

TŁİCHŦ

AGREEMENT



2015/16 to 2018/19



Canada

For information regarding reproduction rights,
please contact: communicationspublications@canada.ca

www.canada.ca/crown-indigenous-relations-northern-affairs

1-800-567-9604

TTY only 1-866-553-0554

QS-5368-550-EE-A1

Catalogue: R31-19/2019E-PDF

ISBN: 978-0-660-30675-9

©Her Majesty the Queen in Right of Canada, 2019.

This publication is also available in French under the title:

Accord ṯichq̱ Rapport consolidé du Comité de mise en œuvre 2015-2016 à 2018-2019.

Also available in Ṯichq̱ under the title:

Ṯichq̱ Nàowodeè Hòḻḻ Nàowo K'èzhee k'e Dèhkw'ee G̱igoḏi E̱lèwhelaa 2015/16 gots'q̱ 2018/19 ts'ò.



TABLE OF CONTENTS

Abbreviations and Acronyms	2
Chapter 1: Overview	3
Tłıchq Agreement Areas Map	6
Chapter 2: Implementing Bodies	7
Tłıchq Implementation Committee	7
Dispute Resolution Administrators	8
Wek'èezhìi Land and Water Board	8
Wek'èezhìi Renewable Resources Board	8
Chapter 3: Implementation Committee Activities.....	9
Cultural Coordinator Position.....	9
Dispute Resolution Administrator (DRA)	10
Major Mining Projects.....	10
Status of Tłıchq Assembly/Cultural Centre Lands.....	11
Health Canada Aboriginal Health Promotion Programs Transfer	11
Implementation Funding and Financing Agreement	12
Board Appointments	13
Mqwhì Gogha Dè Nıttłèè Boundary Mapping Discrepancies.....	13
Tłıchq Land Surveys.....	14
Intergovernmental Services Agreement Review.....	14
Annual Reports.....	15
Environmental Assessment of Crown Lands in Behchokò	15
Economic Measures	16
Implementation Plan Review	17
Wekweètì Winter Road.....	17
Status Cards/Band Registry	17
Wills and Estates	18
Status Reports	18
Whatì All Season Road.....	18
Tłıchq Community Lands.....	19
Community Vendors Agreement.....	19
Appendix A: Implementation Funding.....	20



ABBREVIATIONS AND ACRONYMS

CIRNAC	Crown-Indigenous Relations and Northern Affairs Canada
CANADA	Government of Canada
DDRA	Deputy Dispute Resolution Administrator
DRA	Dispute Resolution Administrator
EIA	Executive and Indigenous Affairs (GNWT)
GNWT	Government of the Northwest Territories
IAB	Indian Affairs Branch
IBA	Impact Benefit Agreement
IC	Implementation Committee
IP	Implementation Plan
ISA	Intergovernmental Services Agreement
LTO	Land Titles Office (GNWT)
MVEIRB	Mackenzie Valley Environmental Impact Review Board
MGDN	Mq̓whì Gogha Dè Nìtłèè
NRCAN	Natural Resources Canada
NWT	Northwest Territories
OSR	Own-Source Revenue
RoD	Record of Decision
TCG	Tł̓chq̓ Community Government
TCSA	Tł̓chq̓ Community Services Agency
TG	Tł̓chq̓ Government
WLWB	Wek'èezhì Land and Water Board
WRRB	Wek'èezhì Renewable Resources Board



OVERVIEW

The Tłıchq Land Claims and Self-government Agreement (Tłıchq Agreement) came into effect on August 4, 2005. The Agreement, which was negotiated by the Dogrib Treaty 11 Council, the Government of the Northwest Territories (GNWT), and the Government of Canada (Canada), created the Tłıchq Government (TG) along with a number of implementing bodies to carry out the provisions of the Agreement. These bodies include the Wek'èezhii Land and Water Board, the Wek'èezhii Renewable Resources Board and the Tłıchq Implementation Committee, as well as a Dispute Resolution Administrator and Deputy Dispute Resolution Administrator.

The Tłıchq Agreement provides Tłıchq Citizens and the Tłıchq First Nation with rights and benefits in respect of land, resources, and self-government, and recognizes the importance of protecting and preserving Tłıchq language, culture and way of life.

The following is a summary of the provisions of the Tłıchq Agreement:

- **Land:** Through the Tłıchq Agreement, the ownership of a single block of approximately 39,000 square kilometres of land vested in the Tłıchq First Nation. Tłıchq title to these lands includes both surface and subsurface interests.

In addition to identifying Tłıchq lands, the Agreement also defines distinct geographical areas within which the Tłıchq First Nation and Tłıchq Citizens have defined rights and benefits. The first and largest geographic area is Mqwhì Gogha Dè Nıtlèè, the traditional area of the Tłıchq First Nation. The second distinct area is Wek'èezhì, a resource management area located wholly within Mqwhì Gogha Dè Nıtlèè. The Tłıchq communities of Behchokò (formerly Rae-Edzo), Whatì (formerly Lac la Martre), Gamètì (formerly Rae Lakes), and Wekweètì (formerly Snare Lake) are located within the boundary of Tłıchq Lands, on lands owned by the respective public government of each community.

Finally, the Tłıchq Agreement defines an area called Ezqdzìtì, which is of historical and cultural importance to the Tłıchq First Nation. The Tłıchq do not own this land and do not exercise any additional harvesting or management rights within its boundaries. However the parties to the Tłıchq Agreement have agreed to protect Ezqdzìtì in the interest of preserving its historical and cultural importance to the Tłıchq people.

