



Implications of Recent Changes in Forest Legislation Including introduction of “first Nations Woodlands Licence”

Introduction

The First Nations Forestry Council has undertaken a review of recent changes in provincial policy that are creating an impact and or opportunity as they relate to First Nations governments and organizations.

In particular a new form of provincial forest tenure has been introduced under Bill 13 2010 which allows for the “First Nations Woodlands License”.

The FNFC has developed this report which summarizes the changes in policy and has completed regional meetings to share and distribute the materials and to improve understanding of the changes.

Review of Recent Changes

Bill 4. 2010. Miscellaneous Statues Amendment Act. Third Reading March 25, 2010

Contains changes to the *Water Act* doubling the term (from 12 months to 24 months) allowing the diversion or use of water without the need for a licence, and house keeping changes to include mention of the *Forest and Range Practice Act* along with the Forest Practices Code of BC, including standards and regulations under the *Forest and Range Practices Act*.

Potential Implications

The *Water Act* is the principle law for managing the diversion and use of provincial water resources. In February 2010, the provincial government announced their intentions to modernize the *Water Act* and produced a discussion outlining possible solutions and options for modernizing the *Water Act*. The discussion paper along with a technical background paper can be found at www.livingwatersmart.ca/water-act/. Formal submissions to the Ministry of Environment Water Stewardship Division were due April 30, 2010.

The proposed principles for *Water Act* modernization are:

1. B.C.’s water resources are used within sustainable limits.

2. First Nations social and cultural practices associated with water are respected and accommodated.
3. Science informs water resource management and decision making.
4. Water resource legislation, policy and decision making processes as well as management tools are integrated across all levels of government.
5. Rules and standards for water management are clearly defined, providing a predictable investment climate across the province.
6. Flexibility is provided to adapt to extreme conditions or unexpected events on a provincial, regional or issue-specific level.
7. Incentives are created for water conservation that consider the needs of users and investors.
8. Rights to use water come with responsibilities to be efficient and help protect stream health.

Water quality and availability is a global concern. The use and access to water by third parties impacts water availability in streams and rivers, aboriginal title and rights to water and water rights within their territories. Michael Blackstock has stressed the importance of water to First Nations in several of his publications¹, and the “need for water reserves zones to manage for water, not timber as the primary product” (Faces in the Forest, page 163)².

Bill 5. 2010. Zero Net Deforestation Act. Third Reading May 6, 2010

Requires the provincial government to achieve the goal of zero net deforestation by in British Columbia. The *Act* defines afforestation and deforestation, and excludes the harvesting of trees from forest land in the definition of deforestation. Planting trees to convert non-forest land into forested area, and finding ways to decrease deforestation are part of BC Climate Action Plan to reduce greenhouse gas emissions. Deforestation globally accounts for 20% of the world’s greenhouse gas emissions (2008 BC Forestry Climate Change Working Group).

Potential Implications

Under the definitions in this *Act*, deforestation occurs when forests are permanently cleared for non-forest land (e.g. building a highway, extraction of oil and gas or mineral resources). To achieve zero net deforestation the area of afforestation must not be less than deforestation. To offset the area deforested from building a highway or extracting oil, gas or minerals, the same amount of area of **non-forested land** must be planted with trees.

This *Act* is a piece of legislation for the province to demonstrate there is no deforestation in BC and promote BC’s forest management practices. The *Act* does nothing to address backlog where areas remain deforested, or provide incentives to support the harvesting and reforestation of mountain pine beetle damaged stands. Instead of including reforestation of mountain pine beetle impacted stands as an eligible activity to offset

¹ M Blackstock. 2001. Water: A First Nations’ spiritual and ecological perspective, Volume 1, Number 1, BC Journal of Ecosystems and Management.

² M.Blackstock. 2001. Faces in the Forest. First Nations Art Created on Living Trees. McGill-Queen University Press.

deforestation, the province is promoting the conversion and afforestation of non-forest lands.

