final Agreement and Constitution

7. The Parties will establish a Ratification Committee, with representation of each of the Parties to be responsible for the Dehcho Nation ratification process, including preparing a list of eligible voters, as set out in the Final Agreement.
8. An eligible voter will be an individual who:
 - (a) is eligible to be enrolled under the eligibility and enrolment provisions of the Final Agreement;

- (b) is at least 18 years of age on the day of voting; and
- (c) meets any other criterion set out in the Final Agreement.

9. Ratification of the Final Agreement by the Dehcho Nation will require:

- (a) that eligible 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 favor of the Final Agreement;
- (d) if the Dehcho Constitution is not already ratified, then ratification of it through the process set out in the Final Agreement; and
- (e) the Final Agreement be signed by the authorized representative of Dehcho Nation.

Ratification by Canada

10. Ratification of the Final Agreement by Canada will require:

- (a) that the Final Agreement be signed by the Minister of Indian Affairs and Northern Development; and
- (b) the coming into force of federal settlement legislation.

Ratification by the Northwest Territories

11. Ratification of the Final Agreement by the Northwest Territories will require:

- (a) that the Final Agreement be signed by the Minister of Aboriginal Affairs and Intergovernmental Relations; and
- (b) the coming into force of territorial settlement legislation.

CHAPTER 5 DEHCHO LANDS

The purpose of this chapter is to describe Dehcho ownership of surface and subsurface lands and resources.

General

1. The Final Agreement will set out the boundaries of Dehcho Lands which consist of 39,000 square kilometres - surface and subsurface - see annexed maps.
2. Dehcho Lands will not be lands reserved for the Indians within the meaning of the *Constitution Act, 1867* or reserves within the meaning of the *Indian Act*.
3. No person may acquire by prescription an estate or interest in Dehcho Lands.

Ownership of Dehcho Lands

4. On the Effective Date, the Dehcho Nation will own Dehcho Lands in fee simple, subject only to any exceptions or reservations set out in the Final Agreement but not subject to any exception or reservation in favour of Canada or the NWT under federal or territorial law. No interest in Dehcho Lands will be expropriated except as permitted by and in accordance with the Final Agreement.
5. On the Effective Date, Dehcho ownership of Dehcho Lands will include the beds of lakes, and other water bodies wholly contained within Dehcho Lands and the portion of any river within Dehcho Lands.
6. For greater certainty, Dehcho Lands will not include the beds of lakes, rivers and other water bodies which form the boundaries of Dehcho Lands.
7. Canada will retain ownership of water in, on, or under lakes, rivers and other water bodies and Dehcho ownership of Dehcho Lands will not include any property in those waters.
8. The Final Agreement and Dehcho Government laws may establish restrictions on sale or alienation of Dehcho Lands.

Surveys and Land Title Registration

9. The Final Agreement will provide for the survey of the outer boundaries of Dehcho Lands and for registration of title to Dehcho Lands in the NWT Land Title Office.
10. The costs necessary for the survey of the outer boundaries and for registration of title to Dehcho Lands will be borne by Canada.

11. Canada will survey the boundaries of excluded sites and Dehcho Community Lands.
12. The costs necessary for the survey of excluded sites and Dehcho Community Lands will be borne by Canada.
13. The Dehcho Nation will bear the costs of surveys of boundaries of parcels within Dehcho Lands.

Existing Interests

14. Dehcho Nation ownership of Dehcho Lands will not include any interests in Dehcho Lands existing immediately before the Effective Date and these existing interests will continue on terms and conditions under which they were held before the Effective Date, subject to modification only by agreement of the holder of the interest and the Dehcho Nation.
15. After an existing interest within Dehcho Lands terminates, Canada at its sole discretion may, at no cost to the Dehcho Nation, add the interest to Dehcho Lands and the Dehcho Dene shall have no cause of action in respect of the condition of those lands.

Impact and Benefit Agreements

16. The Final Agreement will provide that Canada shall ensure that the proponent of a major mining project in the Dehcho Region that requires authorization from Canada, and that will have an impact upon Dehcho beneficiaries, is required to enter into negotiations with the Dehcho Nation with a view to concluding a mining impact and benefits agreement.

Infrastructure Corridor

17. The Final Agreement will provide for an infrastructure corridor.

Contaminated Sites

18. The Final Agreement will address the remediation of contaminated sites on Crown lands and Dehcho Lands in the Dehcho Region.

Exchange of Lands

19. After the Effective Date, the Minister may enter into agreements with the Dehcho Nation for the exchange of parcels of Dehcho Lands and Crown lands. An agreement between the Minister and the Dehcho Nation may specify the date on which a parcel of land will cease to be Dehcho Lands and the date on which replacement Crown lands will become Dehcho Lands.

Dehcho Community Lands

20. The Final Agreement will set the boundaries of Dehcho Community Lands which consist of square kilometres - see annexed maps.
21. On the Effective Date, the Dehcho Nation will own Dehcho Community Lands in fee simple, subject any exceptions or reservations set out in the Final Agreement and under federal or territorial law. No interest in Dehcho Community Lands will be expropriated except as permitted by and in accordance with the Final Agreement.
22. Dehcho Nation ownership of Dehcho Community Lands will not include subsurface resources.
23. Dehcho Nation ownership of Dehcho Community Lands is subject to any existing interests on those lands.
24. Dehcho Nation ownership of Dehcho Community Lands will not include ownership of the beds of any lakes, rivers or other water bodies within or bordering Dehcho Community Lands, nor ownership of the water in those lakes rivers or other water bodies.
25. Dehcho Community Lands will not be lands reserved for the Indians within the meaning of the *Constitution Act, 1867* or reserves within the meaning of the *Indian Act*.
26. No person may acquire by prescription an estate or interest in Dehcho Community Lands.