

## Regional District Chairs & CAO's March, 2013

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Assistant Deputy Minister  
Negotiations and Regional Operations



Ministry of  
Aboriginal Relations  
and Reconciliation

## BC Approach

### Three Complementary Approaches:

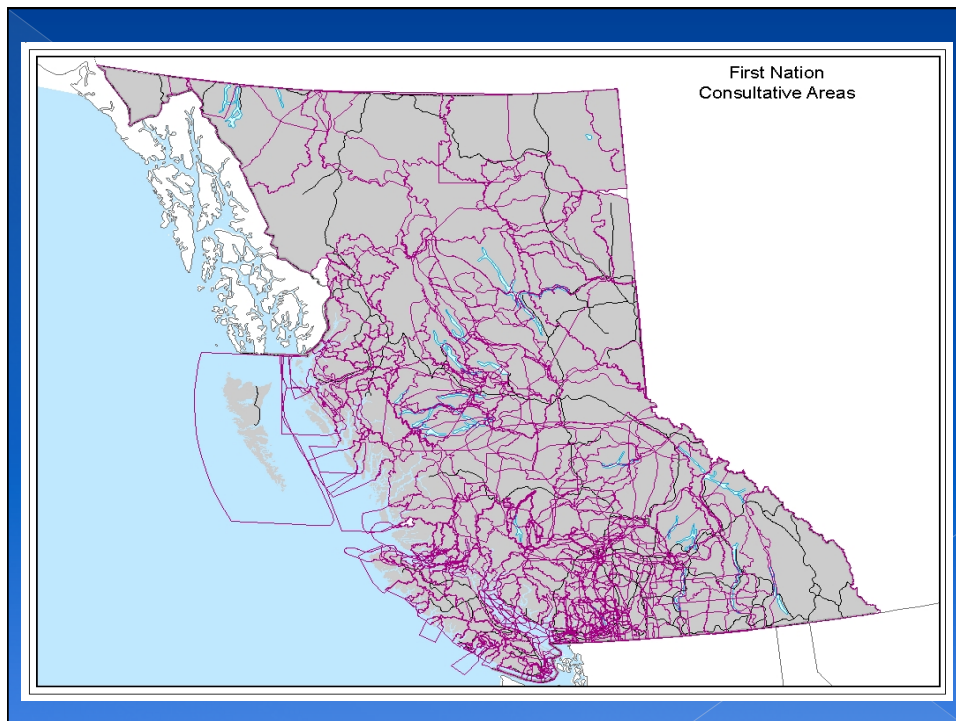
- Consult on land and resource decisions
- Negotiate bilateral agreements
  - Strategic Decision-Making Agreements (including Strategic Engagement Agreements, Framework Agreements and Reconciliation Protocols)
  - Economic and Community Development Agreements (ECDAs)
  - Forestry and Consultation Revenue Sharing Agreements (FCRSAs)
- Negotiate resolution of past infringement, permanent governance solutions and lasting reconciliation in tripartite treaty negotiations



## FNCIDA

### Update

- FNCIDA Implementation Act in support of Squamish and Haisla projects received Royal Assent May 31, 2012
- Provincial Ministers authorized to sign Tripartite Agreements and FNCIDA Land Title Agreement once Regulations approved by federal Treasury Board
- Canada expected to approve Haisla Regulations in early fall and Squamish Regulations later in 2012/13
- Both projects expected to provide significant economic spin-off benefits to surrounding region



## Routes to Reconciliation

- **Out of necessity, BC has developed a practical and flexible set of “tools”:**
  - Shift from reactive to proactive consultation
  - Addresses operational needs, and individual FN’s needs and circumstances
  - Allows development opportunities to be realized before full agreement
  - Provides for ability to incrementally build reconciliation agreements over time, using a continuous improvement approach



## Non/Pre-Treaty Agreements

- Who can we work with, how many agreements can we negotiate and implement at once?
- Agreements must work in the real world for both parties
- Set aside differences
- Operational issues key: Speed, predictability, efficiency, effectiveness, consistency, continuous improvement
- Promote relationship, operational and legal certainty and grow FN governance capacity
- More First Nations in the agreement theoretically = improved operational environment
- Build incrementally to treaties and other reconciliation agreements

