

## **CHAPTER IA: INTERPETAION and AMENDMENT**

**To be Reviewed by Main Table Feb. 4, 2010**

### **IA.1 INTERPETATION**

#### **IA.1.1**

The Dehcho Agreement will be the entire agreement between the Parties and there will be no representation, warranty, collateral agreement or condition affecting the Agreement except as provided by the Agreement.

#### **IA.1.2**

Where there is any inconsistency or conflict between the provisions of the settlement legislation or the Dehcho Agreement and the provisions of any other legislation, the provisions of the settlement legislation or the Dehcho Agreement, as the case may be, will prevail to the extent of the inconsistency or conflict.

#### **IA.1.3**

Where there is any inconsistency or conflict between the settlement legislation and the Dehcho Agreement, the Agreement will prevail to the extent of the inconsistency or conflict.

#### **IA.1.4**

The Dehcho Agreement may be examined as an aid to interpretation where there is any doubt in respect of the meaning of any legislation or Dehcho laws implementing the provisions of the Dehcho Agreement.

#### **IA.1.5**

There will not be any presumption that doubtful expressions in the Agreement be interpreted in favour of any one of the Parties.

#### **IA.1.6**

Despite any provision of the Dehcho Agreement, Canada or the GNWT may authorize any body or person to act on its behalf, or may identify, or change the identification of, which of its Ministers is responsible for the subject matter of a provision, by legislation or an order of the Governor in Council, in respect of the Government of Canada, or the Commissioner in Executive Council, in respect of the Government of the Northwest Territories.

### **IA.2 VALIDITY OF AGREEMENT**

#### **IA.2.1**

None of the Parties or the Dehcho Government will challenge the validity of any provision of the Dehcho Agreement.

### **IA.2.2**

Subject to xxxx, none of the Parties or the Dehcho Government will have a claim or cause of action based on a finding that any provision of the Dehcho Agreement is invalid.

### **IA.2.3**

If any provision of the Dehcho Agreement is found by a court of competent jurisdiction to be invalid, the Parties will make best efforts to amend the Agreement to remedy the invalidity or replace the invalid provision.

## **IA.3 AMENDMENT**

### **IA.3.1**

The Dehcho Agreement will provide that if the Dehcho Government proposes the exercise, by Dehcho Citizens, Dehcho Dene, the Dehcho First Nations or the Dehcho Government, of a right that is not a land right and that is not set out in the Agreement, the Parties will enter into discussions to determine what their interests are in relation to the proposed right. The Parties may, after these discussions, agree to enter into negotiations for the amendment of the Dehcho Agreement to incorporate the proposed right.

### **IA.3.2**

If the Parties do not agree to enter into negotiations within 90 days of receipt under IA.3.1 by Canada and/or the GNWT of the proposed right or do not consent to the text of the amendment within one year of agreement to enter into negotiations or such longer period set by the Parties, the Dehcho Government may apply to the Supreme Court of the Northwest Territories for a decision on whether the proposed right is a right of the Dehcho Dene.

### **IA.3.3**

If the highest court in which an application under 3.2 is considered confirms the existence of a right of the Dehcho Dene, the Parties will enter into negotiations to incorporate the right into the Dehcho Agreement.

### **IA.3.4**

If the Parties fail to agree on the text of an amendment within one year of the decision by the highest court in which an application under 3.2 is considered, or such longer period set by the Parties, the Dehcho Government may submit the issue, as to the text of the amendment, for resolution in accordance with chapter DR.

### **IA.3.5**

The Dehcho Agreement will be considered to be amended in accordance with the text drafted by the arbitrator. The amendment will be deemed to have been made 30 days after the release of the arbitrator's decision.

Reviewed by LTC Oct. 15, 2010

**Draft definitions for harvesting chapters:**

"Harvest" means the taking or attempted taking of Wildlife, Plants, Fish or Aquatic Plants into possession, and includes fishing, hunting, trapping, netting, egging, picking, collecting, gathering, spearing, killing, catching, capturing or taking by any means or method and, with reference to Plants, includes wooding, cutting or digging or attempting to do so. For greater certainty, "harvesting" includes the following activities:

- a) hunting of mammals and birds;
- b) trapping of fur-bearing animals;
- c) fishing for freshwater and anadromous fish;
- d) gathering of traditional Dehcho Dene foods;
- e) gathering of plants, fish or wildlife used for medicinal or ceremonial purposes;
- f) use or construction of shelter or facilities ancillary to the pursuit of the above activities; and
- g) access to lands or waters for any of the above activities.

"Subsistence and Personal Use" means the non-commercial use or consumption of Wildlife, Fish or Plants by the individual or the family or community of the individual carrying out the hunting, trapping and gathering activity, or anyone receiving Wildlife, Fish or Plants through gifting or trading permitted by the Dehcho Agreement.