Bill 7, 2010. Forests and Range Statutes Amendment Act. Third Reading May 18, 2010

Amends the *Forest Act* to:

Extend the maximum term of innovative forestry practices agreements beyond 15 years.

Define and clarify the mechanism used to partition the allowable annual cut (adds a new Division 3.01 Allowable Cut Partition (AAC), to Part 4). Enforces provisions passed in 2008 and enables enforcement of AAC partitions.

Replace the definition of scale and provides greater flexibility in how special forest products (specifically waste or low-grade timber) are scaled.

Change decision-making power in several sections so that only the minister, instead of the regional or district managers, can grant exemptions or make amendments under this Section of the *Act*.

Broaden the definition of harvested volume to allow for the accounting of timber sold based on information from a cruise of the timber before the timber was cut. This is legislation to support the cruise-based billing system.

Clarify rules around stumpage rates to enable the government to retroactively redetermine stumpage rate even after the timber has been harvested and scaled, and stumpage paid for any cutting permits issued after July 31, 2005.

Bill 7 Amends the *Wildfire Act*:

So that a person causing or contributing to the spread of fire on forest or grassland can be prosecuted.

To extend the period of prosecution from human-caused fires from 2 to 3 years to allow more time to complete the investigation.

Allows the government to recoup compensation paid to a person who caused a fire or its spread.

Potential Implications

The Ministry of Forests and Range views Innovative Forest Practice Agreements (IFPAs) as successful forest management models because they encourage forest tenure holders to manage an area cooperatively, and new approaches to forest management.

Amendments to the *Forest Act* under Bill 7 extend the timeline of these agreements to allow the government and licensees to look at ways to address timber supply, and models to get others to cooperatively manage a defined forest landbase area. However, very few IFPAs have First Nations as partners with access to a share of the tenure, and

as meaningful participants in these agreements. If IFPAs are extended, all should have First Nations as full partners and participants in the agreements and/or societies with access to tenure and decision-making authority over the use and management of forest lands and resources within their territories.

Only Forest Licences to Cut are not subject to partition enforcement.

Cruise-based billing reduces the administrative costs for forest tenure holders and government of scaling logs and calculating stumpage, and provides an incentive to harvest all the timber and reduce waste.

Amendments to Section 105 ensure that the stumpage paid is based on timber cut to address “errors” in the amount of stumpage paid regardless of when volume was harvested or scaled for cutting permits issued after July 31, 2005. This allows the government to retroactively go after revenues owed.

***Bill 11. 2010. Miscellaneous Statutes Amendment Act (No. 2). Third Reading
May 4, 2010***

Contains amendments to *First Peoples' Heritage, Language and Culture Act* that change the goal of the *Act* from preserving and restoring First Nations heritage, language and culture to protecting and revitalizing First Nations heritage, language, culture and arts. This includes changes that allow the First Peoples Heritage, Language and Cultural Council to support organizations, programs and cultural centres associated with First Nations heritage, language, culture or arts.

A First Peoples' Advisory Committee provides advice to the First Peoples' Heritage, Language and Culture Council on matters related to this *Act*.

Under Bill 11, Section 2 of the *Act* is amended to include a definition of a First Nations language group, and provisions that after consultation with the board, allow the minister to make regulations, setting out the First Nations language groups from which members of the committee may be appointed, and other changes to rules regarding membership on the board, and appointment to the board by the minister. The board consists of the following members: 2 voting members appointed by the minister; and no more than 9 First Nations voting members appointed by the minister from a the First Peoples' Advisory Committee.

Potential Implications

The mandate of the First Peoples' Heritage, Language and Culture Council is to preserve, restore and enhance First Nations' heritage, language and culture, increase understanding and sharing of the knowledge and appreciation of the cultural diversity. Members of the board are appointed to two-year terms by the Ministry of Aboriginal Relations and Reconciliation. Each BC Tribal Council is invited to nominate a representative to the Council's advisory committee. For more information and a list of current board and advisory council members go to www.fphlcc.ca.

