

## First Nations Access to Timber Tenures Through Sections 43.5 and 47.3 of the Forest Act.

### 1. Background:

The Forest (First Nations Development) Amendment Act, 2002 (Bill 41) was introduced to provide greater opportunities for First Nations to access forest tenures<sup>1</sup> and to provide transparency in providing those opportunities.

Sections 43.5 and 47.3 of the *Forest Act* enable the Minister of Forests to invite, without competition, an application from a First Nation or its representative for a Community Forest Pilot Agreement (CFPA), Forest Licence (FL), Woodlot Licence (WL), or Timber Sale Licence (TSL) in order to implement or further an agreement between the First Nation and the province.

Section 47.3 further enables the Minister of Forests to invite applications, without competition, for a FL, WL, or TSL from a person to mitigate the effects of:

- a treaty;
- a specification of a designated area under Part 13; or
- an agreement with a first nation and the government respecting treaty-related measures, interim measures or economic measures.

This policy framework guides the use of this legislation. It provides guidance on the key decisions required and the suggested procedures to secure these decisions.

### 2. Objectives:

Bill 41 has a number of objectives:

- support to treaty and interim measures negotiations;
- increase participation of First Nations in the forest sector;
- create viable and successful First Nation businesses;
- provide openness and transparency in the First Nation tenure award process;
- increase access to and stability on Crown lands regarding resource development; and,
- mitigate impacts to third parties of First Nation agreements.

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<sup>1</sup> Rights to harvest Crown timber are provided through *Forest Act* agreements, which include various licences, permits and agreements. For the purposes of this policy framework, *Forest Act* agreements will be referred to as "tenures" and economic measures, interim measures and treaty related measures agreements will be referred to as First Nation agreements in order to avoid confusion.

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**3. Process For First Nation Access to Tenures**

**3.1 Determining Priorities**

The Treaty Negotiation Office (TNO) is responsible for establishing provincial priorities for First Nation negotiations. However, a decision (mandate) to engage a First Nation in negotiations for an Agreement that provides for Section 43.5 or 47.3 tenure rests with the Minister of Forests.

Through the Letter of Understanding (LOU) between the Ministry of Forests (MoF) and TNO (see Appendix 3), MoF executive will determine priority files for negotiation of agreements that include Section 43.5 and 47.3 tenures. These priorities will include provincial priorities established jointly by MoF and TNO and may include MoF operational priorities where local resources permit.

**3.2 Identify Available Volume**

In developing the above priorities, the region/district will assess the potential volume available for disposition. The assessment will consider:

- volumes currently available for disposition including uncommitted AAC apportionments outside of the BC Timber Sales Program, AAC uplifts, lump sum volumes arising from cut control decisions, or temporary AAC arising from section 61 of the *Forest Act*;
- the size and nature of tenure(s) being considered (e.g. replaceable vs. non-replaceable, area based vs. volume based) and note any re-apportionments that may be required;
- the availability of a suitable land base within the First Nation area of interest and any significant impacts of the removal of the land base from the existing management unit where CFPA's and woodlots are being considered;
- operational issues that may affect the nature and size of tenure opportunities that should be offered; and
- other demands and possible uses for the volume.

This policy does not address First Nation opportunities outside of Sections 43.5 and 47.3 of the *Forest Act*. First Nations may continue to participate in the competitive process for forest licences, woodlots, community forest pilot agreements, and timber sale licences. As well, First Nations may be issued, without competition, a TSL for less than 2,000 m<sup>3</sup> through section 23 of the *Forest Act* or a small volume free use permit for traditional and cultural activities.

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### 3.3 Mandate to Negotiate

Invitations to First Nations under Section 43.5 and 47.3 may only be made to implement or further a treaty-related measures, interim measures, or economic measures agreement. For the purposes of this policy:

- a **treaty related measures** agreement is an agreement with a First Nation in the treaty process and is an agreement that has a direct link to the treaty table;
- an **economic measures** agreement is an agreement designed to increase First Nation participation in the forest sector; and
- an **interim measures** agreement is an agreement with a First Nation of a temporary nature, designed to address an issue limiting or restricting the relationship between the Province and a First Nation.