- **Financial Compensation and Resource Revenue Sharing:** The Tłıchq Agreement provides for approximately \$152 million in cash payments from Canada to the TG over the first 14 year period of the Agreement, as well as a share of resource royalties received by government annually from the development of Mackenzie Valley resources.

OVERVIEW

- **Eligibility and Enrolment:** Following the completion of work by the initial Eligibility Committee to process the enrolment of those entitled to be registered as Tłıchǵ Citizens, the TG appointed a Registrar to administer enrolment of Tłıchǵ Citizens and maintain the Tłıchǵ Citizen Register.
- **Economic Measures:** The Economic Measures chapter of the Tłıchǵ Agreement confirms the economic objectives of the Tłıchǵ First Nation, including supporting the traditional economy and developing Tłıchǵ businesses. When the GNWT and Canada propose economic development programs related to the objectives of this chapter, they are required to consult with the TG. The chapter further requires that government will meet with the TG not less than once every three years to review the effectiveness of programs related to the objectives set out in the Economic Measures chapter.
- **Self-government:** The Tłıchǵ Agreement implements the inherent right of self-government for the Tłıchǵ First Nation. The Agreement recognizes a regional government with law-making authority for Tłıchǵ Citizens in Tłıchǵ communities and on Tłıchǵ lands. This law-making authority includes aspects of education, adoption, child and family services, training, income support, social housing, and Tłıchǵ language and culture.

Consistent with the Agreement, the Tłıchǵ Community Governments (TCGs) of Behchokǵ, Whatı, Gamètı, and Wekweètı were established pursuant to territorial legislation on August 4, 2005. The TCGs are responsible for municipal services and local matters and represent and serve all residents of Tłıchǵ communities.

Chapter 7 of the Tłıchǵ Agreement calls for the creation of a Tłıchǵ Constitution and sets out the structure of the TG. In keeping with the principle of equal representation, Chapter 7 specifies that the governing body must include the Grand Chief, the Chief from each TCG, and at least one representative from each TCG elected by the residents of that community.

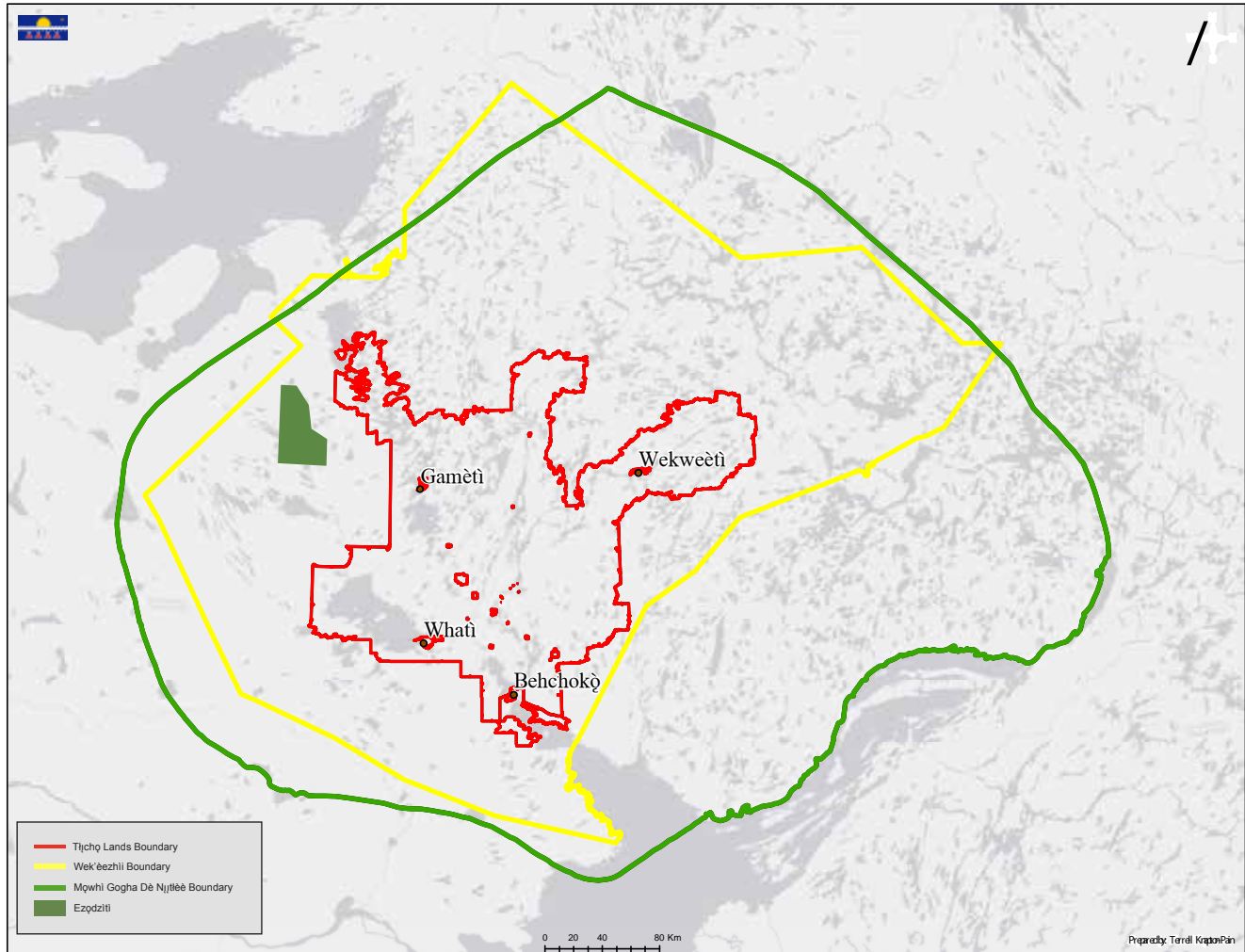
- **Wildlife and Environmental Management:** The Tłıchǵ Agreement affirms harvesting rights of the Tłıchǵ First Nation and sets out a comprehensive approach to wildlife and environmental management within the Wek'èezhìi area, including the establishment of a Wek'èezhìi Land and Water Board and a Wek'èezhìi Renewable Resources Board. The Agreement also confirms Tłıchǵ representation on the Mackenzie Valley Environmental Impact Review Board (MVEIRB), which ensures that environmental impacts and the concerns of Indigenous peoples and members of the public are considered carefully during the assessment of proposed developments in the Mackenzie Valley.