## Strategic Agreement Components

<b>G2G Forum</b>	Bilateral governance structure, composed of First Nations and BC agency representatives. A place to discuss strategic and relationship issues
<b>Decision Making Process</b>	Aligned with BC regulatory frameworks. Outlines how the parties will engage on land and natural resource authorizations. Lays out a process for decision making that does not fetter the statutory decision maker(s). Haida agreement is anomaly. "Contractualizes" a mutual approach to consultation
<b>Economic Benefits and Initiatives</b>	<p>Commitments to pursue mandates for revenue sharing or other economic development initiatives under provincial policy.</p> <p>Reconciliation Protocols may also include broader economic development opportunities, revenue sharing commitments or direct access to economic opportunities.</p>
<b>Social Initiatives</b>	<p>Social initiatives to support achievement of Transformative Change Accord Goals (Housing, education, economic opportunities, health, relationship)</p> <p>Reconciliation Protocols may include broader social/cultural opportunities and commitments.</p>

## Strategic Agreement Components (cont.)

<b>Dispute Resolution Process</b>	<b>Mechanisms for resolving implementation issues or disputes . These processes are designed to maintain respectful G2G relationships, and may be included in the main body of the Agreement, the engagement matrices and/or within side agreements</b>
<b>Capacity</b>	Capacity funding for First Nations to implement agreement and support new decision-making processes. Funding is time limited and designed to transition to FN self-funding (using Resource revenue sharing and other funds)

- Post-treaty, agreements will continue but change to govern the ongoing strategic relationship and reasonable opportunity management off TSL after treaty Effective Date

## Local govt involvement in negotiations outside the treaty process

- 2008 MOU expanded to reflect local government interest in non-treaty land, resource and economic development agreements
- MOU is reviewed every three years; it was renewed in 2012
- BC works with local governments when agreements will affect local government jurisdiction, operations or provision of services
- MOU Provides for:
  - > flexibility for local government to represent their interests
  - > regular information exchange
  - > notice of matters that may affect local government jurisdiction
  - > timely information for local government to document interest and provide advice
  - > due consideration of local government interests/advice

## Treaty Making in BC

- Historic treaties include 14 Douglas Treaties and Treaty 8
- Nisga'a negotiated outside of BCTC process
- Tripartite BC Treaty Commission (BCTC) process was established in 1992
- The BCTC facilitates negotiations and distributes negotiations support funding
- Parties agreed that First Nations wishing to participate self-identify and are not required to prove asserted traditional territories
- Currently, 105 Indian bands (about half of bands and 2/3 of Status Indians in BC) participate at 49 separate tables

## Six-stage BCTC process

**Stage One:** Statement of Intent (SOI)

**Stage Two:** Readiness

- 6 FNs

**Stage Three:** Framework Agreement

- 2 FNs

**Stage Four:** Agreement-in-Principle

- 44 FNs

**Stage Five:** Final Agreement

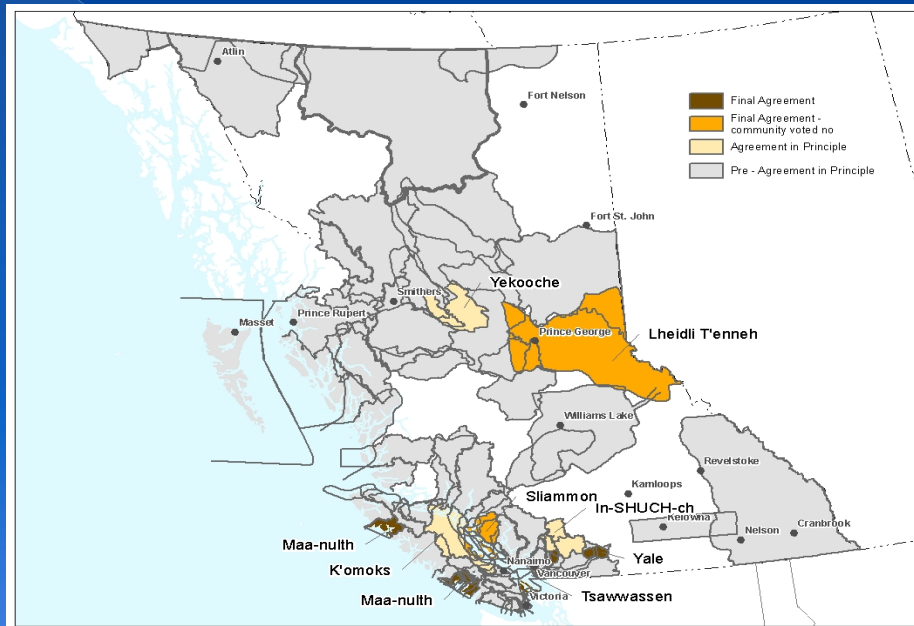
- 4 active FNs & 2 not active FNs

**Stage Six:** Implementation

- Tsawwassen & Maa-nulth (Nisga'a outside of process)



