



Northwest Territories Eenjít

Dagwidjì'è' Tr'igwahtsìi
Geenjìt Nadhat Kat"

MEETING RIA 23-19-22

SPECIAL COMMITTEE ON RECONCILIATION AND INDIGENOUS AFFAIRS

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WEDNESDAY, SEPTEMBER 14, 2022

VIRTUAL/COMMITTEE ROOM 'A' - YELLOWKNIFE, NT

8:30 AM

AGENDA

1. Prayer
2. Review and Adoption of Agenda
3. Declarations of Conflict of Interest
4. In-Camera Matters
 - a. Presentation by:
Crown-Indigenous Relations and Northern Affairs Canada
Treaties and Aboriginal Government, Federal Government of Canada with
 - Mr. Martin Sampson, Director General of Negotiation
 - Mrs. Carla McGrath, Director General of Policy Development and Coordination
5. New Business
6. Date and Time of Next Meeting: At Call of the Chair
7. Adjournment



Detailed Agenda

Item	Recommendation
<p>1. In-Camera Matters</p> <p>a. Presentation by: Crown-Indigenous Relations and Northern Affairs Canada Treaties and Aboriginal Government, Federal Government of Canada with</p> <ul style="list-style-type: none">• Mr. Martin Sampson, Director General of Negotiation• Mrs. Carla McGrath, Director General of Policy Development and Coordination <p>Attachment 1</p> <p>2. New Business</p> <p>3. Date and Time of Next Meeting: At Call of the Chair</p> <p>4. Adjournment</p>	<p>Presentation/Q&A Wrap-up</p>



Federal Approaches to the Recognition and Implementation of Indigenous Rights

Presentation to the Special Committee on
Reconciliation and Indigenous Affairs of
the Northwest Territories Legislative
Assembly

Wednesday September 14, 2022





Summary

- Canada's Commitment to Reconciliation
- Implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)
- Current Policy Approach for the Recognition and Implementation of Indigenous Rights
- Negotiation of Treaties, Agreements and Other Constructive Arrangements in the Northwest Territories
- Conclusion





Reconciliation and Recognition of Aboriginal and Treaty Rights

- Reconciliation and renewed nation-to-nation, Inuit-Crown, government-to-government relationships between Canada and First Nations, Inuit and Métis, as well as the modernization of Government of Canada structures to enable Indigenous peoples to build capacity and support their vision of self-determination, are core, overarching priorities.
- The Supreme Court of Canada has affirmed that the fundamental objective of section 35 of the *Constitution Act, 1982* is “the reconciliation of Aboriginal peoples and non-Aboriginal peoples and their respective claims, interests and ambitions.”
- Canada’s focus is on working in partnership with Indigenous Peoples, provinces and territories to address past harms, support strong and healthy communities, and advance self-determination and prosperity.





Implementing the United Nations Declaration on the Rights of Indigenous Peoples and the UN Declaration Act

- The Government of Canada is committed to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.
- In 2021, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples* received Royal Assent.
- Our work together in negotiating treaties, agreements and other constructive arrangements is an important part of implementation.





Federal Initiatives Toward Renewing the Crown-Indigenous Relationship





The Path to Rights-Based Approaches

Moving From...

1. Rights must be claimed and proven by Indigenous groups
2. Certainty with the practical effect of extinguishment of rights
3. Full and final settlements
4. Federal negotiation mandates developed unilaterally
5. Fiscal relationship does not account for broader socio-economic considerations

To...

1. Rights recognized as pre-existing and implemented through negotiated agreements
2. Flexible agreements with mechanisms for predictable exercise and evolution
3. Living agreements
4. Negotiation mandate proposals are co-developed by parties
5. Fiscal relationship prioritizes self-determination and addressing socio-economic gaps

SHARED GOAL: Ensure that Indigenous rights are meaningfully recognized and implemented in the context of renewed Nation-to-Nation, Government-to-Government, and Inuit-to-Crown relationships based on the recognition of rights, respect, cooperation and partnership

As the Crown and Indigenous peoples move towards a renewed relationship and reconciliation, their joint work will continue to be founded on and guided by section 35 of the Constitution Act, 1982





Current Policy Approach for the Recognition and Implementation of Indigenous Rights

- **Recognition of Rights and Self-Determination Discussions/Negotiations:**

- These collaborative forums are aimed at advancing self-determination through co-developing proposals that are responsive to the rights, needs, and interests of Indigenous groups.

- ***Recognition and Reconciliation of Rights Policy for Treaty Negotiations in British Columbia:***

- A co-developed policy that replaces the *Comprehensive Land Claims Policy* and *Inherent Right Policy* in the context of treaty negotiations in British Columbia.

- ***Canada's Collaborative Self-Government Fiscal Policy:***

- A co-developed policy that establishes a renewed and transparent funding model to better support the implementation of self-government agreements and treaties with self-government arrangements.