OVERVIEW

- **Dispute Resolution:** The Tłıchq Agreement is the first NWT treaty to include a process to address disputes related to the Agreement through informal discussions initially, followed by mediation, before an issue can be referred to arbitration for a decision. A Dispute Resolution Administrator and Deputy Dispute Resolution Administrator are jointly appointed by the parties to oversee the administration of the dispute resolution process.
- **Certainty:** The Tłıchq Agreement sets out a new approach to certainty and clarity to ownership and management of land and resources, and to jurisdictional rights. The Tłıchq First Nation has agreed that it will not assert or exercise any aboriginal or treaty rights, other than those rights set out in the Tłıchq Agreement. However, should the TG find that it is entitled to a non-land right, such as a self-government right that is not mentioned in the Tłıchq Agreement, the TG may negotiate with government for the exercise of that right.
- **Implementation Committee:** The Tłıchq Agreement provides for the establishment of an Implementation Committee made up of representatives from the TG, Canada and the GNWT.
- **Implementing Agreements:** The Tłıchq Agreement calls for the development of three separate side agreements that support the implementation of the Agreement. They are the Tax Treatment Agreement, Financing Agreement and Intergovernmental Services Agreement.
- **Implementation Plan:** The Tłıchq Agreement is accompanied by a non-legally binding Implementation Plan (IP) that sets out how the obligations of the parties under the agreement will be carried out. The IP describes the activities required to fulfill obligations under the Agreement, identifies the parties responsible for undertaking those activities and provides timing guidelines that provide an indication of likely timeframes required to undertake and complete activities.

OVERVIEW

Tłjchq Agreement Areas





IMPLEMENTING BODIES

The Tłıchq Agreement provides for the establishment of a number of implementing bodies responsible for carrying out various provisions of the Agreement. These implementing bodies are:

Tłıchq Implementation Committee

Section 5.2 of the Tłıchq Agreement provides for the establishment of an Implementation Committee (IC) to oversee the implementation of the Agreement and IP. The TG, GNWT and Canada are each required to appoint a representative to the Committee. The mandate of the IC is set out in the Tłıchq Agreement and includes:

- monitoring the status of the IP;
- revising activities and funding levels identified in the IP;
- attempting to resolve implementation issues;
- making recommendations to the parties respecting the implementation of the Agreement beyond the initial 10-year period; and
- providing the parties with an annual report on the implementation of the Agreement.

Tłıchq IC Representatives

Tłıchq Government: During the reporting period, Ms. Bertha Rabesca Zoe served as the TG's representative on the IC.

- More information about the TG can be found online at www.tlcho.ca

Government of Canada: The Government of Canada is represented on the Tłıchq IC by the Director of Treaty Management West in the Implementation Sector of Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC). The Implementation Sector serves as a liaison on implementation issues for management boards, the TG, territorial government, and other federal departments. During the 2015/2016 fiscal year, Kimberly Thompson, was the federal representative on the IC. Starting in the 2016/2017 fiscal year to the end of this reporting period, Dale Pegg was the federal representative on the IC.

- More information on the Government of Canada and its departments, programs, and services can be found online at www.canada.ca
- More information about CIRNAC can be found online at www.aadnc-aandc.gc.ca

Government of the Northwest Territories: The Department of Executive and Indigenous Affairs' (EIA) Implementation Division is responsible for coordinating the GNWT's implementation activities under the Tłıchq Agreement. The Division manages the allocation of implementation funds received from Canada, represents the GNWT in tripartite implementation discussions, and negotiations and serves as a liaison on implementation issues for GNWT departments. Sue Bowie, Director of Implementation, represented the GNWT on the Tłıchq IC over the course of the reporting period.

- More information about the GNWT can be found online at www.gov.nt.ca.
- More information about EIA can be found online at www.eia.gov.nt.ca.

IFA IMPLEMENTING BODIES

Dispute Resolution Administrators

The Tłıchq Agreement provides for the appointment of a Dispute Resolution Administrator (DRA) and a Deputy Dispute Resolution Administrator (DDRA). The DRA and DDRA are to assist in facilitating mediation and arbitration processes between the parties by maintaining a roster of mediators and arbitrators, appointing mediators and arbitrators to a dispute, establishing rules for mediation and arbitration and maintaining a public record of arbitration decisions. The DDRA's role is to act as the administrator during any period while the DRA is unable to act.

The DRA and DDRA are appointed jointly by all parties for a term no more than six years, with the option of reappointment.

