

MINISTRY OF ABORIGINAL RELATIONS  
AND RECONCILIATION  
BRIEFING NOTE


File: 280-20

Date: June 26, 2014  
Ref. No. 34765

I Prepared for the INFORMATION of Honourable John Rustad, Minister

II ISSUE:

Information to support a meeting with the Carrier Sekani Chiefs and Tribal Council regarding a proposed government-to-government agreement and capacity funding

RD	III
ADM	✓
DM	

BACKGROUND:

During Liquefied Natural Gas (LNG) benefit discussions, the Province agreed to enter government-to-government (G2G) negotiations with the Carrier Sekani First Nation Chiefs and Tribal Council (CSTC), provided at least five CSTC Nations were prepared to participate.

Thus far,<sup>s.16</sup> for LNG negotiations and initial G2G negotiations. The parties have agreed to conclude a G2G Capacity Funding Agreement (CFA) by July 2014. The CFA will establish the scope of negotiations and provide further capacity funding to support CSTC participation G2G negotiations that would continue following conclusion of the LNG benefit agreement negotiations. Currently all seven CSTC Nations are negotiating as an aggregate: Nadleh Whut'en, Nak'azdli, Saik'uz, Stellat'en and Takla, Tl'azt'en and Ts'il Kaz Koh (Burns Lake Band).

IV DISCUSSION:

The Province's commitment to negotiate a G2G agreement is viewed by CSTC as a key factor in determining their support for LNG. The proposed G2G CFA, currently in discussion between the parties, can provide the means to demonstrate that commitment. Currently at issue is the amount of funding that may be provided through that agreement. Expectations from the CSTC in this regard are high (\$3.5 M), likely beyond the mandate of the Province. CSTC is expecting the G2G CFA to also fund their participation in the implementation of LNG-related projects Environmental Stewardship Initiatives (ESI), skills training initiative, community socio/cultural strategies), because these initiatives do not yet have firm commitments or associated capacity funding.

Proposed elements of the G2G Agreement are:

- **Governance/Shared Decision Making:** CSTC Nation aggregation will achieve efficiencies by engagement through a single window rather than through individual bands. A framework for shared decision making will seek an efficient, streamlined

consultation process that provides predictable timelines consistent with the Strategic Engagement Agreement (SEA) model.

- **Economic Development:** The Province will rely upon provincial revenue sharing policy, but may also consider new opportunities to increase CSTC participation in resource based sectors such as forestry.
- **Community Development/Well Being:** Negotiations will consider the socio-cultural working model (Tahltan) that promotes proactive strategies to address potential community impacts from increased resource development in the First Nations' territory.
- **Environmental Stewardship:** This is proposed to include discussion on specific measures to conserve areas important for exercise of Aboriginal rights and cultural practices, but will not include formal protection (new parks) or land use planning. There is also an opportunity to develop linkages to the provincial ESI.

A phased approach is also proposed for negotiation of the G2G agreement that allows both Parties to demonstrate incremental progress. Phase 1 is proposed to address governance, including administrative structures to establish a 'single window/clearing house' for all engagement with CSTC participating Nations. This will allow each nation to determine how it will represent their rights holders. In Phase 2, the Parties will develop a detailed consultation and engagement framework and other strategies to support economic/community development and environmental stewardship.

From a policy perspective, the proposed scope of the agreement is consistent with a Reconciliation Agreement. This will require a specific negotiation mandate from government prior to initiating substantive negotiation and will include full Natural Resource Sector agency engagement.

## V Key Messages:

1. The Province is committed to negotiate a G2G agreement with CSTC as a means to work towards reconciliation and to advance our strategic relationship.
2. The G2G CFA is an important stepping-stone in confirming both parties intention towards a G2G agreement.
3. The LNG benefits agreements will be completed first, as jointly committed in our initial CFA.
4. Capacity funding expectations need to be consistent with provincial fiscal policy and reflective of the anticipated negotiation work (e.g. < \$100K per First Nation).
5. The Province supports a phased approach that allows each of the parties to incrementally work towards certainty and demonstrating early success with their respective constituents (e.g. framework agreement with Tahltan).
6. The G2G agreement can be linked to, but not duplicating or replacing, CSTC/provincial initiatives on social programs.