These agreements are typically between British Columbia and a First Nation, but may also include Canada as a signatory. As well, interim and economic measures agreements may be concluded with First Nations in or outside the treaty process.

Since the Minister of Forests has sole authority to invite an application for a tenure under Section 43.5 and 47.3, the Minister must approve a mandate to negotiate any agreement that includes a commitment to offer a tenure under these provisions. This includes approval of mandates for agreements to be negotiated by TNO.

To secure a mandate, a briefing note (BN) will be prepared for the Minister seeking approval of one or more mandates to negotiate First Nation agreements that provide for section 43.5 or 47.3 tenures. Where a Cabinet mandate is being sought for a larger agreement negotiated by TNO, the BN (for decision) will be provided to the Minister in advance of the Cabinet meeting. The following information should be provided for the Minister's consideration:

- corporate priorities and local operational priorities approved by MoF executive;
- size and type of tenure(s) to be recommended and, where the tenures being recommended are area based, the Crown lands proposed for inclusion;
- available volume to support the initiative and any re-apportionments that may be required;
- competing demands (including other First Nations) and potential uses for the available volume;
- past performance and current capacity of the First Nations being considered;
- current volumes held by the First Nations;
- capacity building initiatives that will form part of the agreement;
- other information that the Minister should be aware of such as potential affects on other tenure holders in the area;

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- provisions to be negotiated in the agreement that increase access to and stability on the land base and/or address operational issues; and
- resources available to negotiate and implement the agreement.

The size and term of tenure will need to be commensurate with the nature of the strategic relationship being sought with the First Nation, the business viability of the activity being proposed, the capacity of the First Nation and available timber volume. The table below provides direction on an incremental approach to the provision of tenure opportunities through Sections 43.5 and 47.3 of the *Forest Act*.

| <b>Types of Tenures, Opportunities and Strategic Relationship</b>                    |   |  |
|--|---|--|
| <b>Types of Tenures</b>  | <b>Opportunities</b>  | <b>Strategic Relationship</b>  |
| Short Term (5 years or less)<br>Small Volume (20,000 AAC)<br>Non-replaceable License | <ul style="list-style-type: none"> <li>• Develop business experience in forest industry</li> <li>• Provides access to jobs</li> <li>• Develop business, including where appropriate, building partnerships</li> <li>• Supports funding available to build capacity</li> </ul> | <ul style="list-style-type: none"> <li>• Building relationships between Ministry of Forests and First Nations at the operational level</li> <li>• Potential for improving consultation processes</li> <li>• Addressing issues within the context of treaty negotiations or a TNO strategic file</li> <li>• Would involve an agreement between government and First Nation(s) regarding volume, consultative processes and other measures related to achieving greater stability</li> </ul> |
| Short Term (5 years or less)<br>Large Volumes<br>Non-replaceable license             | <ul style="list-style-type: none"> <li>• Expand existing businesses and/or partnerships</li> <li>• Supports funding available to build capacity</li> <li>• Provides greater stability and certainty within a geographic area of the province</li> </ul>                       | <ul style="list-style-type: none"> <li>• Would involve an agreement between government and First Nation(s) regarding volume, consultative processes and other measures related to achieving greater stability</li> <li>• Could facilitate accelerating treaty negotiations or completing agreements on other strategic files</li> </ul>  |
| Long Term<br>Large Volume<br>Area or Volume Based Tenure<br>Replaceable License      | <ul style="list-style-type: none"> <li>• Provides long-term stability for existing First Nation businesses</li> <li>• Allows equal partnerships to be established with other forest companies</li> </ul>  | <ul style="list-style-type: none"> <li>• Linkage to completion of a treaty or a significant long-term agreement (10 years or more)</li> <li>• Provides permanent or long-term certainty</li> </ul>   |

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### 3.4 Negotiating Agreements

When a mandate has been approved, negotiations may proceed. An agreement providing for Section 43.5 or 47.3 tenure will:

- include commitments from the First Nation aimed at increasing stability on Crown lands regarding forest resource development;
- include a commitment from the province to provide the First Nation with a Section 43.5 or 47.3 tenure opportunity, or may include a tenure invitation signed by the Minister of Forests; and
- outline any pre-conditions or obligations that the First Nation must meet to the satisfaction of the Minister prior to the Minister's invitation and/or award of tenure.