## Statements of Intent



## Modern Treaties at a Glance

- **Treaties contain three broad categories:**
  - First Nations government and related financial agreements
  - Jurisdiction over (and ownership of) lands, water, and resources
  - Capital transfers
- **Other matters:**
  - Processes for resolving disputes and modifying treaties



## The Structure of Modern Treaties

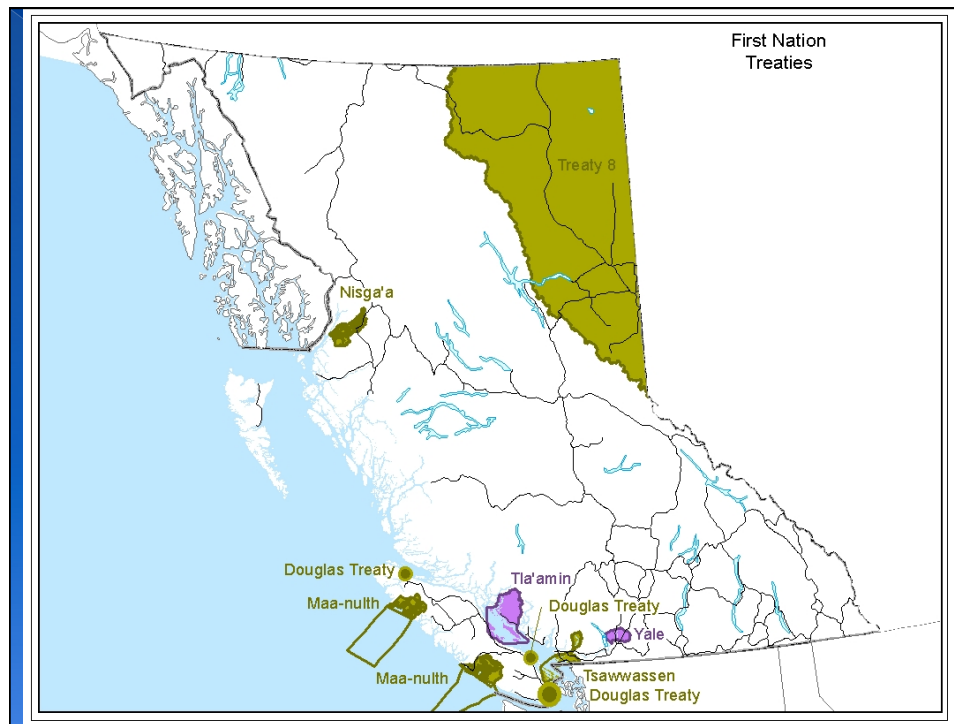
### TREATIES:

- Treaties are typically composed of 25 (or more) chapters
- Section 35 protected

### SIDE AGREEMENTS:

- Some treaty chapters require side agreements
- Side agreements do not form part of the treaty and are not constitutionally protected
- They are also time-limited (may be renewable)

