

CHAPTER DR: DISPUTE RESOLUTION

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DR.1.0 GENERAL

- DR.1.1** The Dispute Resolution chapter of the Dehcho Agreement applies to the following types of disputes:
- a) any matter which the Dehcho Agreement stipulates may be resolved in accordance with its Dispute Resolution chapter;
 - b) a dispute between the Government of Canada, the Government of the Northwest Territories or and the Dehcho Government concerning the interpretation or application of the Dehcho Agreement; or
 - c) any matter upon which Government of Canada, the Government of the Northwest Territories or and the Dehcho Government have agreed to be resolved in accordance with the Dispute Resolution chapter of the Dehcho Agreement.
- DR.1.2** A dispute arising under DR.1.1 will progress through the following sequential steps:
- a) informal discussions;
 - b) mediation, if agreed to by the parties to the dispute; and
 - c) arbitration.
- DR.1.3** The parties to a dispute arising under DR.1.1 may at any time resolve their dispute by an agreement in writing. Notification of any such agreement will be provided to all parties.
- DR.1.4** During informal discussions under DR.2.0 and mediation under DR.3.0, all communications concerning the dispute will be without prejudice.

- DR.1.5** Except as otherwise provided, parties to a dispute may agree to vary a procedural requirement contained in this chapter, as it applies to a particular dispute.
- DR.1.6** If a Dehcho ~~Citizen¹ First Nation Member~~ has ~~the a right to refer a matter to dispute resolution as set out in the Dehcho Agreement, of action in relation to the Dehcho Agreement,~~ the Dehcho Government may, with the consent of the Dehcho ~~Citizen First Nation Member,~~ ~~refer the dispute bring that action~~ on behalf of the Dehcho ~~Citizen and represent the Decho Citizen accordingly. First Nation Member.~~
- DR.1.7** For the purposes of informal discussions or mediation, the parties to a dispute will treat documents or communications as confidential unless agreed otherwise. The report of the mediator will be confidential unless agreed otherwise.
- DR.1.8** If the parties choose to mediate the dispute under DR.3.0, no other mediation process provided by law applies.
- DR.1.9** If the parties choose to refer the dispute to arbitration under DR.5.0, no other arbitration process provided by law applies.
- DR.2.0** **INFORMAL DISCUSSIONS**
- DR.2.1** Upon notification of a dispute, the parties to the dispute will have informal discussions in an attempt to resolve the dispute prior to it being referred to mediation or arbitration, as the case may be.
- DR.3.0** **MEDIATION**
- DR.3.1** If a dispute has not been resolved by informal discussions under DR.2.0, the parties may choose to refer the dispute to mediation.
- DR.3.2** The parties will select a mediator. In the event the parties are unable to agree upon the selection of a mediator, an application will be made to the Supreme Court of the Northwest Territories to appoint a mediator.

¹ ~~DFN is still considering this terminology.~~

- DR.3.3** The mediator will, without delay, consult with the parties to the dispute and arrange for the commencement of the mediation.
- DR.3.4** Unless the parties to the dispute agree otherwise, the mediation will be held in the Northwest Territories.
- DR.3.5** Costs of mediating a dispute, including the remuneration and expenses of the mediator, will be shared equally among~~st~~ the parties to the dispute, unless provided otherwise in the Dehcho Agreement or in the Dehcho Implementation Plan. Each party to the dispute will bear ~~its~~~~their~~ own costs to participate in the mediation.
- DR.3.6** Upon termination of the mediation proceedings, the mediator will submit a mediation report to the parties to the dispute.
- DR.4.0** **ARBITRATION**
- DR.4.1** If a dispute has not been resolved by informal discussions or mediation, a party may refer the dispute to arbitration.
- DR.4.2** The parties will select an arbitrator. In the event the parties are unable to agree upon the selection of an arbitrator, an application will be made to the Supreme Court of the Northwest Territories to appoint an arbitrator.
- DR.4.3** Unless the parties to the dispute otherwise agree, a person who has acted as mediator in a dispute cannot act as an arbitrator for that dispute.
- DR.4.4** A Party to the Dehcho Agreement that is not a party to the dispute may participate in any arbitration as a party to the dispute.
- DR.4.5** An arbitrator may allow any person that is not a party to the dispute, on application and on such terms as the arbitrator may order, to participate as an intervener in an arbitration if, in the opinion of the arbitrator, the interest of that person may be directly affected by the arbitration.
- DR.4.6** Subject to provisions of the Dehcho Agreement and to any provisions of an agreement between the parties to the dispute concerning the arbitration, the arbitrator may:
- a) determine all questions of procedure, including the method of giving evidence;

- b) make an award, including interim relief;
- c) provide for the payment of interest and costs;
- d) subpoena witnesses;
- e) administer oaths or affirmations to witnesses; and
- f) refer questions of law to the Supreme Court of the Northwest Territories,

in addition to any other powers specifically provided by the Dehcho Agreement.

DR.4.7 A decision of an arbitrator will be conclusive and binding on the parties to the dispute and will not be challenged by appeal or review in any court except on the ground that the arbitrator has erred in law or exceeded his or her jurisdiction.

DR.4.8 Each party to a dispute will bear its own costs and an equal share of the other costs of the arbitration including the remuneration and expenses of the arbitrator, except if the arbitrator decides to impose the responsibility for costs on just one or some of the parties to the dispute or to distribute it among ~~st~~ those parties in a different manner.

DR.4.9 Any intervener will bear its own costs.

DR.4.10 A party to the dispute may, after the expiration of 14 days from the date of the release of an arbitration decision or order, or from the date provided in the decision for compliance, whichever is later, file in the Registry of the Supreme Court of the Northwest Territories a copy of the decision or order, ~~and the~~ ~~the~~ decision or order will be entered as if it were a decision or order of the Court. ~~Upon and on~~ being entered, the decision or order will be deemed, for all purposes except for an appeal from it, to be an order of the Supreme Court of the Northwest Territories and enforceable as such.

DR.4.11 If requested by a party to a dispute, any information provided by that party will be kept confidential among the parties to the dispute and the arbitrator.