Wek'èezhìi Land and Water Board

The Tłıchq Agreement provides for establishment of the Wek'èezhìi Land and Water Board (WLWB), an institution of public government with responsibilities for the regulation of land and water use and the deposit of waste throughout the Wek'èezhìi management area, with certain exceptions. For example, the WLWB does not regulate within a national park, or a national historic park or site administered by Parks Canada or communities in Wek'èezhìi.

The objective of the WLWB is to provide for the conservation, development and utilization of land and water resources for the benefit of not only those current and future residents within Wek'èezhìi, but also for the well-being and way of life of the Tłıchq First Nation, and for all Canadians.

The WLWB is comprised of five members, one of which is the Chairperson. Two members are appointed by the TG, while the other two are appointed by Government, after consulting with one another. The Chairperson is nominated by the majority of board members and appointed jointly by the TG and CANADA. Members are appointed for three year terms and may be reappointed.

Wek'èezhìi Renewable Resources Board

The Wek'èezhìi Renewable Resources Board (WRRB) is another institution of public government created pursuant to the Tłıchq Agreement, whose purpose is to oversee the well-being of wildlife and its habitat. Responsibilities of the Board include making recommendations respecting the management of wildlife, forests, plants and any associated commercial activities throughout Wek'èezhìi. The WRRB does not have authority for wildlife or wildlife habitat in a national park nor fish or fish habitat in Great Slave Lake.

The review of proposed Wildlife management actions, determination of total allowable harvest levels, recommendations on regulations for commercial activities related to wildlife and making determinations for the restriction of harvesting by Tłıchq Citizens in Protected Areas are some of the additional duties of the WRRB.

The WRRB is comprised of nine members, one of which is the Chairperson. Four members are appointed by the TG; CANADA and the GNWT each appoint two, after consultation amongst themselves. The Chairperson is jointly appointed by all three Parties on the recommendation of the WRRB. Members are appointed for a five year term and may be reappointed.



IMPLEMENTATION COMMITTEE ACTIVITIES

The IC typically meets in the spring, fall and December of each year. The selection of meeting locations and chair responsibilities rotate between the parties. While the GNWT is not a party to the Tłıchq Finance Committee, it typically participates with Canada and the TG in an annual tripartite Finance Committee meeting held in Yellowknife early in each calendar year to hear presentations from the various implementing bodies under the Tłıchq Agreement on projects and budgets for the upcoming fiscal year.

The initial year of the reporting period marked the tenth anniversary of the effective date of the Tłıchq Agreement. The event was marked by celebrations in Tłıchq communities centered on the August 5th, 2015 anniversary date, as well as formal recognition by the parties to the Implementation Committee of this important milestone.

Listed below are the activities advanced, and issues discussed and addressed by the Tłıchq IC over the course of the reporting period.

Cultural Coordinator Position

Under Section 8 of the Intergovernmental Services Agreement (ISA), a Cultural Coordinator is to be appointed jointly by the parties in order to advise them on how to exercise their respective powers in ways that respect and promote the Tłıchq language, culture, and way of life. The Cultural Coordinator is responsible for preparing and submitting a work plan and budget to the Tłıchq IC for approval each year. Each party is responsible for one-third of the Cultural Coordinator's annual budget.

Ms. Nora Wedzin served as Cultural Coordinator from September 2014 until December of 2017, when she returned to her work at the Tłıchq Community Services Agency (TCSA).

During the reporting period, Ms. Wedzin provided annual presentations to the IC on language and culture projects that she was actively engaged in or had completed. These projects included:

- Recommitment to the Value of Aboriginal Languages Program – Provides two separate certificate programs in Aboriginal language revitalization;
- Translation and updating of the Tłıchq Dictionary and Old Testament of the Bible into the Tłıchq language;
- Tłıchq Traditional Place Names – Updating English names on maps of the Tłıchq region

Since Ms. Wedzin's resignation, the position of Cultural Coordinator has remained vacant.

Next Steps:

In addition to addressing the vacancy of the Cultural Coordinator position, the Tłıchq IC will continue to discuss the intended role of the Cultural Coordinator, and how that role may be tailored in the future to better meet the needs of the parties when it comes to advice and guidance on matters related to Tłıchq language, culture and way of life.

IMPLEMENTATION COMMITTEE ACTIVITIES

Dispute Resolution Administrator (DRA)

On March 23, 2015, the term of the first Tłıchq (DRA, Mr. Louie Azzolini expired and, on April 24, 2015, the DDRA Gisell Marin resigned, leaving both positions vacant. Chapter 6 of the Tłıchq Agreement addresses this circumstance, and provides for a judge of the Supreme Court of the Northwest Territories to exercise the functions of the DRA, upon application of one of the Parties, until such time as the parties agree upon and appoint a person to the position.

Over the reporting period, the parties experienced several setbacks in advancing the process to appoint a new DRA, including an unsuccessful call for expressions of interest and delays due to the timing of federal and territorial elections. On September 18th, 2018 however, the position was ultimately filled with the reappointment of Mr. Louis Azzolini as DRA for a further term of six years.

There were no disputes advanced to the IC or requiring the services of the DRA during the reporting period. Should the need for dispute resolution services arise, a roster of individuals qualified to undertake mediation or arbitration is currently in place and will continue to be maintained by the DRA.

Next Steps:

In the spring of 2019, the IC will undertake a process to fill the position of DDRA.

Major Mining Projects

Pursuant to Chapter 23 of the Tłıchq Agreement, the proponent of a major mining project that requires government authorization and will have an impact on Tłıchq Citizens is required to enter into negotiations with the TG, for the purpose of concluding an agreement relating to the project. The Tłıchq Agreement defines a major mining project as one that employs over 50 people and represents an investment in excess of fifty million dollars. Chapter 23 sets out matters that may be addressed by a proponent and the TG in such an agreement. Chapter 23 also requires government to develop measures to ensure that proponents meet their obligations under 23.4.1 of the Agreement to enter into negotiations with the TG on these important agreements.