## **CSTC CHIEFS TO MINISTERS MEETING – JULY 4, 2014**

### **Carrier Sekani Chiefs and Tribal Council – Natural Resource Protocol**

- ADD – opening remarks respecting William decision
- BC committed to working with Carrier Sekani Chiefs and Tribal Council (CSTC) to build our relationship towards reconciliation.
- BC recognizes that environmental and cultural stewardship and community well-being are key CSTC considerations for supporting development.
- The Province recognizes and commends the seven CSTC member First Nations for coming together to seek a path forward that allows both parties to grasp the opportunities presented by the Liquefied Natural Gas (LNG) industry.
- <sup>s.16</sup> to CSTC to facilitate negotiation and to reach common ground on LNG.
- The economic opportunity of LNG will provide financial benefits to CSTC. <sup>s.16</sup>
- <sup>s.16</sup>
- The Province is committed to the collaborative development of the Environmental Stewardship Initiative (ESI)
- Our initial reflections indicate there is alignment between ESI and some of your key priorities. We feel that ESI, as a collaborative mechanism, can pull First Nations, Industry and Governments together on stewardship initiatives and also advance our relationship.
- We've been clear that the ESI proposal is contingent on a partnership between the various levels of Government, with industry and with First Nations. We are working to attract investment into the

ESI from all of these groups, but it will take some momentum to make it happen.

- BC is committed to engaging with CSTC in identifying opportunities to improve Jobs, Skills and Training outcomes for member First Nations.
- The Province is committed to negotiating a Government to Government (G2G) agreement with CSTC as a means to work towards reconciliation and to advance our strategic relationship.
- BC is committed to conclude a G2G Capacity Funding Agreement with CSTC. This is an important stepping stone in confirming both parties intention towards a G2G agreement.
- The G2G Capacity Funding Agreement is targeted at supporting negotiation of a G2G agreement, the capacity support we can offer will reflect that.
- BC is committed to working with CSTC in a phased approach to building capacity to address your priorities. We are committed to first steps that include reaching a natural gas pipeline benefits agreement, capacity funding to negotiate a G2G agreement and engagement on the Environmental Stewardship Initiative and Jobs, Skills and Training.
- BC is committed to working with CSTC in realizing opportunities, like LNG, that can provide jobs, support well-being for your communities and sustain a positive legacy of environmental stewardship for future generations.

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III BACKGROUND:

In the course of LNG benefit discussions the Province agreed to engage CSTC Nations as a collective [Nadleh Whut'en, Nak'azdli, Saik'uz, Stellat'en, Takla, Tl'azt'en and Ts'il Kaz Koh (Burns Lake Band)].<sup>s.16</sup>

RD\_\_\_\_\_

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DM\_\_\_\_\_

s.16

Topics to be addressed that would facilitate

CSTC support for LNG includes financial benefits, a Government to Government agreement (G2G), Environmental Stewardship and Jobs, Skills and Training.

IV DISCUSSION:

At the request of CSTC, BC tabled an aggregate Natural Gas Pipeline benefit offer for all seven member First Nations on June 25<sup>th</sup>.<sup>s.16</sup>

s.16

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BC has also engaged CSTC and member First Nations to understand their interests with respect to the environment and stewardship in the context of LNG development and First Nations capacity to benefit from related employment and business opportunities.

CSTC have responded to the financial offer that they want to share in the revenue from the LNG tax in addition to an up-front payment. In addition, their assessment of the offer is that it is not equivalent to the PTP agreement as these new proposed pipelines are much more capital intensive, so the provincial contribution should be higher. The provincial perspective is based on the potential impact of a pipeline which is not related to the capital investment.

CSTC has indicated a strong expectation of commitments from BC, in addition to the financial benefit offer and G2G negotiations, which would address the following areas:  
**Environmental Stewardship Initiative (ESI)** – CSTC has expressed significant interest in discussion with the Province regarding this initiative. They have indicated that the initiative could address stewardship and environmental issues of concern to them, but they require BC to make tangible commitments with regard to the ESI prior to their supporting LNG

development. CSTC has indicated a need for capacity to adequately engage in the development of the ESI.

**Jobs, Skills and Training (JST)** – CSTC has expressed concern that existing programs have not, and will not, bridge the capacity gap within First Nations. As a result First Nations would be limited in their ability to benefit from the employment and business opportunities of LNG. CSTC has indicated a need for capacity<sup>s.16</sup> to undertake needs assessments with member First Nations and to have a role in shaping delivery of Jobs, Skills & Training opportunities.

**Sociocultural Strategies** – Impacts of LNG development on communities' sociocultural well-being has been identified by CSTC as a concern and has indicated a need for capacity to carry out community impact assessments.

CSTC have been clear that their support for pipelines is conditional on BC demonstrating tangible commitment to the other LNG related initiatives (ESI, JST initiative and community socio-cultural strategies). Further, in the absence of these commitments CSTC is looking to have the capacity gaps address through the G2G Capacity Funding Agreement (see BN 34765).