A sample agreement is in Appendix 4. The agreement may stand-alone or be included in a larger economic or interim measures agreement. As well, the agreement may be attached as an appendix to a First Nation agreement negotiated and signed by TNO. The magnitude of the commitments requested of First Nations in these agreements will depend upon the size of the economic opportunity being offered. The types of commitments that may be requested of First Nations include:

- **Consultation Arrangements** – The commitment to co-operate with MoF and licensees in consultation processes for operational plans and resource-planning activities within a First Nation's area of interest will provide increased stability for forest development activities.
- **Commitments Regarding Operational Issues** – Commitments that address MoF operational issues may increase stability and/or the forest land base available for timber development activities (e.g. access agreements through IR lands, support or approval of existing operational or higher level plans).

As part of the agreement or after an agreement is in place, the First Nation may be invited to apply for a Section 43.5 or 47.3 tenure. A Minister's invitation will:

- include the details of the tenure type, term, volume, and location and include the appropriate application form;
- request a business plan from the First Nation that demonstrates the viability of the business, without subsidies;
- request that the First Nation demonstrate that the intended holder of the tenure is a person or other legal entity and has been appointed by the First Nation as its representative;
- state that the tenure will include a condition that the First Nation must comply with the agreement (or appendix to the agreement, as the case may be) approved by the Minister of Forests;

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- state that the tenure cannot be transferred unless agreed to by the province; and,
- establish a deadline for receipt of the application, business plan, and legal status information.

See Appendix 6 for a sample invitation letter.

The nature and structure of these agreements will vary and the commitment to and award of tenure may be achieved through more than one agreement. For example, a Minister's invitation may be made under an umbrella agreement that includes a First Nation commitment to conclude a subsequent agreement on consultation. In cases like this, it is important that the Minister's invitation be clear that the licence will only be awarded subject to satisfactory completion of the consultation agreement and any other requirements specified by the Minister.

The purpose of requesting a business plan is to assist First Nations in establishing a successful business. Many First Nations may be using direct invitation tenures to establish new businesses. As with outside financing or investment agencies, the business plan will be used to demonstrate that the business has a reasonable chance of surviving the difficult first few years of operations. The plan will demonstrate that sufficient planning has occurred, the necessary finances and management expertise are in place, sufficient markets exist, and that the financial plan is based on realistic costs and market forecasts.

The business plan will be used for award purposes only. When received, the business plan will be sent to an outside agency for an independent review of whether the venture has a reasonable chance of success without subsidies. Where potential subsidies are identified, the plan may be referred to the Ministry of Competition, Science and Enterprise for review. The plan and results of the review will be provided to the Minister for consideration during award. However, the business plan will not be the subject of monitoring by government.

### **3.5 Award of Tenure**

When the First Nation has submitted the information required in the Minister's invitation and met any preconditions identified in the agreement that provides for a section 43.5 or 47.3 tenure, the region will seek direction from the Minister regarding the award of the tenure.

In seeking this direction, the region will advise the Minister of the legal status of the potential tenure holder and the legal instrument used to ensure the tenure holder is a representative of the FN. Sections 43.5 and 47.3 require that the tenure may only be entered into with a First Nation or its representative and requires that the Minister be satisfied that the intended tenure holder is a person or other legal entity that has been

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appointed by the First Nation as its representative. A preferred approach is for the tenure to be held by a corporation, with the First Nation as a majority shareholder. Band Council or Tribal Council resolutions may be used to appoint the corporation as a representative of the First Nation.

### **3.6 Tenure Issuance and Documents**

Upon the Ministers direction, the region will develop the tenure documents for signing by the appropriate parties. Standard tenure documents will be used with the following added conditions:

- a statement that it is a condition of the tenure that the First Nation comply with the First Nation agreement,
- a statement that the tenure is not transferable unless agreed to by the province.

See Appendix 7 for sample clauses.

### **3.7 Monitoring and Enforcement**

Where a First Nation breaches the First Nation agreement referenced in the tenure document, the Minister, or person authorised by the Minister, has discretionary authority to suspend the tenure. Where MoF has determined that a breach of the First Nation agreement has occurred, the region/district is responsible for seeking direction on whether to proceed with suspension. MoF will keep TNO apprised of any potential suspensions.