The 2014 *NWT Land and Resources Devolution Transfer Agreement* transferred administration and control of Crown lands to the GNWT, along with the responsibility to fulfill a number of federal obligations under the Tłıchq Agreement. The obligation to develop measures pursuant to Chapter 23 of the Tłıchq Agreement was specifically identified as an obligation that would remain with Canada. Since 2014, Canada and the GNWT have had discussions on approaches to move forward with the development of measures. In 2018, these collaborative discussions were expanded to include participation by the TG.

Next Steps:

Canada will continue to work collaboratively with the GNWT and the TG on measures to fulfill the obligation set out in 23.4.1 of the Tłıchq Agreement. The IC has set a target of spring 2019 for the completion of this work.

IMPLEMENTATION COMMITTEE ACTIVITIES

Status of Tłıchǵ Assembly/ Cultural Centre Lands

It was the intention of the TG during the negotiation of the Tłıchǵ Agreement that the land on which the Tłıchǵ Assembly/Cultural Centre in Behchokǵ is located would become Tłıchǵ Lands. When the Tłıchǵ Agreement was ratified however, ownership of the land vested in the Community Government of Behchokǵ, along with most of the government-owned lands within the community boundary.

Over the course of the reporting period, the IC has discussed approaches to assisting the TG in acquiring the Assembly/Cultural Centre lands from the Community Government. The matter is complicated by the fact that the Friendship Centre currently has a lease in place. Ultimately, the TG will determine how it intends on addressing this oversight. The TG will need to engage the Friendship Centre to seek its cooperation in relinquishing its leasehold interest, and it will also need to identify a workable approach to the conveyance of lands that is in accordance with the Tłıchǵ Agreement.

Next Steps:

The TG will review the matter internally and may subsequently advise the IC on when and how it intends on addressing this matter.

Health Canada Aboriginal Health Promotion Programs Transfer

In the years since the Tłıchǵ Agreement came into effect, the TG has advocated for the inclusion of federal aboriginal-specific funding programs in the Tłıchǵ Financing Agreement. A direct funding relationship with Canada under the Financing Agreement provides the TG with greater flexibility in the allocation of funding and the development of Tłıchǵ-specific programs. Health Canada's aboriginal health promotion/wellness program funding, including funding for programs such as Brighter Futures, Aboriginal Head Start and Prenatal Nutrition, were the TG's first priority for inclusion under the Financing Agreement.

Over the course of the reporting period, Health Canada and CIRNAC worked through a number of federal administrative issues to pave the way for a direct funding relationship between CIRNAC and the TG for Health Canada's aboriginal health promotion/wellness program funding. Funding was ultimately carved out of the GNWT's Northern Wellness Agreement with Health Canada based on Tłıchǵ populations reflected in CIRNAC's Indian Registry, and was included in the TG's Financing Agreement at the time of its renewal in 2018.

IMPLEMENTATION COMMITTEE ACTIVITIES

The possible transfer of Home and Community Care “top-up” funding that the GNWT currently receives from CIRNAC has also been discussed over the course of the reporting period. Given that the funding supports the delivery of a GNWT program that is fully integrated with territorial health care services, the transfer of this federal funding and associated program responsibilities to the TG will be more complex.

Next Steps:

The TG will, at its discretion and in accordance with its plans and priorities, continue to identify its direct funding priorities for consideration by Canada.

Implementation Funding and Financing Agreement

As set out in the Tłıchq IP and associated bilateral funding agreements, Canada provides funding to the TG, GNWT and implementation bodies created pursuant to the Tłıchq Agreement, in support of the ongoing implementation of the Agreement.

Implementation funding amounts for each fiscal year of the reporting period were approved by the IC and are set out in Appendix A to this report.

Canada’s NWT board funding review was completed over the course of the reporting period. Research and analysis undertaken by Canada over a period of several years served to inform the development of a federal mandate for renewed board funding that addressed many of the shortcomings of previous funding arrangements and provided a more adequate and appropriate level of core funding. New funding levels for NWT boards were announced and implemented in 2017.

In 2018, Canada and the TG concluded a new Financing Agreement that provides a substantial increase in funding for TG operations, responsibilities and obligations under the Tłıchq Agreement. The Financing Agreement now includes funding for Aboriginal health promotion programs, funding that previously flowed through the GNWT through the Northern Wellness Agreement.

Over the course of the reporting period, the TG, along with other Indigenous self-governments, has been actively involved in Canada’s Collaborative Fiscal Policy Development Process. The process has included the co-development of federal fiscal policy for self-governing Indigenous governments, including Annexes that address specific funding matters such as governance and the treatment of fiscal capacity as well as systemic approaches to support initiatives intended to address the current socio-economic gaps between Indigenous and non-Indigenous Canadians.

Next Steps:

The Collaborative Fiscal Development Process will continue in 2019/20, with federal/ self-governing Indigenous government working groups continuing to move forward on the development of further Annexes to complete a new comprehensive federal fiscal policy.

IMPLEMENTATION COMMITTEE ACTIVITIES

Board Appointments

A standing item on the IC agenda is the status of nominations and appointments to various boards and implementation bodies on which the TG, GNWT and Canada each have representation. Canada typically provides an update to the parties on the status of nominations and appointments, and the TG and GNWT confirm this information against their records and discuss the steps necessary to fill any vacancies.

