

CHAPTER T: TREE HARVESTING

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T.2.0	GIFTING AND TRADING
T.3.0	ACCESS
T.4.0	CONSULTATION
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T.1.0 GENERAL

T.1.1 The Dehcho Government owns the Trees located within Dehcho N'dehe.

T.1.2 With the exception of provision set out in subsection **T.5.0**,, this chapter applies to the Dehcho Settlement Area excluding Dehcho N'dehe.

T.1.3 Dehcho Citizens have² the right to harvest all species of Trees throughout the Dehcho Settlement Area³ at all times of the year for the following purposes⁴:

- a) firewood for personal use;
- b) firewood for community purposes within the Dehcho Settlement Area;

² Canada is reviewing wording such as “The Dehcho Agreement will recognize that...”

³ Tree Harvesting by Dehcho Citizens and the participation of the Dehcho Government in the management of Trees within a National Park will be set out in the National Parks chapter.

⁴ LTC-JH – The changes you see in T.1.3, now reflect the new GNWT Gifting and Trading mandate referred to in the other harvesting chapters

- b) construction or maintenance of hunting, trapping and fishing Camps for personal use;
- c) the making of handicrafts for personal use;
- d) traditional, cultural or medicinal purposes;
- e) construction of boats and rafts for personal use;
- f) construction of houses for personal occupancy by Dehcho Citizens ; and
- g) construction of public structures for community use within the Dehcho Settlement Area.

T.1.4 The right provided for in T.1.3 may be limited or restricted:

- a) by provisions of the Dehcho Agreement; or
- b) for purposes related⁵ to:
 - i) Conservation;
 - ii) public health;
 - iii) public safety;
 - iv) Forest Management;⁶
 - v) land management within the Dehcho Settlement Area⁷;
and

⁵ Wildlife Chapter uses “demonstrably necessary for...”. Threshold issues are under discussion.

⁶ Dehcho Question (iv)

⁷ LTC – Query whether this is needed.

vi) protection of the Environment from significant damage.⁸

- T.1.5** The Minister has the authority to manage and conserve Trees and Tree habitat and will exercise that authority in a manner that is consistent with the Dehcho Agreement.
- T.1.6** To the extent reasonable⁹, Government will Consult the Dehcho Government prior to imposing a limitation or restriction pursuant to T.1.4 (b). non-emergency
- T.1.7** In the event of an emergency, Government may impose an interim limitation or restriction related to T.1.4 (b) without prior Consultation but will Consult the Dehcho Government, as soon as possible thereafter, regarding the necessity of the action taken and the terms and conditions to be attached to any limitation or restriction imposed.¹⁰
- T.1.8** Nothing in the Dehcho Agreement will be construed to:
- a) recognize a right to harvest Trees for commercial purposes or sale;
 - b) confer rights of ownership in Trees, other than T.1.1¹¹;
 - c) guarantee the supply of Trees;

⁸ Dehcho question (vi)

⁹ LTC – Query whether the lead in is necessary.

¹⁰ LTC (GNWT) suggestion: In the event of an Emergency, Government may impose an interim limitation or restriction under T.1.3(b) upon notice to the Dehcho Government. As soon as possible thereafter, Government will provide reasons for the decision to the Dehcho Government. Government will Consult the Dehcho Government with respect to any ongoing terms and conditions.

¹¹ LTC-JH – a suggestion for clarity

- d) preclude individuals who are not Dehcho Citizens from Harvesting Trees, except that they may be precluded from doing so by Legislation;
- e) entitle Dehcho Citizens to any compensation for damage to or loss of Trees or Tree Harvesting opportunities within the Dehcho Settlement Area¹²; or
- f) affect any responsibility of Government for the fighting of forest fires.

T.1.9 Dehcho Citizens will not be subject to any fee¹³ for Tree Harvesting pursuant to T.1.3.

T.1.10 Prior to Dehcho Agreement, the Parties will address the issue of documentation or identification for Dehcho Citizens exercising their right to harvest Trees set out in the Dehcho Agreement.