Aside from the above, monitoring of the tenure and enforcement of the tenure provisions and legislation will be carried out by MoF operations staff in the same fashion as any other tenure agreement.

## **4. Process For Tenures to Mitigate 3rd Party Impacts of FN Agreements**

### **4.1 Introduction**

To assist the timely and successful conclusion of First Nation agreements, Bill 41 amended the *Forest Act* to provide the Minister the authority to direct award a FL, WL, or TSL to mitigate the effects of a treaty, designated area, or First Nation agreement. This policy framework guides the use of this legislative tool for First Nation related issues.

In many cases, licensees will only be impacted by a First Nation agreement once Part 13 of the *Forest Act* has been used to suspend harvesting rights. However, the legislation may also be used to address third party impacts where a licensee is

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impacted by virtue of their willingness to surrender or alter their tenure rights to facilitate or participate in a First Nation agreement. There may also be limited circumstances where a First Nation agreement impacts a licensee involuntarily without the use of Part 13. The use of this legislation to address third party impacts resulting from the use of Part 13 for parks or and protected areas is beyond the scope of this policy framework.

### **4.2 Approval to Engage**

MOF will consider the use of this legislative tool in response to a formal request from licensees. To support their claim, licensees will be required to provide an impact assessment that includes the following:

- impacts to existing harvesting rights that are directly attributable to the First Nation agreement, treaty, or Part 13 designation;
- documentation of all efforts made by the licensee to reasonably mitigate these impacts; and
- details of the tenure rights being sought to address the impacts.

In response to a claim being received, a review committee will be established comprised of a representative from the Region, Economics and Trade Branch, and Resource Tenures and Engineering Branch. The committee will review the claim, request further information as required, and prepare a BN for the Minister's decision on entitlement and whether to proceed with an invitation for a direct award tenure. Where a tenure is recommended, the BN will include recommendations on the type, size and term of tenure to be offered and an invitation letter for the Minister's signature.

If the Minister approves the tenure invitation, the region will negotiate with the affected licensee the details of the tenure to be issued.

The Minister may only invite a person to apply for section 47.3 tenure for mitigation purposes after a First Nation agreement is signed. Licensees will not be eligible for a direct award tenure for the potential impacts or disruptions that occurred during negotiation of the First Nation agreement. It is therefore important that MoF operations maintain close communications with TNO staff throughout negotiations. This will help MoF staff ensure that licensee operations continue in a business as usual fashion, and where the conclusion of a First Nation agreement is imminent, take action where possible to mitigate potential third party impacts.

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**4.3 Tenure Issuance and Documents**

Once a Minister's invitation has been made, agreement has been reached on tenure details with the affected party, and an application has been received, the region will forward a decision BN to the Minister seeking instructions on award of the tenure. Region and district will issue the tenure in accordance with the Minister's instructions using standard tenure documents.

**4.4 Monitoring and Enforcement**

Monitoring of the tenure and enforcement of the tenure provisions and legislation will be carried out by MoF operations staff in the same fashion as any other tenure.

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**APPENDIX 1**

**Overview  
Of  
Process for First Nation Access to Tenures**

| <b>Activity/Decision Point</b> | <b>Description</b>   | <b>Accountability</b>   |
|--------------------------------|--|---|
| Determining Priorities         | Identify priorities in accordance with LOU   | MoF exec with TNO   |
| Identify available volume      | Identify uncommitted AAC and lump sum volumes  | Region  |
| Mandate                        | Prepare briefing note seeking approval to negotiate an agreement that provides for a section 43.5 or 47.3 tenure   | AAB or Region   |
| Negotiate Agreement            | Negotiate agreement that provides: <ul style="list-style-type: none"> <li>• an invitation for a tenure</li> <li>• business plan</li> <li>• quid pro quos</li> </ul>  | Corporate Priorities: TNO (MoF support)<br>Operational Priorities: MoF  |
| Award Tenure                   | Prepare BN seeking Minister's direction on award and, when directed, issue tenure  | Region/District   |
| Tenure Issuance                | (a) Standard documents<br>(b) Special condition linking tenure to First Nation Agreement<br>(c) Special condition that the tenure is non-transferable  | District  |
| Monitoring and Enforcement     | (a) Monitor compliance with agreement referenced in the tenure<br>(b) Seek Minister's direction on suspension of licence for non-compliance with the agreement<br>(c) Monitor and enforce tenure in the same fashion as any other tenure | District or TNO as the case may be<br><br>Region<br><br>Region/District |