Next Steps:

IC representatives will continue to work within their respective governments to promote the timely appointment of board members.

Mqwhì Gogha Dè Nìtlèè Boundary Mapping Discrepancies

In September 2009, Canada raised the issue of significant discrepancies between the metes and bounds description of the Mqwhì Gogha Dè Nìtlèè (MGDN) boundary as set out in the Tłıchq Agreement and the illustrative map of the boundary included in the Agreement. The IC agreed that the issue warranted further research before a course of action to resolve the discrepancies could be recommended to the parties.

An initial report on the matter was issued by NRCAN in February 2010, followed by additional updated and more in-depth reports in May 2015 and April 2016 that focussed on areas of Part 1 of the Appendix to Chapter 1 identified as requiring further research. Over the course of the reporting period, Canada and the TG met on several occasions to discuss the metes and bounds description anomalies. This discussion was facilitated by the review of what is viewed as the original map used during the Tłıchq Agreement negotiations for developing the written metes and bounds description. The map was located by the TG and shared with government.

A point-by-point analysis undertaken by CIRNAC/ NRCAN and TG continued over the course of the reporting period, and a draft final report on the matter was prepared by NRCAN for consideration of Canada and the TG. Once approved, the IC will undertake a review of the Tłıchq Agreement and determine the approach to be taken to give effect to revisions to the written metes and bounds description, and a revised illustrative map of the MGDN boundary.

Next Steps:

The parties will continue their review of the written metes and bounds description with the goal of producing a final report outlining recommended actions to address any ambiguities and anomalies in the description of the MGDN boundary in the Tłıchq Agreement.

IMPLEMENTATION COMMITTEE ACTIVITIES

Tłıchq Land Surveys

The survey of Tłıchq Lands is a federal obligation under Section 18.4.1 of the Tłıchq Agreement. In accordance with a multi-year work plan set out in the Tłıchq Implementation Plan, NRCAN (on behalf of Canada) has carried out the required survey work and continues to undertake activities that will lead to the registration of the boundary of Tłıchq Lands. NRCAN's field work included the survey of excluded parcels as well as natural boundaries that were not well defined, and the placement of permanent signs that identify the lands as "Tłıchq Lands".

As a result of survey work undertaken by NRCAN, several land ownership/tenure issues were brought to light that will require follow-up by the respective parties involved.

In 2017, NRCAN shared with the parties for their review and approval the draft plans of survey that collectively will form the "Tłıchq Atlas." The review identified a number of issues that will require further discussion between the TG, GNWT, CIRNAC and NRCAN. Ultimately, some plans of survey may need to be revised before they can be finalized for inclusion in the Atlas.

Next Steps:

The Parties will need to agree upon the plans of survey that comprise the Tłıchq Atlas before the Atlas can be finalized for formal approval by the Parties. NRCAN will continue to lead this initiative while the IC will continue to facilitate and coordinate this work.

Intergovernmental Services Agreement Review

The ISA is an agreement between the TG, the GNWT, and Canada that establishes the Tłıchq Community Services Agency (TCSA).¹ The TCSA is intended to be an interim step in the development of self-government and is expected to evolve over time, as the TG makes decisions regarding the exercise of its social envelope jurisdictions and authorities, as set out in the Tłıchq Agreement, through the enactment of its own laws. The TCSA performs functions related to the delivery of education, health, and social services to Tłıchq Citizens as well as non-Tłıchq Citizens on Tłıchq lands and in Tłıchq communities.

The initial 10-year term of the ISA ended in August 2015; however the parties have agreed to renegotiate the ISA. Until a replacement agreement is developed, the existing ISA will remain in force until it expires on its twentieth anniversary date or is replaced by a new agreement.

Over the course of the reporting period, the GNWT and TG initiated a bilateral project to identify options for governance and program and service delivery beyond the initial 10-year term of the Tłıchq ISA. The project served to identify TG interests; however the collaborative work necessary to produce recommendations on governance and program and service delivery was not completed. Nonetheless, the project and resulting report may be helpful to the parties as they consider options to advance self-determination in the context of intergovernmental arrangements.

¹ A copy of the Tłıchq Intergovernmental Services Agreement can be found on the Tłıchq Website: www.tlicho.ca/government/documents

IMPLEMENTATION COMMITTEE ACTIVITIES

Steps to begin the process to develop an amended ISA were undertaken in 2018, with all of the parties participating in pre-mandating discussions. The parties have discussed what a collaborative process to develop a new ISA may look like, and what some of the features of a new ISA may be.

Next Steps:

The parties will continue in pre-mandating discussions with a view to developing a collaborative process for development of a new ISA. Pre-mandating discussions will assist the parties in seeking appropriate mandates from their respective principals for the negotiation of a new ISA.

Annual Reports

The Tłıchq Agreement requires the IC to prepare an annual report on the implementation of the Tłıchq Agreement. While Canada is responsible for publishing the reports, the GNWT agreed to assist Canada and entered into a Memorandum of Agreement with CIRNAC in 2016-2017 to draft, translate, design and print certain annual reports on behalf of Canada. The Tłıchq 2015/16 to 2018/19 annual report was one such report.

Next Steps:

Upon expiry of the annual report MOU in June 2019 Canada will once again resume all aspects of the production of annual reports. The GNWT is to complete the publication and distribution of the Tłıchq 2015/16 to 2018/19 annual report.