Bill 13. 2010. Forests and Range (First Nations Woodland Licence) Statutes Amendment Act. Third Reading May 19, 2010

Amends the *Forest Act* the *Forest and Range Practices Act*, the *Park Act* and the *Range Act* to include a First Nations Woodland Tenure, and creates a new area-based tenure for First Nations that sign an Interim Measures Agreement with the government. This *Act* defines the First Nations woodland tenure licence area, contains provisions for the content, term, replacement, and regulation of the First Nations Woodland Licence (FNWL). Only the minister can evaluate and approve the application by a First Nations for a FNWL.

The licence is for a term of 25 to 99 years, can include Crown, reserve and private land, gives the holder the right to harvest timber on the Crown land, and harvest, manage and charge fees for botanical forest products and other products. The legislation requires the holder to pay full stumpage for Crown timber (based on market pricing), waste assessments for merchantable Crown timber, develop a management plan and an operational plan, and limits cutting permits to 4 years.

A portion of the allowable annual cut for some existing licences, can be transferred and converted into a FNWL. This is likely a mechanism to transition allowable cut issued under the FRA/FRO program to FNWL. The conditions outlining which licences and how much of the allowable annual cut will be eligible haven't been specified.

FNWL will be replaced every 10 years unless the Minister gives notice that the licence won't be replaced. It would then expire at the end of the term.

Annual rent payable is the portion of the allowable cut attributable to the Crown land portion, multiplied by the annual rent rate prescribed by the Lieutenant Governor in Council (Only the fire preparedness levy portion \$0.12/m³ will be required).

If the Crown land portion is equal to or less than (a) 800 ha. in the Coast Forest Region, or (b) 1200 ha. outside of the Coast Forest Region, the FNWL holder can choose to do a Forest Stewardship plan or a Woodlot Licence Plan. If the Crown land portion is larger, a forest stewardship plan is required.

Amends the *Range Act* to allow the minister to direct award a grazing or hay cutting permit or licence to a First Nation or its representative.

Bill 13 contains several amendments to the *Forest Act* that limit and restrict the authority of regional and district managers.

Potential Implications

FNWLs will be direct awards to those First Nations that sign an interim measures agreement with the government. This requirement links access to tenure to an accommodation agreement, and mixes business operations with consultation and revenue-sharing.

The Ministry of Forests and Range has stated that there is no additional tenure available outside of FRA/FRO agreements, which caps the volume First Nations have access.

However, under the FRA/FRO program only half of the take back volume set aside for First Nations was allocated; approximately 1 million m³/year of replaceable volume was never allocated. Total take back volume set aside for First Nations in Bill 28 was 2.43 million m³/year.

Although the legislation gives the holder of the FNWL the right to harvest, manage cultural heritage resources, and charge fees for botanical forest products, the legislation does not recognize Aboriginal rights, or exclusive ownership and access to these resources.

Areas of Crown land can be deleted from FNWL areas for other purposes and also allows others to apply for forest licences to cut for harvesting dead or damaged timber or special forest products (same as that for other licences). FNWL don't provide exclusive rights to Crown land, damaged timber or special forest products.

Most of the planning and practice standards and regulations under the FNWL are the same as that for community forest agreements (CFAs). However FNWLs don't get the break in stumpage rates, in accordance with the appraisal manual, given to community forest agreements (CFA), which potentially puts FNWL at a competitive disadvantage compared to CFAs.

These tenures are not likely to be available until 2011, precluding First Nations from extensions on their licences that have expired, and access to additional tenure opportunities as markets look to recover.

Bill 20 2009 Miscellaneous Statutes Amendment Act (No. 2). Third Reading November 18, 2009

The *Forest Act* is amended to:

Increase the maximum time for the determination of allowable annual cut from 5 years to 10, although the Chief Forester still has the authority to determine an allowable annual cut at any time (Section 8).

Enable cruise-based billing system to simplify business administration and lower administrative costs (Section 106).

On receiving an application in the form required by the minister, the minister instead of Cabinet, may approve sawmill wood residue export applications for amounts of up to 15,000 m³ or volume of wood residue up to 5,000 bone dry units (Section 128).

