

Ktunaxa Kinbasket Treaty Council  
Treaty Negotiations

**Eligibility and Enrollment  
Sub-Agreement**  
Public Consultation Draft  
02 October 2001

## Definitions

“**Applicant**” means an individual who has made application, or makes an application on behalf of another, to be enrolled in accordance with the process as set out in the Final Agreement.

“**Enrollment Appeal Board**” means the body established the Final Agreement

“**Initial Enrollment Period**” means a period of time to be agreed upon by the Parties.

“**Treaty Enrollment Commission**” means the body established under Section 4 of this chapter.

“**Treaty Participant**” means an individual who has enrolled under the provisions of the Final Agreement.

*[“Ktunaxa Nation” means]*

*[“Ktunaxa Government” means]*

## 1 Eligibility Criteria

1.1 An individual is eligible to be enrolled under the Final Agreement if they meet the following criteria:

1.1.1 [Being developed by the Ktunaxa]

1.1.2 not enrolled under another treaty or land claims agreement in Canada.

## 2 Enrollment Process

2.1 To be enrolled an individual must make an application to enroll, and be determined to have met the eligibility criteria as set out in Section 1.

The length of time will be determined later in the process.

Eligibility criteria, including adoption is being reviewed by the Nation  
To be negotiated upon completion of the Citizenship code Canada will maintain a central registry of land claims and treaties.

- 2.2 An individual may apply on behalf of a minor or an adult whose affairs they have the legal authority to manage.
- 2.3 Each Applicant has the burden of proving that the individual to be enrolled meets the eligibility criteria.
- 2.4 An Applicant or any Party may appeal to the Enrollment Appeal Board any decision of the Treaty Enrollment Commission.

### **3 Enrollment Process Costs**

- 3.1 Canada and British Columbia will pay the agreed upon costs of the Treaty Enrollment Commission during the Initial Enrollment Period.
- 3.2 After the Initial Enrollment Period, the [Ktunaxa Government] will bear its own costs associated with enrollment.

### **4 Treaty Enrollment Commission**

- 4.1 During the Initial Enrollment Period the Ktunaxa Kinbasket Treaty Council will:
  - 4.1.1 Establish the Treaty Enrollment Commission;
  - 4.1.2 Appoint the members of the Treaty Enrollment Commission;
  - 4.1.3 Establish the procedures and rules for the Treaty Enrollment Commission; and
  - 4.1.4 Notify Canada and British Columbia of the names of the individuals appointed to the Treaty Enrollment Commission.
- 4.2 During the Initial Enrollment Period, the Treaty Enrollment Commission will:
  - 4.2.1 consider each application and:
    - 4.2.1.1 enroll each applicant who demonstrates that they meet the eligibility criteria, or

- 4.2.1.2 refuse to enroll each applicant who does not demonstrate that they meet the eligibility criteria;
- 4.2.2 establish and maintain, as a public document, an enrollment register containing the names of every individual who is enrolled;
- 4.2.3 take reasonable steps to publish the enrollment rules and the eligibility criteria;
- 4.2.4 provide an application form to any individual who wishes to apply for enrollment;
- 4.2.5 provide written notification to each applicant of its decision in respect of their application, and if enrollment is refused, include written reasons for that decision;
- 4.2.6 upon request, provide in confidence to the Enrollment Appeal Board information in respect to an individual's enrollment application;
- 4.2.7 add names to, or delete names from, the enrollment register in accordance with the provisions of this Chapter.
- 4.2.8 provide the enrollment list to the Ratification Committee with the names of each individual who is enrolled;
- 4.2.9 subject to this Chapter, keep information provided by and about applicants confidential;
- 4.2.10 Provide a true copy of the official enrollment register to the Parties each year and at other times on request.
- 4.3 Subject to provisions in this Chapter, all decisions of the Treaty Enrollment Commission are final and binding.
- 4.4 The Treaty Enrollment Commission may, before an appeal of a decision is commenced, vary the decision on the basis of new information, if it considers the decision was in error.

The Parties may require access. Circumstances to be determined.

- 4.5 If the Treaty Enrollment Commission does not make a decision in respect of an application for enrollment within the time established in the enrollment procedures and rules, the application will be deemed to be refused and is eligible to appeal.

## 5 Enrollment Appeal Board

- 5.1 On the effective date of the Final Agreement:

- 5.1.1 the [Ktunaxa Government] and Canada will establish the Enrollment Appeal Board;
- 5.1.2 the [Ktunaxa Government] will appoint one member to the Enrollment Appeal Board;
- 5.1.3 Canada will appoint one member to the Enrollment Appeal Board;
- 5.1.4 Canada and the [Ktunaxa Government] will jointly appoint one member to act as chair.

- 5.2 The Enrollment Appeal Board will:

- 5.2.1 Conduct its hearings in public unless it determines that, in a particular case, there is reason for confidentiality which outweigh the public interest in having an open hearing;
- 5.2.2 Establish its own procedures and set time limits;
- 5.2.3 Hear and determine any appeal brought to it and will decide whether the applicant will be enrolled;
- 5.2.4 Allow any applicant or party or witness appearing before it to be assisted by council or an agent;
- 5.2.5 Provide written reasons for its decision to the appellant; and
- 5.2.6 Render a decision in respect of an appeal prior to its dissolution.

- 5.3 The Enrollment Appeal Board may :

The Enrollment Appeal Board will be established as a quasi-judicial body that will come into affect on the effective date of the Final Agreement.

- 5.3.1 Require any person to appear before the Enrollment Appeal Board as a witness; and
- 5.3.2 Require that person to answer any relevant question posed.
- 5.4 No action lies against the Enrollment Appeal Board or any member for anything done or omitted in good faith in the performance or intended performance of duties under this chapter.
- 5.5 An applicant may appeal for a judicial review of the Enrollment Appeal Board's process.
- 5.6 All decisions of the Board will be final and binding subject to 5.5.

## 6 Long Term Jurisdiction

- 6.1 The Treaty Enrollment Commission and the Enrollment Appeal Board will be dissolved at the end of the Initial Enrollment Period, or when an application or appeal that has been submitted during the Initial Enrollment Period has been dealt with.
- 6.2 The [Ktunaxa Government] will be responsible for eligibility and enrollment once the Treaty Enrollment Commission and the Enrollment Appeal Board have been dissolved.