Environmental Assessment of Crown Lands in Behchokò

Indian Affairs Branch (IAB) lands in the Behchokò area are to be transferred from Canada to the Community Government of Behchokò. In discharging its due diligence, Canada requires that an environmental assessment be undertaken before the lands can be conveyed to the Community Government. Canada has worked with the TG and Tłıchq Community Government (TCG), and it has agreed that the requirement for an environmental assessment can be waived, should the Community Government of Behchokò agree to such a waiver in writing, accepting the land on an as is basis. The TG is working with the TCG of Behchokò to assess the implications of this option and will report back to the IC on the outcome.

Next Steps:

The TCG and/or TG will advise Canada as to whether or not it will waive the requirement for an environmental assessment. If the TCG chooses to do so, it will submit written confirmation of the waiver to Canada who will then undertake the process to transfer the lands.

IMPLEMENTATION COMMITTEE ACTIVITIES

Economic Measures

Under Chapter 26, the Economic Measures Chapter of the Tłıchq Agreement, Canada and the GNWT are committed to promoting the economic interests of Tłıchq Citizens, including support for the traditional economy, the development of businesses, and the creation of job and training programs. Furthermore, when the GNWT and Canada propose economic development programs related to the objectives of this Chapter, they must consult with the TG.

The Tłıchq Agreement requires governments to meet with the Tłıchq Government, not less than once every three years, to review the effectiveness of programs relating to the objectives and measures of the Economic Measures Chapter.

To date, Canada has provided funding to the TG to conduct research that will inform the TG on how best to support future economic projects and initiatives. The report titled “Tłıchq Land Claim Economic Impact Assessment” was completed in July 2014 by the Tłıchq Government. The TG continued internal discussion to develop its position on the three year economic measures review. Once completed, the parties would jointly confer on the approach to be taken to undertake the three year review obligation.

In late 2018, the GNWT tabled an approach to conducting an economic measures review, which included a proposed framework and methodology, for the IC’s consideration. The GNWT’s approach would put in place a tripartite process to undertake the review. The TG subsequently advised the IC that it had developed a proposed work plan for an economic measures review and tabled it with the other Parties for consideration. Canada, GNWT and the TG continue to engage on the approach for the review, which is ongoing at the end of the annual report reporting period.

Next Steps:

The IC is developing a way forward on the measures review commitment under the Tłıchq Agreement. Work undertaken by both the TG and the GNWT will inform the approach that the IC will adopt going forward. The IC expects to be in a position to move forward with the review in the Spring 2019.

IMPLEMENTATION COMMITTEE ACTIVITIES

Implementation Plan Review

Chapter 5 of the Tłıchq Agreement refers to an IP, which contains Activity Sheets that describe how the parties will go about implementing the activities required to fulfill their obligations under the Agreement, as well as an estimate of the associated costs. The IC is required to initiate and complete a review of the first ten year Implementation Plan and, if necessary, revise the schedule of activities, reallocate resources, and amend or negotiate a new Implementation Plan.

While a new Plan is being negotiated, the IC has signed several Records of Decision (RoDs), which have extended the term of the existing IP and funding levels.

The format of the review by the IP Working Group (IPWG) took on a two phase approach. The first phase focused on verification of obligations through a clause-by-clause review of the Tłıchq Agreement against existing Activity Sheets in the current IP, along with setting out the preamble and related clauses in Activity Sheets. This work has now been completed. The second phase updated the individual activity steps, bringing clarity to the actions, adding or removing steps for a more fulsome process and realistic timelines to complete the tasks.

The IPWG noted that progress has been good and the review has been beneficial for the Parties. Three potential typographical errors in the Tłıchq Agreement were identified, as a result of the work so far. The IPWG have met in person and have utilized conference call meetings in efforts to maintain progress and reduce costs for the review.

Next Steps:

The IPWG will continue its work to complete the Phase 2 review of the IP, for review by the Parties.

Wekweètì Winter Road

In 2015/16, the TG requested GNWT support to have the winter road to Wekweètì added to the NWT Public Highway System. Doing so would ensure proper jurisdiction for the route to the GNWT, along with the rights for ongoing construction and maintenance of the Road.

In order to move forward with revisions to Territorial legislation to add the road, an amendment to Section 19.8 of the Tłıchq Agreement is required.

The GNWT prepared and executed the prerequisite IC RoD and draft Amendment package for review by Canada and the TG, including a French translation. The Amendment is in the final stages of being executed and will be distributed and deposited in accordance with the amendment provisions of the Tłıchq Agreement.

Next Steps:

The IC will distribute the Amendment as required.

Status Cards/Band Registry

The TG and Canada continue in discussions regarding secure status cards that will replace Status Indian Cards, now that Dogrib Indian Bands are amalgamated within the TG.

Next Steps:

While not an urgent issue, the TG and Canada will continue to seek a solution to this issue.

IMPLEMENTATION COMMITTEE ACTIVITIES

Wills and Estates

Under the *Indian Act* (Canada), CIRNAC covers the costs for probate services when a Status Indian passes away without a legal will in place. The Tłıchq Agreement (2.2.7) confirms that CIRNAC will remain responsible for those estates that were being administered by CIRNAC under the *Indian Act* before the effective date of the Tłıchq Agreement. For those cases that arise after the effective date of the Agreement, it is unclear how or whether the provisions of the *Indian Act* that address probate services continue to apply to Tłıchq Citizens and if so, whether Canada (or if the GNWT on behalf of Canada) would carry out this service. The Parties are currently considering this issue.

Next Steps:

Canada, GNWT and the TG will seek clarification on this issue.

