

## **Senior Advisory Committee Policy and Procedures Manual**

### **Introduction**

The Manitoba Treaty Land Entitlement Framework Agreement (the “FA”) contains a number of provisions setting out the roles and responsibilities of the Independent Monitoring Committee (the “IMC”) and the Senior Advisory Committee (the “SAC”) as well as procedures for dispute resolution.

Part VI under **Implementation** summarizes the provisions of the FA to provide guidance in regard to the mandate and role of the SAC. Part II of the document sets out policies and procedures developed in accordance with Article 34 that are intended to complement the FA and to facilitate the resolution of issues or disputes that may arise in implementing the FA or any Entitlement First Nation’s Treaty Entitlement Agreement (“TEA”). Part II may have to be amended from time to time to respond to changing circumstances and to address new issues as this process evolves.

### **Definitions:**

“**Senior Advisory Committee**” means the committee to be established in accordance with Section 34.10

### **34. Implementation Monitoring and Senior Advisory Committees**

#### **34.03 Appointment of Independent Chairperson**

- (1) The members of the Implementation Monitoring Committee representing the TLE Committee, Canada and Manitoba shall consider the availability of persons resident in Manitoba that may have the appropriate qualifications and experience to undertake and effectively discharge the responsibilities of Chairperson and shall, within 90 days of the Date of Execution or such longer period as the parties may agree, recommend to the Senior Advisory Committee a person to be appointed Chairperson.
- (2) The Senior Advisory Committee shall, within 30 days of the date of receipt of the recommendation referred to in Subsection (1), appoint a person as Chairperson.

#### **34.05 Appointment of Chairperson upon Vacancy**

- (1) In the event of a vacancy in the position of Chairperson, the members of the Implementation Monitoring Committee representing the TLE Committee, Canada and Manitoba shall consider the availability of persons resident in Manitoba that may have the appropriate qualifications and experience to undertake and effectively discharge the responsibilities of Chairperson and shall, within 90 days of the vacancy occurring or such longer period as the parties may agree, recommend to the Senior Advisory Committee a person to be appointed Chairperson.
- (2) The Senior Advisory Committee shall, within 30 days of the date of receipt of the recommendation referred to in Subsection (1), appoint a person as Chairperson.

#### **34.09 Responsibilities of Chairperson**

(1) In addition to the specific and other responsibilities of the Chairperson set out in this Article and Articles 35 and 36, the Chairperson will be responsible for the general administration of the Implementation Monitoring Committee including:

- (c) ensuring that written minutes and records are kept of:
- (ii) decisions and notices of the Senior Advisory Committee;

\*Bullets 2 – 7 from the MFA are not relevant duties in relation to assisting the SAC.

(8) Where an issue or matter in dispute is not resolved by the Implementation Monitoring Committee, the Chairperson, on behalf of the Implementation Monitoring Committee, will refer the issue or matter in dispute to the Senior Advisory Committee.

(9) The Chairperson may, when referring a matter to the Senior Advisory Committee on behalf of the Implementation Monitoring Committee in accordance with Subsection (8), set out in writing to the Senior Advisory Committee:

- (a) any means recommended by the Chairperson for resolving the issue or matter in dispute made in accordance with Paragraph (7)(b);
- (b) any response of the members of the Implementation Monitoring Committee provided in accordance with Paragraph (7)(c); and
- (c) his or her recommendation on the proposed time period within which the Senior Advisory Committee should attempt to resolve the issue or matter in dispute.

#### **34.10 Establishment of the Senior Advisory Committee**

(1) A Senior Advisory Committee representing the parties will be established consisting of:

- (a) the President of the TLE Committee for the TLE Committee;
- (b) the Regional Director General (Manitoba Region) or the Assistant Deputy Minister (Claims and Indian Government) of the Department of Indian Affairs and Northern Development for Canada; and
- (c) the Deputy Minister of Northern Affairs for Manitoba.

(2) One member of the Council of an Entitlement First Nation specifically affected by an issue or matter in dispute may also participate in any meetings of the Senior Advisory Committee at which that issue or matter in dispute is addressed.

(3) A meeting of the Senior Advisory Committee shall not be held without all members in attendance, unless a member not in attendance has agreed otherwise.

(4) Decisions of the Senior Advisory Committee shall be by consensus of all of the members in attendance.