Amends the *Forestry Revitalization Act* to:

Authorize compensation under Section 6 of the *Act* for deletions of Crown land from tree farm licences under section 39.1 of the *Forest Act*, and reductions in allowable annual cut under section 3 (3) of the *Act*.

Potential Implications

The goal of cruise-based billing is to encourage greater use, help minimize waste in the harvest area, and reduce administrative costs for industry and government and First Nations' tenure holders. BC may have to get the approval of the US under SLA to change the pricing model. It should be cautioned, that a policy incentive directed at increasing the use of "waste wood" could result in negatively impacting the availability of wood for other objectives such as biodiversity, and lead to further environmental degradation. This issue was also raised in the study done by Ben Parfitt, 2007⁴. What seems to be a positive could actually turn out to be a negative in the bigger picture.

Changes to export applications are supposed to provide a quicker turnaround for sawmill wood export permits which should also benefit First Nations operators.

Section 13 allows Tree Farm Licence (TFL) holders to receive compensation for deletions of crown land and reductions in allowable cut. Deletions of land and replaceable allowable cut from TFLs should be made available to local First Nations.

Amendments Under Section 8 – Allowable Annual Cut

Extension of the duration between timber supply reviews (TSR) from 5 to every 10 years is a risk management decision that assumes that forest conditions remain the same for longer than 5 years. This assumption is likely invalid for areas of the interior devastated by the mountain pine beetle. This new amendment potentially puts timber supply areas (TSAs) impacted by the mountain pine beetle at greater risk to over-harvesting and longer term falldown in timber supply. This was a cost-saving change in government policy that should be a matter of urgent concern to First Nations and the public.

Based on aerial survey information collected by the Ministry of Forests and Range (MFR) for 1999-2002, the MFR estimated that approximately 480 million m³ could be infested over the next 3 years (Ministry of Forests, 2003)³. The projected reduction in mid-term timber supply was 19% relative to pre-uplift AAC (Ministry of Forests, 2003). In fact the impact of MPB infestation is much worse. Provincial projections of the MPB outbreak now estimate that the cumulative pine mortality from 1998 to 2007 was between 578 and 585 million m³ (Walton, 2009)⁴. Approximately 46% of the merchantable pine volume in the province has been killed; approximately 70% of the pine volume in pine units will be killed by 2017 (Walton, 2009). This will result in a substantial impact on mid and long-term timber supply.

The government's response to the MPB epidemic from 2001 to 2006 was to mandate a significant increase in annual allowable cut (AAC) in regions hardest hit by MPB to harvest as much timber as possible. Although this did lead to a large volume of pine being harvested, the harvesting of non-pine species also increased which resulted in potentially increasing not decreasing the falldown (Parfitt, 2007)⁵. Under current

³Ministry of Forests, Timber Supply and the Mountain Pine Beetle Infestation in British Columbia. Forest Analysis Branch. October 2003.

⁴Walton, A. 2009. Provincial-Level Projection of the Current Mountain Pine Beetle Outbreak: Update of the infestation projection based on the 2008 Provincial Aerial Overview of Forest Health and revisions to the "Model" (BCMPB. V6). Research Branch, BC Forest Services. www.for.gov.bc.ca/hre/bcmpb/

⁵Parfitt, B. 2007. Over-cutting and Waste in BC's Interior. A Call to Rethink BC's Pine Beetle Logging Strategy. Centre of Policy Alternatives, BC Office.

legislation in Section 8 of the *Forest Act*, the current AAC remains in effect until a new AAC is determined, which now must take place within 10 years of the last determination. In areas hardest hit by the MPB, maintaining the current level of cut may lead to the collapse of the softwood timber supply and irreversible damage to the forest ecosystem.