Status Reports

Since the effective date of the Tłıchq Agreement, Canada and the GNWT have adopted measures that support and track their respective implementation activities related to their obligations under the Tłıchq Agreement. Each government shares these reports periodically, and IC meetings provide an opportunity for the TG, or governments, to ask questions or comment on the work undertaken by the GNWT or Canada to fulfill their obligations under the Tłıchq Agreement.

Next Steps:

Over the 2018/19 fiscal year, the GNWT has been revising its approach to status reports and will be tabling a new reporting format and process in 2019/20.

Whatı All Season Road

Canada and the GNWT have committed significant funding to advance the construction of an all season road to the Community of Whatı. Currently, Whatı is a fly-in/fly-out community that is serviced by a seasonal ice road during the late winter months. The planned path of the all season road will cross Tłıchq and public lands.

The TG and the GNWT have agreed to do a land exchange to the exercise of Territorial jurisdiction for the road under the Public Highways Act, and to facilitate the construction of the road. This agreement was entered into on a 'without prejudice' basis and in place of utilizing Section 20.5.5 of the Tłıchq Agreement which allows for the taking up of Tłıchq Lands for a Public Road without compensation (replacement land) where the amount of land shall not exceed the threshold of 150 square kilometres.

The location of the approximately 1.02 square kilometres of land to be exchanged between the GNWT and TG has been determined and the parties have signed an agreement on the terms and conditions of the land exchange.

Next Steps:

The IC will continue to monitor and discuss progress towards the completion of the all season road and will continue to advise internally when matters relating to the Tłıchq Agreement arise.

IMPLEMENTATION COMMITTEE ACTIVITIES

Tłıchq Community Lands

Early in the reporting period, the IC agreed to review questions on the interpretation of Section 9.3 of the Tłıchq Agreement respecting limits on the alienation of Tłıchq Community Lands. Specifically, the IC agreed to review and discuss the operation of Section 9.3 of the Tłıchq Agreement when it comes to the transfer of a fee simple interest in Tłıchq Community Lands to an Expropriating Authority in place of Expropriation.

Canada and the GNWT have agreed the matter warrants further review. The TG is continuing its review and will advise the IC accordingly when that review is complete.

Next Steps:

The TG will complete its review of Section 9.3. Once the TG's review has been received by the IC, the IC will move forward in its review of this issue.

Community Vendors Agreement

When the Tłıchq Agreement came into effect, there was a conflict with the *Northwest Territories Wildlife Act* (1988) and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act on the transportation, without license from the Northwest Territories, of edible and non-edible parts of wildlife harvested across provincial or Territorial borders.

The Tłıchq IP set out a Tłıchq Community Vendor Agreement (CVA) approach to facilitate the issuance of export permits to Tłıchq Citizens in Tłıchq communities and included an obligation for the GNWT to take legislative measures to remove the source of conflict in legislation.

The coming into effect of the Northwest Territories Wildlife Act in 2014 removed the requirement for Aboriginal or treaty rights holders to obtain a permit to export wildlife that they have harvested pursuant to their Aboriginal rights.

The IC acknowledged the resolution of this issue with a RoD in 2017 that removed the corresponding Appendix C of the IP.

IMPLEMENTATION FUNDING

Funding 2015/16

Government of the NWT	\$ 632,161
Wek'èezhìi Land and Water Board	\$ 718,858
Wek'èezhìi Renewable Resource Board	\$ 635,159
Dispute Resolution Administrator	\$ 9,484 *
Deputy Dispute Resolution Administrator	\$ 632 *
Cultural Coordinator	\$ 228,021 **

* Funding is held, pending appointment of Dispute Resolution Administrator and Deputy Dispute Resolution Administrator.

** Funding for this position is divided equally among all three Parties. Each Party provided \$76,007 towards the Cultural Coordinator position.

Funding 2017/18

Government of the NWT	\$ 651,076
Wek'èezhìi Land and Water Board	\$1,943,402
Wek'èezhìi Renewable Resource Board	\$ 837,448
Dispute Resolution Administrator	\$ 11,117 *
Deputy Dispute Resolution Administrator	\$ 651 *
Cultural Coordinator	\$ 234,844 **

* Funding is held, pending appointment of Dispute Resolution Administrator and Deputy Dispute Resolution Administrator

** Funding for this position is divided equally among all three Parties. Each Party will provide \$78,282 towards the Cultural Coordinator position.

Funding 2016/17

Government of the NWT	\$ 644,392
Wek'èezhìi Land and Water Board	\$ 732,767
Wek'èezhìi Renewable Resource Board	\$ 647,448
Dispute Resolution Administrator	\$ 9,667 *
Deputy Dispute Resolution Administrator	\$ 644 *
Cultural Coordinator	\$ 232,433

* Funding is held, pending appointment of Dispute Resolution Administrator and Deputy Dispute Resolution Administrator

** Funding for this position is divided equally among all three Parties. Each Party will provide \$77,477 towards the Cultural Coordinator position.

Funding 2018/19

Government of the NWT	\$ 658,316
Wek'èezhìi Land and Water Board	\$1,965,014
Wek'èezhìi Renewable Resource Board	\$ 846,761
Dispute Resolution Administrator	\$ 11,241
Deputy Dispute Resolution Administrator	\$ 658 *
Cultural Coordinator	\$ 237,459 **

* Funding is held, pending appointment of Deputy Dispute Resolution Administrator

** Funding is held, pending appointment of Cultural Coordinator. Funding for this position is divided equally among all three Parties. Each Party was to provide \$79,153 towards the Cultural Coordinator position.