

To be reviewed at main table session Feb. 4, 2010

CHAPTER R: RATIFICATION

- R.1.0 RATIFICATION OF THE FINAL AGREEMENT**
 - R.2.0 COSTS**
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R.1.0 RATIFICATION OF THE FINAL AGREEMENT

General

- R.1.1 The chief negotiators will initial the Final Agreement when they are prepared to submit it for approval.
- R.1.2 After the Final Agreement has been initialed by the chief negotiators, it will be submitted to the Parties for the consideration of ratification as set out in this chapter.
- R.1.3 The Final Agreement will be legally binding once ratified by all Parties in accordance with the ratification provisions set out in this chapter.
- R.1.4 Ratification of the Final Agreement by one party does not obligate any of the other parties to ratify the Final Agreement.

Ratification Committee

- R.1.5 The Parties will establish a Ratification Committee as soon as practicable but no later than 60 days after the initialing of the Final Agreement, consisting of one representative appointed by each Party, to be responsible for the DFN ratification process, as set out in this chapter.
- R.1.6 The Ratification Committee will:
 - a) ensure that the Eligible Voters have a reasonable opportunity to review the Final Agreement;

- b) ensure that the DFN has provided Eligible Voters a reasonable opportunity to review the DFN Constitution;
- c) organize community meetings to provide Eligible Voters an opportunity to review the substance of the Final Agreement;
- d) establish and publish its procedures;
- e) set its time limits, including the date or dates of the Ratification Vote;
- f) prepare and publish a Preliminary Voters List in each Dehcho Dene Community and elsewhere as required based on the Preliminary Enrolment List provided by the Enrolment Committee under E.2.113 within 90 days of receiving the list;
- g) publish the Official Voters List in accordance with R.1.12;
- h) update the Official Voters List by
 - i) removing from the Official Voters List the name of each individual who died on or before the last day of voting without having voted;
 - ii) removing from the Official Voters List the name of each individual who did not vote and who provides, within 4 days of the last day of voting, certification by a qualified medical practitioner that the individual was physically or mentally incapacitated to the point that they could not have voted on the dates set for voting; and¹
 - iii) removing from the Official Voters List the name of each individual who has applied, or on whose behalf application has been made, by the close of polls on the last day of voting, to have his or her name removed from the Enrolment by the Enrolment Committee, provided the

¹ Canada examining whether any additional/alternative procedures are required with respect to mentally incompetent individuals

individual has not already voted;²

- j) approve the form and content of the ballots;
- j) authorize and provide general direction to voting officers to be employed in the conduct of the votes;
- k) establish polling stations;
- l) oversee the conduct of the votes on the dates established by the Ratification Committee;
- m) ensure that information about the dates set for voting and location of the polling stations be made publicly available;
- n) oversee tabulation of the results of the votes;
- o) provide the Parties with the result of the votes;
- p) publish the result of the vote to ratify the Final Agreement; and
- q) prepare and provide to the Parties a written report on the outcome of the vote to ratify the Final Agreement within 90 days of the last day of voting.

R.1.7 The Ratification Committee will be dissolved upon submitting to the Parties the written report as referred to in R.1.6 (p).

Appeals

R.1.8 Appeals from decisions of the Ratification Committee with respect to the Preliminary Voters List will be made to the Appeal Board established under E.45.1.

² Should be deadline for publication of Ratification Vote.

R.1.9 After the publication of the Preliminary Voters List, a written appeal may be submitted to the Appeal Board within a period established by the Ratification Committee by an individual:

- a) whose name is not on the Preliminary Voters List; or
- b) who would like to have their name removed from the Preliminary Voters List.

R.1.10 appeal process Appeal Board as per E.4.3(a).

R.1.11 Decisions of the Appeal Board in respect of an appeal will be by a majority of voting members and will be final. The Appeal Board will notify the appellant, any person whose eligibility to vote has been challenged and the Ratification Committee, of its decision.