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**APPENDIX 2**

**Overview  
Of  
Process for Tenures to Mitigate 3<sup>rd</sup> Party Impacts of FN Agreements**

| <b>Activity/Decision Point</b> | <b>Description</b>  | <b>Accountability</b>  |
|--------------------------------|---|--|
| Approval to Engage Licensee    | (a) Licensee impact assessment: <ul style="list-style-type: none"> <li>• directly attributable to First Nation agreement</li> <li>• mitigative actions</li> <li>• tenure rights being sought to mitigate impacts</li> </ul> (b) Establish Review Committee<br>(c) BN seeking approval for tenure including Minister's invitation letter<br>(d) Negotiate tenure details | Affected licensee<br><br><br><br>Region<br>Region<br><br><br>Region/District |
| Tenure Issuance and Documents  | (a) Review application and seek Minister's instructions on award<br>(b) Issue licence in accordance with Minister's instructions  | Region<br><br>Region/District  |
| Monitoring and Enforcement     | (a) Monitor and enforce tenure in the same fashion as other non-FN tenures  | District   |

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**APPENDIX 3**

**Letter of Understanding  
Between  
Ministry of Forests  
And  
Treaty Negotiations Office**

**Purpose**

The purpose of this Letter of Understanding is to define how the two agencies will work on the implementation of a range of First Nation approaches in the forestry sector, including the Ministry of Forests' direct award legislation. Consistent with the policy directions established respectively by the Ministry of Forests (MOF) and the Treaty Negotiations Office (TNO), the Letter of Understanding will guide staff in the considerations and process to be followed in negotiations requiring the involvement of MOF, including the identification of direct award opportunities.

**Goals**

The following goals will guide the work of the two agencies in negotiations involving First Nation initiatives and the use of the direct award legislation:

1. Provide First Nations with a stake in the provincial economy.
2. Facilitate the completion of treaties or incremental agreements.
3. Provide government with increased stability and certainty over land and resource usage decisions.
4. Increase the level of investment certainty in British Columbia and facilitate access to investment capital by First Nation communities.
5. Increase economic growth and employment for all British Columbians.
6. Efficiently manage the allocation of staff resources to forestry related negotiations.

**Guidelines**

1. The executives of TNO and MOF will determine priority files and the allocation of resources.
2. Ministry of Forests staff will work with TNO staff to assess the business feasibility related to allocation of tenure to First Nations.
3. All forest tenures directly awarded in support of First Nation negotiations will be subject to existing forest management legislation, timber pricing and direct award policies.

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4. The Ministry of Forests will examine proposals respecting First Nation forestry initiatives to ensure that they meet operational and policy requirements of the ministry.

### **Structure of Letter of Understanding (LOU)**

The LOU is intended to guide staff in discussing First Nation forestry initiatives and to outline the range of opportunities that can be available through the direct award of timber to First Nations. The LOU defines how this range of opportunities relates to building economic opportunities for First Nations, establishing linkages for reaching a treaty settlement, and supporting other strategic negotiations with First Nations. The LOU also outlines the mandates that will be required for various uses of direct award tenure.

### **Roles and Responsibilities**

- The Treaty Negotiations Office is responsible for identifying provincial priority strategic files and has the lead role in developing and confirming negotiation mandates.

The Ministry of Forests is responsible for identifying the forest opportunities that can appropriately be considered in negotiations, and resource requirements for each strategic First Nation file.

- TNO and MOF will work collaboratively to meet government's strategic objectives.
- The Assistant Deputy Minister, Treaty Negotiations Office, and the Assistant Deputy Minister, Tenure and Revenue, in the Ministry of Forests are responsible for the implementation of this protocol.