V Key Messages:

1. <sup>s.16</sup>
- 2.
- 3.
4. BC introduced the Environmental Stewardship Initiative and is committed to incorporating critical interests and values of CSTC and providing a platform where CSTC interests can be met.
5. BC is committed to partnering with CSTC in the collaborative development of the Environmental Stewardship Initiative.
6. <sup>s.16</sup> to convene a regional work shop on JST. The objective being to engage CSTC members and other FN's in the PG region to identify immediate and longer term actions on JST.
7. BC is committed to continuing work with CSTC in identifying opportunities to improve Jobs, Skills and Training outcomes for member First Nations.
8. BC will work with CSTC to safeguard sociocultural values.
9. BC is committed to conclude a G2G CFA with CSTC; this funding is targeted at supporting negotiation of a G2G agreement.
10. BC is committed to conclude an LNG Benefit Agreement with CSTC and to the LNG related initiatives.

Attachment: A – BC Benefit Offer

Ian Hollingshead, SRCO, 250-565-6417, File path: J:\FNID\Omineca\ARCS\100-499 ADMINISTRATION\280 Executive Services\_General\280-20 Briefing Notes\2014\Working Drafts\BNI\_CSTC\_LNG\_STATUS\_MJR

## **Appendix A – BC Benefit Offer**

June 25, 2014

**Carrier Sekani Tribal Council First Nations (Nak'azdli, Stelat'en First Nation, Saik'uz First Nation, Takla Lake First Nation, Ts'il Kaz Koh (Burns Lake), Nadleh Whut'en First Nation, and Tl'azt'en First Nation)**

### **Re: Natural Gas Pipeline Benefit Agreement – Components**

- 1.0 This document sets out the Ministry of Aboriginal Relations and Reconciliation's summary of the main components of a Term Sheet on Natural Gas Pipeline benefits. This outline is provided to you to inform the discussion of the proposed Term Sheet and Natural Gas Pipeline benefits final Agreement ("Agreement") and is not legally binding. A Term Sheet that is not legally binding and an Agreement, that is legally binding, will provide further detail on these components and are subject to all required Provincial and First Nation approvals.
- 2.0 Parties – Agreement between the Province of BC and Carrier Sekani Tribal Council First Nations ("CSTC").
- 3.0 Financial Benefits
  - 3.1 Payments are calculated for the listed natural gas pipeline projects.
  - 3.2 Payments of;

s.16

Payments for each project will be made in two installments, 50% after commencement of construction of that project and 50% when that project is operational.

- 4.0 Term Sheet Signing Bonus options:

s.16

- 5.0 Consultation – Acknowledgement of existing EAO and OGC processes and commitment to participate in those processes, nothing in the Term Sheet or Agreement will prevent CSTC from identifying concerns as part of those processes.
- 6.0 Certainty Provisions will be referenced in the Term Sheet and finalized in the Agreement. These will include confirmation of support for the pipeline projects, commitment not to litigate with respect to government decisions relating to the projects, acknowledgments regarding the adequacy of consultation and releases from claims related to the projects.
- 7.0 Representations and Warranties. Province will need to be assured that CSTC has the authority to enter the Agreement and make commitments on behalf of the rights holders within CSTC.

## **CSTC CHIEFS TO MINISTERS MEETING – JULY 14, 2014**

### **Carrier Sekani Chiefs and Tribal Council – Natural Resource Protocol**

#### **William**

- As you are aware, the recent Supreme Court of Canada's decision on the William case provides additional certainty around processes and tests that are applied to the relationship between the Province and Aboriginal peoples.
- We are taking the time required to fully analyze the decision and determine next steps.
- As we move forward, we continue to be committed to working with First Nations and industry.
- We want to build positive and lasting relationships with Aboriginal people and work with them on the social and economic issues in their communities.
- We are committed to achieving reconciliation through negotiations rather than litigation and confrontation.
- We know that successful reconciliation produces long-term social, economic and cultural benefits for all British Columbians.
- We are committed to fulfilling obligations to consult and accommodate in respect of unproven rights and title claims.

#### **CSTC**

- BC committed to working with Carrier Sekani Chiefs and Tribal Council (CSTC) to build our relationship towards reconciliation.
- BC recognizes that environmental and cultural stewardship and community well-being are key CSTC considerations for supporting development.

- The Province recognizes and commends the seven CSTC member First Nations for coming together to seek a path forward that allows both parties to grasp the opportunities presented by the Liquefied Natural Gas (LNG) industry.
- <sup>s.16</sup> to CSTC to facilitate negotiation and to reach common ground on LNG.
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