T.1.11 Dehcho Citizens will have the right to utilize any method, and to possess and use any equipment, for the purpose of the Tree Harvesting pursuant to T.1.3.

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T.2.0 GIFTING AND TRADING¹⁵

¹² LTC – Ongoing issue linked to Wildlife Harvesting Compensation

¹³ Wildlife Chapter adds “Tax” which is being discussed.

¹⁴ LTC (GNWT) suggests: Dehcho Citizens will have the right to possess and transport anywhere in Canada Trees harvested pursuant to T.1.3, subject to any identification requirements established by Legislation. When exercising this right, Dehcho Citizens will not be required to obtain a licence from Government, nor be subject to any fee charged by Government

¹⁵ LTC – This now reflects the new GNWT mandate re Gifting and Trading for the various harvesting chapters.

T.2.1 Dehcho Citizens have the right to Gift Trees harvested pursuant to T.1.3 to any individual for the recipient’s personal use or consumption

T.2.2 Dehcho Citizens will have the right to Trade Trees harvested pursuant to T.1.3 with:

- a) other Dehcho Citizens; and
- b) members of other Aboriginal groups in the Dehcho Region .

for the recipient’s personal use or consumption..

T.2.3 Prior to Dehcho Agreement, the Dehcho First Nations may address reciprocal opportunities for the Tree Harvesting with other Aboriginal groups through the negotiation of overlap agreements. With the agreement of all Parties, overlap agreement provisions pertaining to opportunities for the Tree Harvesting for Dehcho Citizens may be incorporated into the Dehcho Agreement.¹⁶

T.3 ACCESS

T.3.1 Dehcho Citizens will have a right of access to all land within the Dehcho Settlement Area for the purpose of Tree Harvesting under T.1.3.

T.3.2 This right of access does not apply:

- a) on Indian reserve lands¹⁷;
- b) on lands held in fee simple, lands subject to an agreement for sale or lands subject to a surface lease;

¹⁶ LTC suggests: T2.3 is a bad fit under the subheading – suggest separate subheading “Overlap Agreements” or something similar

¹⁷ LTC looking at necessity.

- c) where it conflicts with any activity carried out under an authorization granted by Government such as a timber licence or permit, a Forest Management agreement or land use permit; and
- d) where lands are dedicated to military or national security purposes pursuant to Legislation, or areas temporarily being used for military exercises for the period of such temporary use, after notice of such dedication or use has been provided to the Dehcho Government .

T.3.3 An Dehcho Citizen or the Dehcho Government may enter into an agreement with an owner, lessee or Government, as the case may be, regarding access to lands described in T.3.2 for the purposes of Tree Harvesting under T.1.3.

T.4.0 CONSULTATION

T.4.1 Government will Consult the Dehcho Government prior to introducing new Legislation, or amending existing Legislation, that could adversely affect the exercise of the right to harvest Trees as set out in the Dehcho Agreement.

T.4.2 Government will Consult the Dehcho Government prior to:

- a) amending the terms of an existing commercial authorization to harvest Trees;
- b) authorizing a new commercial activity to harvest Trees, or
- c) permitting any commercial activity for the propagation or cultivation of a species of Tree,

within the Dehcho Settlement Area that could adversely affect the exercise of the right to harvest Trees as set out in the Dehcho Agreement.

T.5.0 TREE MANAGEMENT

T.5.1 Prior to Dehcho Agreement, the Parties will address aspects of Tree management within the Dehcho Settlement Area.

T.6.0 EMERGENCIES

T.6.1 Nothing in the Dehcho Agreement will prevent any individual from Harvesting Trees for survival in an Emergency.