### **Assignment of Resources**

Treaty Negotiation Office has the lead role for Category one and two negotiations. The Ministry of Forests will assign staff support to Category one and two negotiation tables as agreed upon by the assistant deputy ministers.

### **Direct Award Opportunities**

The ability for MOF to provide First Nations with direct access to timber volume is one important way to advance a range of strategic government objectives. These include building constructive relationships, addressing operational issues, encouraging First Nation participation in the local and regional economy and conducting interim measures agreements and treaty settlements. Both agencies are committed to ensuring that First Nation proposals are economically viable. In all cases, the ability to develop direct award opportunities will be dependent upon timber volume being available.

### **Size and Requirements Related to Direct Award Opportunities**

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Direct award legislation provides a link between provincial strategic economic initiatives and First Nations' desire to be more active in the forest industry, and involved with land and resource decision making in their traditional territory.

Although the specific circumstances of each proposal will need to be evaluated, the agencies agree that an incremental approach should be followed in allocating timber to First Nations. Incremental approaches allow the capacity of the First Nation to be built over time, and provide greater potential for successful businesses to be developed. This will generally mean starting with small volumes and building access to larger business opportunities over time.

As proposals come forward for more substantial volumes of timber it is expected that long-term economic development would be generated and the parties will seek to secure greater certainty on the land base. Many of these proposals would be in the category of interim measures or Treaty Related Measures.

When a tenure is being offered as part of the strategic agenda to complete a treaty settlement, the tenure will be identified in the Cabinet mandate process.

Size and duration of the timber tenure should be commensurate with the nature of the strategic relationship being sought with the First Nation. Attached as Appendix 1 is a chart setting out the types of tenures that could be considered under an invitation for a direct award, the opportunities that would be addressed and the strategic relationship.

### **Priority Setting**

Priority negotiations involving forestry issues will be established jointly by the executives of MOF and TNO. Approvals, as described below, will be required prior to negotiations commencing with a First Nation regarding direct award of forest tenure:

#### **Category 1**

Direct Awards of timber that are part of the strategy for the development of a "closing agenda" for the completion of an Agreement in Principle, Final Agreement or a significant incremental treaty agreement.

#### Approval Requirements

Treaty Negotiations Office will have received a cabinet mandate to complete negotiations that include access to timber.

Approval to negotiate the content of the Direct Award will require direction from the Minister of Forests and the Minister responsible for the Treaty Negotiations Office.

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**Category 2**

Direct Awards of timber that are strategic priorities that have been jointly identified by both TNO and MOF. This category of direct awards is available to all First Nations, whether in or out of the BC Treaty Commission process.

Approval Requirements

Approval to negotiate the content of the Direct Award will require the approval of the Minister of Forests and the Minister responsible for the Treaty Negotiations Office

**Category 3**

Direct Awards of timber that address priorities of MOF.

Approval Requirements

Approval to negotiate the content of the Direct Award will require the approval of the Minister of Forests.

LOU Signed by

original signed  
\_\_\_\_\_  
Bruce McRae  
Assistant Deputy Minister  
Minister of Forests

\_\_\_\_\_  
Date

original signed  
\_\_\_\_\_  
Lorne Brownsey  
Assistant Deputy Minister  
Treaty Negotiations Office