R.1.12 Within 30 days of the Appeal Board rendering its decisions on applications, the Ratification Committee will forward an amended Preliminary Voters List to all Parties. Upon receipt and approval of this list by the parties, the Ratification Committee will publish this list as the Official Voters List.

Ratification Vote

R.1.13 The Dehcho First Nations ratification vote will be held no earlier than 30 days after the publication of the Official Voters List on such date(s) as may be agreed to by the Ratification Committee.

R.1.14 An Eligible Voter will be an individual who:

- a) is eligible to be enrolled under the eligibility and enrolment provisions of the Final Agreement subject to R.1.15 and whose name appears on the Official Voters List;
- b) is at least 18 years of age on the day of voting; and

- c) is not enrolled in another Land Claims Agreement, Lands and Resources Agreement or Self Government Agreement.³

R.1.15 Notwithstanding the eligibility and enrolment provisions of the Final Agreement, an individual is not ineligible to vote for Ratification where the individual is on a non-DFN Band Membership List or on a non-DFN Métis Local Membership list.⁴

Ratification by DFN

R.1.16 Ratification of the Final Agreement by the DFN will require:

- a) that Eligible Voters have a reasonable opportunity to review the Final Agreement;
- b) approval by a Dehcho Assembly;
- c) a vote by Eligible Voters, by way of a secret ballot;
- d) that at least fifty percent plus one of individuals on the List of Eligible Voters vote in favour of the Final Agreement;

³ The DFN express the view that the only agreement that should prevent otherwise eligible individuals from voting is the Tlicho Agreement as it is currently the only land claim agreement in the NWT that has self government. Canada's response is that land and governance issues are inherently linked and that the comprehensive claims policy clearly states that in order to vote for ratification of one agreement an individual cannot belong to another agreement – an individual has to elect at the time of voting.

⁴ This new R.1.15 is intended to address the following concern expressed by the DFN: (a) Band membership is distinct from membership under an agreement (a band being an Indian Act creation and membership under an agreement generally based on inherent characteristics vs. residence). As discussed above, Canada does not accept that a member of another agreement can vote on the Dehcho final agreement. Canada also argues that the "no man's land" concern would only apply where an individual came into the agreement under a community acceptance process because he or she is not eligible as contemplated under the E&E provisions of whatever other agreement. If an individual is, for example, an eligible Tlicho under the Tlicho Agreement's E&E provisions then arguably he or she would have to be let back in based on the inherent characteristics that make him or her eligible.

- e) ratification of the DFN Constitution through the process set out in the Final Agreement; and
- f) the Final Agreement being signed by the authorized representative of the DFN.

Ratification by the Government of the Northwest Territories

R.1.17 Ratification of the Final Agreement by the Government of the Northwest Territories will require:

- a) ratification of the Final Agreement by the Dehcho First Nations pursuant to R.1.16
- b) approval of the Final Agreement by the Executive Council;
- c) signing of the Final Agreement by the Minister authorized by the Executive Council; and
- d) the coming into force of territorial Settlement Legislation.

Ratification by Government of Canada

R.1.18 Ratification of the Final Agreement by the Government of Canada will require:

- a) approval of the Final Agreement by the Executive Council of the Government of the Northwest Territories pursuant to R.1.17 b) and ratification of the Final Agreement by the Dehcho First Nation pursuant to R.1.16.
- b) that the Final Agreement be signed by the Minister of Indian and Northern Affairs Canada as authorized by federal Cabinet; and
- c) the coming into force of federal Settlement Legislation giving effect to the Final Agreement.

R.2.0 COSTS⁵

R.2.1 The Government of Canada will provide an amount of funding agreed upon by the Parties for the Ratification Committee to carry out the duties and responsibilities as set out in this chapter and in the Final Agreement.

⁵ DFN requesting clarification on what Canada pays for the Ratification Committee Canada looking into it.