(5) Where the Senior Advisory Committee makes a decision on a means to resolve an issue or matter in dispute, the Senior Advisory Committee will set out in writing the decision and will send it to the Chairperson who will record the decision in the minutes or records of the Implementation Monitoring Committee.

- (6) Where the Senior Advisory Committee does not make a decision on a means to resolve an issue or matter in dispute within the time period proposed by the Chairperson or such longer time period as the Senior Advisory Committee may agree, the Senior Advisory Committee will give notice in writing to the Chairperson who will record in the minutes or records of the Implementation Monitoring Committee:
- (a) that the Senior Advisory Committee has not made a decision on a means to resolve the issue or matter in dispute; and
  - (b) the appropriate dispute resolution mechanism to be used to resolve the issue or matter in dispute in accordance with Section 35.02, where the Senior Advisory Committee agrees on the mechanism to be used.
- (7) Where the Chairperson receives a notice from the Senior Advisory Committee in accordance with Subsection (6), the Implementation Monitoring Committee will, within 30 days of notice from the Senior Advisory Committee:
- (a) where there is an agreement among the members of the Senior Advisory Committee on the appropriate method of dispute resolution to be used, refer the issue or matter in dispute to be resolved in accordance with that agreement; or
  - (b) where there is no agreement among the members of the Senior Advisory Committee on the appropriate method of dispute resolution to be used, refer the matter to an appropriate method of dispute resolution in accordance with Section 35.02.
- (8) Where the Implementation Monitoring Committee does not refer the issue or matter in dispute to an appropriate dispute resolution process within 30 days in accordance with Subsection (7), the Chairperson shall, within 30 days, refer the issue or matter in dispute to an Adjudicator to be resolved in accordance with Section 35.02.

### **35.02 Methods of Dispute Resolution**

- (3) Subject to Subsection 36.01(5), the resolution of issues or matters in dispute shall be a progressive process, from fact finding to binding arbitration, unless determined otherwise by the Senior Advisory Committee in accordance with Paragraph 34.10(6)(b), the Implementation Monitoring Committee in accordance with Subsection 34.10(7) or the Chairperson in accordance with Paragraph 34.10(7)(b).

### **35.03 Procedure for Dispute Resolution other than Binding Arbitration**

Subject to any directions provided by the Implementation Monitoring Committee or Senior Advisory Committee, except where binding arbitration is being used to resolve the issue or matter in dispute, the Chairperson has the responsibility, in consultation with the members of the Implementation Monitoring Committee:

- (a) to prepare appropriate written directions to the Adjudicator for the completion of the dispute resolution process;

- (b) to provide the Adjudicator with information about the issue or matter in dispute, including a written definition of the issue or matter in dispute, any report on or proposed solution of the issue or matter in dispute submitted to the Implementation Monitoring Committee by any party, and any means of resolving the issue or matter in dispute recommended by the Chairperson;
- (c) to determine a time period for the completion of the method of dispute resolution recognizing the parties agree that the following time frames should apply for each method unless an issue or matter in dispute is of a complex nature:
  - (i) fact finding should be completed in no more than three days of review;
  - (ii) mediation should be completed in no more than five days of meetings; and
  - (iii) non-binding and binding arbitration should be completed in no more than seven days of hearing; and
- (d) to determine other appropriate procedures in order to ensure the issue or matter in dispute is resolved in a timely and cost efficient manner.

**Procedures of Senior Advisory Committee Meetings**

- (1) The IMC Chairperson will call a meeting of the SAC where a decision is required from SAC;
- (2) The IMC Chairperson will chair the meeting and guide the SAC through the agenda items;
- (3) The IMC Chairperson will record the meeting minutes and decisions arising from the SAC meeting;
- (4) The IMC Chairperson will provide a copy of the SAC Meeting minutes within one week of the SAC meeting;
- (5) The SAC will finalize the meeting minutes at the next SAC meeting;
- (6) The SAC meeting minutes will be signed off by the SAC members;
- (7) In the event that there is a vacancy of the IMC Chair the IMC Representatives can agree to fulfill the procedures listed in 1-6 above.

*[Handwritten signature]*  
SAC

This document has been approved on this day 4 of the 12 month in the year 2015.

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Regional Director General, Aboriginal Affairs and Northern Development Canada

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Deputy Minister, Manitoba Aboriginal and Northern Affairs

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President of the Treaty Land Entitlement Committee of Manitoba