\_\_\_\_\_  
Date

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| <b>Types of Tenures,<br/>Opportunities and Strategic<br/>Relationship</b>            |  |  |
|--|--|--|
| <b>Types of Tenures</b>  | <b>Opportunities</b>   | <b>Strategic Relationship</b>  |
| Short Term (5 years or less)<br>Small Volume (20,000 AAC)<br>Non-replaceable License | <ul style="list-style-type: none"> <li>• Develops business experience in forest industry</li> <li>• Provides access to jobs</li> <li>• Builds partnerships with established forest companies</li> <li>• Supports funding available to build capacity</li> </ul>  | <ul style="list-style-type: none"> <li>• Building relationships between Ministry of Forests and First Nations at the operational level</li> <li>• Potential for improving consultation processes</li> <li>• Addressing issues within the context of treaty negotiations or a TNO strategic file</li> <li>• Would involve an agreement between government and First Nation(s) regarding volume, consultative processes and other measures related to achieving greater stability</li> </ul> |
| Short Term (5 years or less)<br>Large Volumes<br>Non-replaceable license             | <ul style="list-style-type: none"> <li>• Provides opportunities for First Nations to expand existing businesses and partnerships with established forest companies</li> <li>• Supports funding available to build capacity</li> <li>• Provides greater stability and certainty within a geographic area of the province</li> </ul> | <ul style="list-style-type: none"> <li>• Would involve an agreement between government and First Nation(s) regarding volume, consultative processes and other measures related to achieving greater stability</li> <li>• Could facilitate accelerating treaty negotiations or completing agreements on other strategic files</li> </ul>  |
| Long Term<br>Large Volume<br>Area or Volume Based Tenure<br>Replaceable License      | <ul style="list-style-type: none"> <li>• Provides long-term stability for existing First Nation businesses</li> <li>• Allows equal partnerships to be established with other forest companies</li> </ul>   | <ul style="list-style-type: none"> <li>• Linkage to completion of a treaty or a significant long-term agreement (10 years or more)</li> <li>• Provides permanent or long-term certainty</li> </ul>   |

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**APPENDIX 4**

**Agreement Providing for Section 43.5 or 47.3 Tenure Template  
(Under development with AG)**

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**APPENDIX 5**

**Business Plan Guidelines**

The purpose of requesting a business plan is to assist First Nations in establishing a successful business. The business plan will be used for award purposes only. The Ministry will have an independent review of plan conducted to assess the probability of achieving outcomes stated in plan (high, moderate, low). The review is not intended as support or approval of the financial viability or feasibility of the plan or business venture.

Below is a suggested outline. It should be used as a guideline only. The following Internet site also suggests outlines and offers assistance in producing business plans: [www.smallbusinessbc.ca](http://www.smallbusinessbc.ca) .

Business Plan Outline

**Executive Summary**

Include a concise overview of the legal entity history, corporate makeup, main products, present financial state and future plans.

**Company Background**

Include a mission statement that indicates the purpose of the business, what it will do, and for whom.

Describe how the business will be structured. Include reference to all legal entities that will hold the tenure and other businesses that will play an important part in the operation of the business.

Describe the nature of the business and any distinguishing features or unique characteristics.

**Management - Organization**

For the legal entity(ies) that will be the holder of the tenure, and for any other organization or company that will play an important role in the business, identify:

- the proposed role of the legal entity, organization or company in the business affairs and operations of the tenure;
- key personnel within the legal entity, organization or company, their proposed roles and their qualifications relevant to those roles.

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**Product/Service Description**

Describe the products and services that the business will produce and identify factors that will contribute to the success of the business.

**Industry/Market Analysis and Strategy**

Describe the environment in which the business will be operating and how the business will respond to the market conditions. Provide a summary of the competition the business will encounter.

Provide an analysis of the company's products in the context of the markets being served, measured against the markets available.

If the business will be involved in a specialized venture, provide a comprehensive description of that market including whether the product will be marketed locally, nationally or internationally, and the potential demand in each market area.

**Potential Risks and Pitfalls**

Identify the inherent risks to the business and how those risks will be addressed.

**Implementation Plan**

If the business will be seeking financing or capital, show how the funds will be acquired and how the lender/investor will be repaid. Include a table listing the various expenditures and the corresponding sources of financing.

**Human Resources**

Identify the tasks/jobs that will require full-time and/or part-time employees. Include positions that will be staffed by volunteers. Identify associated costs.

**Future Plans**

State the short, medium and long-term objectives for the business.

**Projected Financial Statement Summary**

Provide the following for each of the first five years of operations under the tenure:

- profit and loss forecast based on projected income statement;
- cash flow forecast;
- balance sheet forecast;
- projected capital expenditure budget;
- company assets.

**First Nations Access to Timber Tenures Through  
Sections 43.5 and 47.3 of the Forest Act.**

**APPENDIX 6**

**Minister's Invitation Letter**  
(Under development with AG)

**First Nations Access to Timber Tenures Through  
Sections 43.5 and 47.3 of the Forest Act.**

**APPENDIX 7**

**Clauses Linking First Nation Agreement to Tenure  
(Under development with AG)**