

INTERIM MEASURES AGREEMENT

THIS AGREEMENT dated for reference this 22nd day of May 2003.

BETWEEN:

TOQUAHT FIRST NATION
As represented by Hereditary Chief

AND

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA**
As represented by the Minister of Forests

(“The Government of British Columbia”)

Both of whom are sometimes referred to as the “parties”, and each of whom is a “party” to this Agreement.

Purpose:

- 1) The purpose of this Agreement is to:
 - a) further the Clayoquot Sound Interim Measures Extension Agreement: A Bridge to Treaty (CSIMEA) dated March 28, 2000 between the Toquaht First Nation, Ahousaht First Nation, Hesquiaht First Nation, Tla-o-qui-aht First Nation, Ucluelet First Nation and the Nuu-chah-nulth Tribal Council, and the Province of British Columbia, including Part IX “Toquaht Forestry”;
 - b) fulfil the South Island Forest District, District Manager’s intention to advertise a licence pursuant to section 26 of the CSIMEA as described in her letter dated March 17, 2000;
 - c) provide for an invitation to the Toquaht First Nation to apply for a non-replaceable forest licence of up to 162,000 cubic metres within the Arrowsmith Timber Supply Area;
 - d) enhance operational stability regarding ongoing forest resource development on Crown lands within the asserted traditional territory of Toquaht First Nation as

outlined in bold black on the attached Appendix "A" (the asserted traditional territory of the Toquaht First Nation); and,

- e) address in part potential aboriginal rights and title raised by Toquaht First Nation in relation to forestry operations and decisions.

Interpretation:

- 2) Nothing in this Agreement shall be interpreted in a manner that obliges the Government of British Columbia to act in a manner inconsistent with provincial legislative or regulatory authorities, or that fetters the statutorily-created discretion of any government decision-makers.
- 3) This Agreement is not intended to be a treaty or a land claims agreement within the meaning of sections 25 and 35 of the Constitution Act, 1982 and, subject to section 1(e) of this Agreement, is not intended to recognize, affirm, or deny the existence of aboriginal rights, including aboriginal title, or treaty rights.
- 4) This Agreement will not limit the position that a Party may take in future negotiations or court actions.

Tenure Opportunity

- 5) After the execution of this Agreement, the Minister of Forests (the Minister) will invite the Toquaht First Nation to apply for a non-replaceable forest licence for a volume of up to 162,000 cubic metres under section 47.3 of the *Forest Act*.
- 6) The invitation to apply and any licence entered into as a result of the invitation to apply under this Agreement, is subject to policies, regulations and statutes of British Columbia as amended from time to time.
- 7) Any licence entered into as a result of this Agreement will contain other terms and conditions required by law, including the condition that the Toquaht First Nation must comply with this Agreement.
- 8) Any licence entered into as a result of this Agreement will not be transferable without the consent of the Minister and will not be replaceable, and will include other terms and conditions as may be required by the Regional Manager.

Operational Stability on Crown Lands

- 9) In consideration of the Minister's invitation under this Agreement:

- a) The Toquaht First Nation will share information and consult on forest decisions and activities in a timely manner with the Government of British Columbia and every holder of an agreement entered into under the *Forest Act* granting the holder the rights to harvest Crown timber within the asserted traditional territory of the Toquaht First Nation,
- b) The Toquaht First Nation will make every reasonable effort to not interfere with the timber harvesting, timber harvesting related, or other economic activities of the Government of British Columbia and every holder of an agreement entered into under the *Forest Act* granting the holder the rights to harvest Crown timber within the asserted traditional territory of the Toquaht First Nation, and,
- c) The Toquaht First Nation will continue to participate in the activities and other processes of the Central Region Board and Resource Management as described in Parts VI and VII of the CSIMEA.

Review, Amendments and Dispute Resolution

- 10) Either Party may require the participation of the other Party to review the effectiveness of this Agreement and to consider amendments to this Agreement.
- 11) Any alteration or amendment to the terms and conditions of the Agreement must be in writing and duly executed by the Parties.
- 12) If a dispute arises between the Government of British Columbia and the Toquaht First Nation regarding the interpretation of a provision of this Agreement, or the obligation of a Party under this Agreement, the Parties or their duly appointed representatives will meet forthwith to consider the dispute and may attempt to resolve the dispute.

Term

- 13) This Agreement will take effect on the date that the Parties have executed it.
- 14) This Agreement will terminate on the occurrence of the earliest of any of the following events:
 - a) the cancellation, expiry or termination of a licence entered into as a result of the invitation to apply under this Agreement, or
 - b) this Agreement being superseded by a treaty, or
 - c) the mutual agreement of the Parties.

Suspension or cancellation of tenure

- 15) Without limiting the actions that may be taken by the Minister or by the Government of British Columbia, the Minister or a person authorized by the Minister may suspend the licence entered into as a result of the invitation to apply under this Agreement or may cancel that licence if the Minister or a person authorized by the Minister determines that the Toquaht First Nation is not in compliance with this Agreement.

Notice

- 16)
- a) Any notice or other communication that is required to be given or that a Party wishes to give to the other party with respect to this Agreement will be in writing and will be delivered, sent by registered mail, or transmitted by facsimile to the address of the other party as set out in this section of this Agreement.
 - b) Any notice or other communication will be deemed to have been given on the date it is actually received if it is received before 4:00 p.m. If the notice or other communication is received after 4:00 p.m., it will be deemed to have been received on the next business day.
 - c) The address of either Party may be changed by notice in the manner set out by this section of this Agreement.

GOVERNMENT OF BRITISH COLUMBIA:

Deputy Minister
Ministry of Forests
PO Box 9525 STN PROV GOVT
Victoria BC V8W 9C3
(250) 387-4809 (Telephone)
(250) 387-7065 (Facsimile)

TOQUAHT FIRST NATION:

Hereditary Chief
Toquaht Band Office
P.O. Box 759
Ucluelet BC V0R 3A0
(250) 726-4230 (Telephone)
(250) 726-2537 (Facsimile – Chief's Office)
(250) 726-4403 (Facsimile – FN Office)

Counterpart

17) This Agreement may be entered into by each Party signing a separate copy of this Agreement, including a photocopy or faxed copy, and delivering it to the other Party by fax. Each facsimile will be deemed to be an original for all purposes and all counterparts taken together will be deemed to constitute one document.

Miscellaneous

18) Any reference to a statute in this Agreement includes all regulations made under that statute and any amendments or replacement of that statute.

19) There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of either Party.

20) This Agreement shall be governed by the applicable laws of British Columbia and Canada.

21) This Agreement and any modification of it constitute the entire agreement between the Parties with respect to the subject matter of the Agreement.

Signed on behalf of The Government
of British Columbia


Date: **MAY 16 2003**

Signed on behalf of Toquaht First
Nation

Date: May 22, 2003

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Minister of Forests

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Hereditary Chief of Toquaht First Nation

Appendix A - Toquaht Nation's Asserted Traditional Territory