Several of the Timber Supply Areas (TSAs) most impacted by the MPB currently listed as undergoing a TSR were to be completed in 2010. However, due to the change in legislation some of these reviews now don't have to be completed for several more years. These include the Prince George, Lakes, Merritt, Okanagan and Quesnel TSAs. Several others recently had TSRs completed between 2006 - 2008, now don't have to undergo a TSR for 10 years. These include 100 Mile, Williams Lake and Kamloops TSAs. In many of these TSAs cut was increased during the last TSA review (2004-2006) to facilitate accelerated harvesting of MPB killed timber (eg. Okanagan, Quesnel, Prince George, Lakes TSAs). Even with an uplift to address the impacts of the wildfires in 2003 and the MPB epidemic, in the Kamloops TSA alone licensees have overharvested their AAC by an average of 103% in 1996, 2000, 2003, and 2006 (Niziolomski and Armstrong, 2009)⁶. It now up to First Nations and the public to ensure that the province monitors and reassesses the timber supply in these areas.

The TSR review process was established in 1992 to address concerns regarding over-harvesting and timber supply. One of the guiding principles of the TSR process is the need for the Chief Forester to assess potential current and future social, economic and environmental risks in the determination of harvest levels. Section 8.8 (d) requires that the Chief Forester, when determining the AAC, consider the "economic and social objectives of the government, as expressed by the Minister, for the area, for the general region, and for BC." Now that the future of BC's forest, and the forest industry, is becoming increasingly uncertain the government seems to be walking away from their responsibility to First Nations and the public to manage and conserve forest lands and resources. Increasing the duration of time between timber supply reviews in the face of this uncertainty is irresponsible.

The MPB epidemic has affected the forest ecosystems in the Interior. One of the biggest decisions affecting the sustainability of BC's forest values and resources is how the government decides to allocate the remaining inventory of standing timber. Sustainable development is defined as development that meets the needs of the present without compromising the needs of future generations (The Brundtland Report, 1987)⁷. This concept is inextricably tied to the Crown's fiduciary duty to protect the interests of Aboriginal peoples. Given the unprecedented impact and nature of the MPB infestation, a precautionary approach should be taken. The government has a legal and social responsibility to conduct frequent timber supply reviews in MPB-impacted areas in efforts to track and mitigate impacts, conserve the integrity of the forest ecosystem, and the future forest economy.

⁶Niziolomski, C., and J. Armstrong. 2009. Kamloops Timber Supply Area. Southern Interior Beetle Action Coalition Forest Sector Trend Analysis – Fact Sheet. www.sibacs.com/PDF/FactSheets/Kamloops-FactSheet.pdf

⁷ World Commission on Environment and Development. 1987. *Our Common Future*. Oxford University Press.

First Nations Woodland Licence

INTRODUCTION:

With the introduction of the *Forestry Revitalization Act* in 2003, the Ministry of Forests, Mines and Lands began negotiating interim measures agreements with First Nations that deliver economic benefits including direct award forest tenures and revenue sharing. In March 2009, the Working Roundtable on Forestry recommended that:

“We should create more long term, area-based forest tenures that are of an economically viable size, and create legislation for a First Nations forest tenure”.

In response the Minister of Forests, Mines and Lands introduced legislation in 2010 to create a new form of forest tenure called a First Nations Woodland Licence (FNWL). Bill 13, “The Woodland Licence Statutes Amendment Act”, received royal assent on June 3, 2010 and will come into force through regulation planned in the spring of 2011.

The purpose of this paper is to provide a description of First Nation Woodland Licence and how it will be implemented.

BACKGROUND:

Currently 172 First Nations directly participate in the management of forest tenures covering about 7.8 per cent of the provincial allowable annual cut (about 6.5 million cubic metres per year). Approximately two-thirds of the allowable annual cut (4.7 million cubic metres per year) for these tenures is sourced from non-replaceable volume sources (Mountain Pine Beetle uplifts, undercuts, fire-killed timber); the balance (1.8 million cubic metres per year) is replaceable allowable annual cut. There is an additional 0.6 million cubic metres per year not in any tenure at this time, therefore in total, about 2.4 million cubic metres per year (about 3 per cent of the provincial allowable annual cut) of replaceable allowable annual cut may be available. In the interim measures agreements signed with First Nations to date, about 55.6 million cubic metres of timber is available to be harvested. Of the 55.6 million cubic metres offered, approximately 37.4 million cubic metres has been issued in forest tenures and less than 13.6 million cubic metres (approximately 25 per cent) has been harvested.