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T.1.0 GENERAL

~~T.1.1 The Dehcho Government owns the Trees located within Dehcho N'dehe. With the exception of the provisions set out in T.5 Tree Management, this chapter does not apply to Dehcho Ndehe.¹~~

~~T.1.2 With the exception of provisions set out in subsection T.5.0, **Plant Management**, this chapter applies to the Dehcho Settlement Area excluding and not to Dehcho NdeheN'dehe.~~

~~T.1.32 Dehcho Citizens ~~will~~ have² the right to harvest all species of Trees throughout the Dehcho Settlement Area³ at all times of the year for the following purposes⁴:~~

~~¹ Rationale for this clause is to clearly set out that on Dehcho Settlement Lands, the fee simple owner owns the resource. Certain management aspects would apply (e.g. creating an erosion hazard to a stream and habitat protection). This approach is also found in the Tliche Agreement.~~

~~² Canada is reviewing wording such as "The Dehcho Agreement will recognize that..."~~

~~³ Tree Harvesting by Dehcho Citizens and the participation of the Dehcho Government in the management of Trees within a National Park will be set out in the National Parks chapter.~~

~~⁴ LTC-JH – The changes you see in T.1.32, now reflect the new GNWT Gifting and Trading mandate referred to in the other harvesting chapters~~

- a) firewood for personal use;
- b) firewood for community purposes within the Dehcho Settlement Area;
- b) construction or maintenance of hunting, trapping and fishing Camps for personal use;
- c) the making of handicrafts for personal use;
- d) traditional, cultural or medicinal purposes;
- e) construction of boats and rafts for personal use; ~~and~~
- f) construction of houses building for personal occupancy by Dehcho Citizens use; ~~and~~
- g) construction of public structures for community use within the Dehcho Settlement Area.

T.1.43 The right provided for in T.1. ~~321~~ may be limited or restricted:

- a) by provisions of the ~~Final~~ Dehcho Agreement; or
- b) for purposes related⁵ to:
 - i) Conservation;
 - ii) public health;
 - iii) public safety;
 - iv) Forest Management;⁶

⁵ Wildlife Chapter uses “demonstrably necessary for...”. Threshold issues are under discussion.

⁶ Dehcho Question (iv)

v) land management within the Dehcho Settlement Area⁷;
and

vi) protection of the Environment from significant damage.⁸

T.1.54 The Minister ~~retains~~ has the authority to manage and conserve Trees and Tree habitat and will exercise that authority in a manner that is consistent with the ~~Final~~ Dehcho Agreement.

T.1.65 To the extent reasonable⁹, Government will Consult the Dehcho Government prior to imposing a limitation or restriction pursuant to T.1.~~43~~ (b). non-emergency

T.1.764 In the event of an emergency, Government may impose an interim limitation or restriction related to T.1.~~34~~ (b) without prior Consultation but will Consult the Dehcho Government, as soon as possible thereafter, regarding the necessity of the action taken and the terms and conditions to be attached to any limitation or restriction imposed.¹⁰

T.1.875 Nothing in the ~~Final~~ Dehcho Agreement will be construed to:

a) recognize a right to harvest Trees for commercial purposes or sale;

⁷ LTC – Query whether this is needed.

⁸ Dehcho question (vi)

⁹ LTC – Query whether the lead in is necessary.

¹⁰ LTC (GNWT) suggestion: In the event of an Eemergency, Government may impose an interim limitation or restriction under T.1.3(b) upon notice to the Dehcho Government. As soon as possible thereafter, Government will provide reasons for the decision to the Dehcho Government. Government will Consult the Dehcho Government with respect to any ongoing terms and conditions.

- b) confer rights of ownership in Trees, other than T.1.1¹¹;
- c) guarantee the supply of Trees;
- d) preclude individuals who are not Dehcho Citizens from Harvesting Trees, except that they may be precluded from doing so by Legislation;
- e) entitle Dehcho Citizens to any compensation for damage to or loss of Trees or Tree Harvesting opportunities within the Dehcho Settlement Area¹²; or
- f) affect any responsibility of Government for the fighting of forest fires.

T.1.986 Dehcho Citizens will not be subject to any fee¹³ for Tree Harvesting pursuant to T.1.~~321~~.

T.1.1097 Prior to ~~Final~~ Dehcho Agreement, the Parties will address the issue of documentation or identification for Dehcho Citizens exercising their right to harvest Trees set out in the ~~Final~~ Dehcho Agreement.