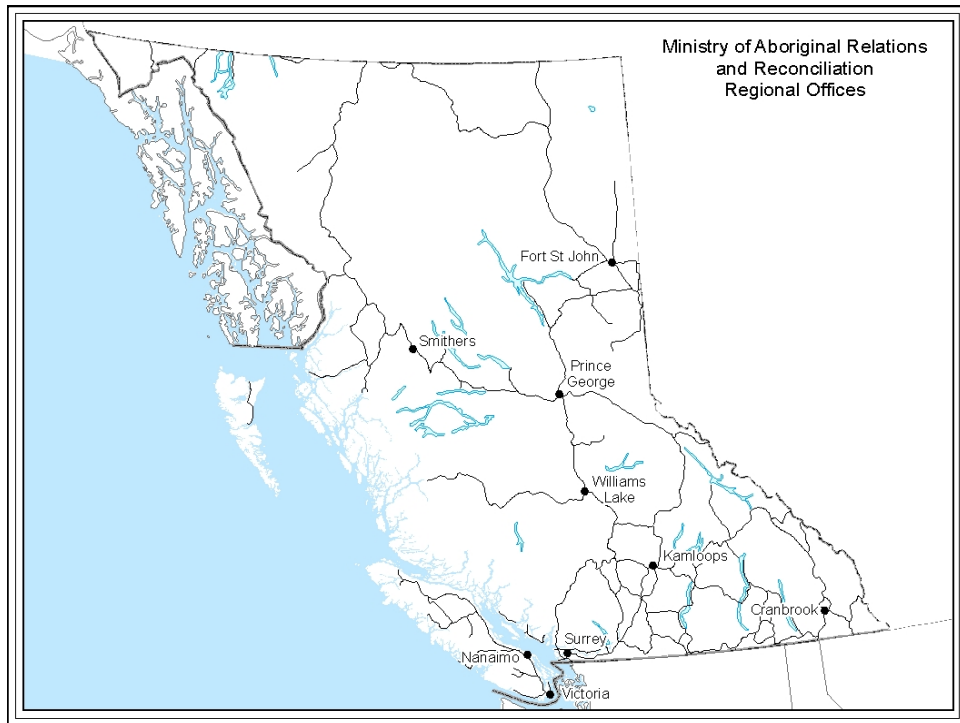
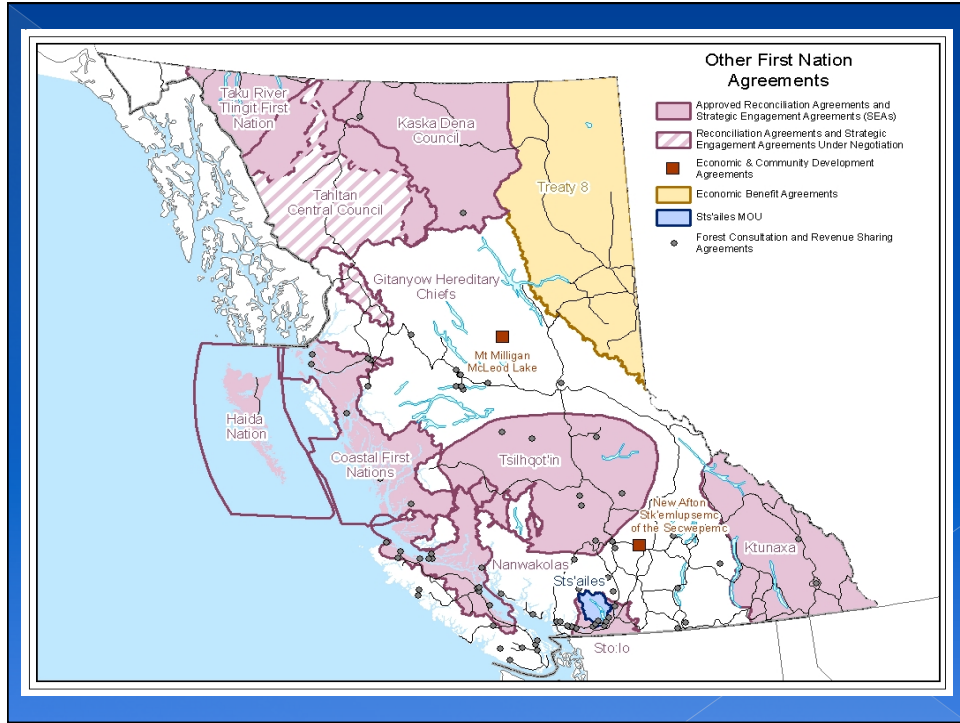




## Engaging with local government on Treaties

- Since 1994, the Province has provided a direct role for local government representatives in treaty negotiations, as members and respected advisors on provincial treaty negotiation teams
- These individuals represent the collective interests of the local government sector at the table
- They have the option of attending treaty-related discussions to represent the collective interests of local governments
- Provincial negotiators give due consideration of local government interest, views and advice





## Coast Team Contacts

- Chief Negotiator – Heinz Dyck
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- Sr. Negotiator – George McRae
  - 250-356-7971 - Victoria
- Sr. Negotiator – Cory Herrera
  - 250-356-1199 - Victoria
- Regional Director – Lindsay Jones
  - 250-751-3250 - Nanaimo Office
- Regional Manager – Luigi Sposato
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## South Team / NROB Contacts

- Chief Negotiator – Mark Lofthouse
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- Executive Director – Monica Perry
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- Sr. Negotiator – Mindy Richter
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- Regional Manager – Mike Gash
  - 250-398-4579 – Williams Lake Office
- Regional Manager – Pamela Cowtan
  - 250-489-8587 – Cranbrook Office
- Regional Manager – Greg Perrins
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## North Team Contacts

- Chief Negotiator - Roger Graham
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  - 250-387-3216 - Victoria
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**Thank you!**

Questions?