FEATURES:

The First Nations Woodland Licence recognizes First Nations’ asserted interests in the land and resources, including the protection of traditional use practices, the harvest and management of non-timber forest products, and other benefits. This long-term and area-based tenure will allow First Nations to have an increased role in forest stewardship, to protect traditional uses, to manage forest and land use in the area, and to improve their ability to secure investment and loans.

This new tenure requires a regulation amendment prior to Bill 13 coming into force. Once that occurs, implementation will take a number of years to complete because identifying suitable operating areas on the land base is a complex process, and because there are many other existing licensees and uses identified on the land base. Therefore the full benefits of this policy shift will take time to realize. While operating areas for these tenures are being identified, the ministry believes that the form of tenures currently being used can continue to be used in future interim agreements if the First Nation deems that these tenures meet the First Nation interests and provides benefits to the First Nation. To improve these opportunities, the ministry is has expanded the term of non-replaceable forest tenures if the operating area is available and the volume is apportioned.

First Nations Woodland Licence

The following table describes a proposed new tenure policy for area-based forest tenure and compares the key features of the First Nation Woodland Licence with that of the current First Nation tenures, and the rationales for the changes.

Current Tenure Policy	New First Nations Woodland Licence Features	Rationale for the Change
1. Direct award by Minister	Direct award by Minister	<ul style="list-style-type: none"> No change
2. Short-term (5 years)	Long-term (25 – 99 years), replaceable every 10 years	<ul style="list-style-type: none"> More tenure security, therefore improves First Nations' ability to secure investment and loans.
3. Volume-based	<ul style="list-style-type: none"> Area-based. Can include private and reserve land. 	
4. A mixture of replaceable and non-replaceable volume	Replaceable volume only	
5. Basic stewardship responsibilities	<ul style="list-style-type: none"> Expanded stewardship responsibilities. Management plan required, including inventories and allowable annual cut setting, as well as opportunity to manage cultural heritage resources. First Nation can choose to do either a Forest Stewardship Plan or a Woodlot Licence Plan if the size of the new licence is 800 ha or greater on Coast or 1200 ha or greater in Interior, otherwise must complete a Forest Stewardship Plan. 	<ul style="list-style-type: none"> Better meets First Nations' interests in land and resource stewardship close to their communities. Greater flexibility for managing the land base.
6. Management of non-timber forest resources only applicable to Community Forest Agreement	Management of non-timber forest resources applicable to First Nations Woodland Licence	<ul style="list-style-type: none"> Meets First Nations' interests to establish an opportunity to manage and benefit from the commercial harvesting of non-timber resources.
7. Stumpage is based on market rates	<ul style="list-style-type: none"> Stumpage based on market rates A portion of paid stumpage would be shared (revenue sharing) 	<ul style="list-style-type: none"> Maintains integrity of market pricing system. Revenue sharing consistent with Forestry Roundtable recommendations.
8. Annual Rent required	Only the fire preparedness levy portion of annual rent is required	<ul style="list-style-type: none"> Consistent with First Nations' requests.
9. Transferrable to third party	Not generally transferrable to third party	<ul style="list-style-type: none"> Ensures benefits reside with First Nations.
10. Silviculture security deposits required – if determined by the District Manager	District Manager may accept revenue sharing payment as security in lieu of security deposits	<ul style="list-style-type: none"> Provides more flexibility for First Nations to manage their cash flow.

First Nations Woodland Licence

FIRST NATIONS WOODLAND LICENCE IMPLEMENTATION - FREQUENTLY ASKED QUESTIONS

Does the new legislation mean that the only forest tenure option for First Nations will be a First Nations Woodland Licence?