T.1.1108 Dehcho Citizens will have the right to utilize any method, and to possess and use any equipment, for the purpose of the Tree Harvesting pursuant to T.1.~~32~~.

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¹¹ LTC-JH – a suggestion for clarity

¹² LTC – Ongoing issue linked to Wildlife Harvesting Compensation

¹³ Wildlife Chapter adds “Tax” which is being discussed.

¹⁴ LTC (GNWT) suggests: Dehcho Citizens will have the right to possess and transport anywhere in Canada Trees harvested pursuant to T.1.32, subject to any identification requirements established by Legislation. When exercising this right, Dehcho Citizens will not be required to obtain a licence from Government, nor be subject to any fee charged by Government

T.2.0 GIFTING AND TRADING¹⁵

T.2.1 Dehcho Citizens ~~will~~ have the right to Gift Trees harvested pursuant to T.1.~~321~~ to any individual for ~~Domestic Purposes.~~ the recipient's personal use or consumption

T.2.2 Dehcho Citizens will have the right to Trade Trees harvested pursuant to T.1.~~321~~ with:

- a) other Dehcho Citizens; and
- b) members of ~~another~~ Aboriginal groups in the Dehcho Region Northwest Territories.

for the recipient's personal use or consumption.~~Domestic Purposes.~~

T.2.3 Prior to ~~Final~~ Dehcho Agreement, the Dehcho First Nations may address reciprocal opportunities for the Tree Harvesting with other Aboriginal groups through the negotiation of overlap agreements. With the agreement of all Parties, overlap agreement provisions pertaining to opportunities for the Tree Harvesting for Dehcho Citizens may be incorporated into the ~~Final~~ Dehcho Agreement.¹⁶

T.3 ACCESS

T.3.1 Dehcho Citizens will have a right of access to all land within the Dehcho Settlement Area for the purpose of Tree Harvesting under T.1.~~32~~.

¹⁵ LTC – This now reflects the new GNWT mandate re Gifting and Trading for the various harvesting chapters.

¹⁶ LTC suggests: T2.3 is a bad fit under the subheading – suggest separate subheading “Overlap Agreements” or something similar

T.3.2 This right of access does not apply:

- a) on Indian reserve lands¹⁷;
- b) on lands held in fee simple, lands subject to an agreement for sale or lands subject to a surface lease;
- c) where it conflicts with any activity carried out under an authorization granted by Government such as a timber licence or permit, a Forest Management agreement or land use permit; and
- d) where lands are dedicated to military or national security purposes pursuant to Legislation, or areas temporarily being used for military exercises for the period of such temporary use, after notice of such dedication or use has been provided to the Dehcho Government .

T.3.3 An Dehcho Citizen or the Dehcho Government may enter into an agreement with an owner, lessee or Government, as the case may be, regarding access to lands described in T.3.2 for the purposes of Tree Harvesting under T.1.~~32~~.

T.4.0 CONSULTATION

T.4.1 Government will Consult the Dehcho Government prior to introducing new Legislation, or amending existing Legislation, that could adversely affect the exercise of the right to harvest Trees as set out in the ~~Final-Dehcho~~ Agreement.

T.4.2 Government will Consult the Dehcho Government prior to:

- a) amending the terms of an existing commercial authorization to harvest Trees;

¹⁷ LTC looking at necessity.

- b) authorizing a new commercial activity to harvest Trees, or
- c) permitting any commercial activity for the propagation or cultivation of a species of Tree,

within the Dehcho Settlement Area that could adversely affect the exercise of the right to harvest Trees as set out in the ~~Final~~ Dehcho Agreement.

T.5.0 TREE MANAGEMENT

- T.5.1** Prior to ~~Final~~ Dehcho Agreement, the Parties will address aspects of Tree management within the Dehcho Settlement Area.

T.6.0 EMERGENCIES

- T.6.1** Nothing in the ~~Final~~ Dehcho Agreement will prevent any individual from Harvesting Trees for survival in an Emergency.