- No. Existing forest tenures that were issued under any type of interim measures agreement (Forests and Range Agreement, Forests and Range Opportunity Agreement, Direct Award Agreement) are in effect until the licence expires - even if the interim measures agreement expires.
- Also, the First Nations Woodland Licence will require both a strategic plan (e.g. management plan) and an operational plan (e.g. forest stewardship plan or a woodlot licence plan) before harvesting can begin. Some First Nations may not be interested in undertaking this level of planning under a First Nations Woodland Licence and therefore may prefer to continue harvesting under a volume-based licence.

Will a First Nations Woodland Licence be available for all First Nations in all areas of the province?

- The First Nations Woodland Licence may not be the best fit in all situations. For example, there may not be sufficient sources of replaceable allowable annual cut to meet the expectations of each First Nation. In some areas, the costs to build the necessary infrastructure (roads and bridges) might be too prohibitive; or, an area-based tenure may not make as much sense as a volume-based tenure due to individual First Nations' needs and/or other local conditions (i.e. mountain pine beetle).

When will the First Nations Woodland Licence be ready for issuance?

- Bill 13, The First Nations Woodland Licence Statutes Amendment Act, received Royal Assent on June 3, 2010 and will be enacted through regulation planned for the spring of 2011. Eight regulations will need to be amended and/or created to 'harmonize' requirements of the new licence with those of other forest tenures. One example is the collection of licence deposits. Another is the payment of annual rent.
- While these regulations are being drafted, government staff are working on locating FNWL areas, developing strategies to mitigate affects on forest industry clients, reviewing the potential for FNWL joint ventures and reviewing local circumstances to develop implementation plans. We expect to start informal negotiations with First Nations in the spring of 2011. However, it will take a number of years to issue these tenures across the province.

Which First Nations are eligible for a First Nations Woodland Licence?

- First Nations are eligible if they sign a Forest Tenure Opportunity Agreement (FTOA), if there is a source of replaceable AAC, and available operating area. However, as there are so many First Nations interested in the FNWL, and to ensure limited staff and fiscal resources are focused on provincial priorities, a selection process is underway to prioritize those First Nations whom government would be interested in negotiating the FNWL.
- The process will ensure that careful consideration of factors including local forest conditions, identification of suitable operating areas, operating area conflicts, First Nation capacity to undertake management obligations, and government reconciliation objectives are used to determine which First Nations will receive initial offers for a FNWL.

Why is an FTOA required as part of the First Nations Woodland Licence?

- The Province of British Columbia and the First Nation need to acknowledge that the direct award of this tenure represents an interim form of accommodation. Also, the FTOA describes important aspects about the licence - its location, and other terms/conditions, such as opportunities for partnerships, and specific licences that may need to be surrendered prior to the award of the new tenure.

Can exiting tenures be converted to a First Nations Woodland Licence?

- In most cases, all licences issued as part of an interim measures agreements with government may be converted to a First Nations Woodland Licence as long as they are from replaceable sources of allowable annual cut. Licences purchased or acquired through a business arrangement outside of an interim measures agreement will not be eligible for conversion.

First Nations Woodland Licence

How will the Ministry ensure that the new tenure is of an adequate size and location to be viable?

- Size and location of tenures will be determined through discussions between First Nations and the regional and district staff. However, the legislation allows for First Nations to partner with other First Nations and with other parties if they so choose. Providing this choice allows a First Nation to develop forestry expertise and should reduce operational costs.
- In 2003, as part of the Forestry Revitalization Act, the government purchased allowable annual cut from the major licences to support the Market Pricing System, Small Tenures Expansion, and First Nations programs. This will be the main source of replaceable volume to support the First Nations Woodland Licence. Government has no immediate plans to purchase additional harvesting rights from existing licences.

Who do interested First Nations talk to about additional information?

- Ministry of Natural Resource Operations staff have been contacting First Nations whose Forests and Range Agreement or Forests and Range Opportunity Agreement have expired or will expire during the current fiscal year. These staff members will be able to discuss forest tenure opportunities including the FNWL.