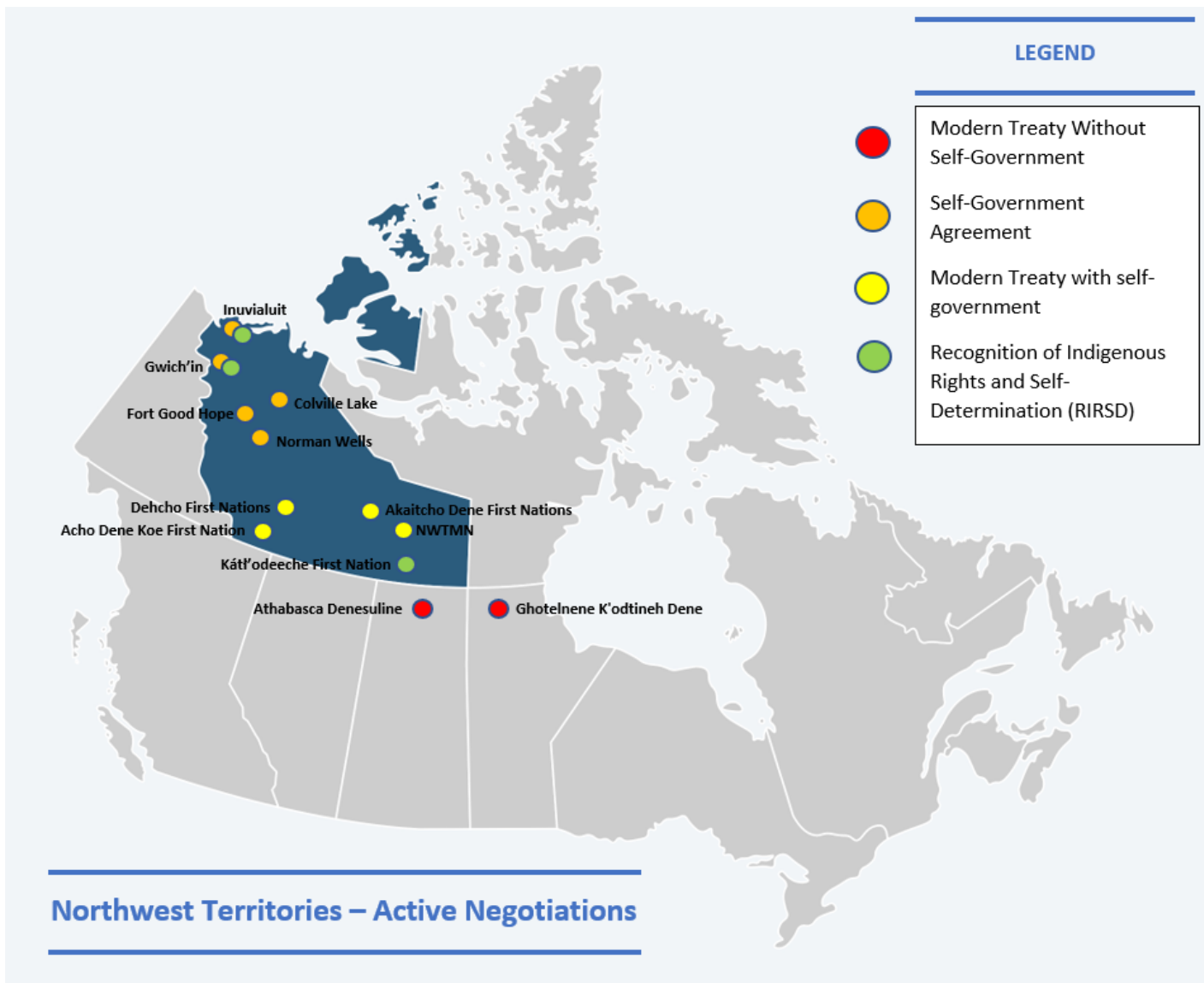
Changing Approaches: Recognition, Predictability and Evolution

- Negotiated agreements provide for the recognition and predictable implementation of pre-existing Indigenous rights.
- In 2019, Canada introduced a co-developed approach that:
 - Sets out the parties' intention to implement pre-existing rights through agreements in a predictable way and with sufficient flexibility to allow for evolution of agreements over time;
 - Commits Indigenous groups to only exercise pre-existing rights as set out in agreements now, or as agreement is amended in future;
 - No longer requires full and final settlement language, language stating rights are exhaustively enumerated, or have no legal force and effect;





NWT Negotiations





Conclusion

- In recent years, Canada has been moving beyond the parameters of the *Comprehensive Land Claims Policy* and the *Inherent Right Policy*.
- During this time, Canada has been engaging in interest-based discussions and ensuring that co-development is at the core of all negotiations and discussions with Indigenous groups.
- The co-developed *Recognition and Reconciliation of Rights Policy for Treaty Negotiations in British Columbia* and *Canada's Collaborative Self-Government Fiscal Policy* are steps toward reconciliation with Indigenous peoples.
- Canada will continue to work in partnership with Indigenous groups, and provincial and territorial governments towards the development of Agreements, laws, policies and practices that advance reconciliation and better support Indigenous peoples in their journeys towards thriving cultures, healthy peoples and empowered self-determination.





ANNEXES





Recognition of Rights Discussion/Negotiation Tables for Treaties, Agreements and Other Constructive Arrangements

- In recent years, Canada has been engaging in rights-based discussions with Indigenous groups through new tables focused on the **co-development** of proposals and **innovative** policy approaches that are more **responsive** to the needs and interests of Indigenous groups.
- These tables are:
 - Without prejudice
 - Premised on the recognition of section 35 rights
 - Open to a broad range of subject areas for discussion
 - Supportive of flexible approaches for reaching agreements
 - Alternatives to litigation
 - An opportunity to support greater self-determination.





Recognition and Reconciliation of Rights Policy For Treaty Negotiations in British Columbia

Overview:

- Co-developed by the First Nations Summit, the Government of British Columbia, and the Government of Canada.
- Replaces the *Comprehensive Land Claims Policy* and *Inherent Right Policy* for First Nations participating in the BC treaty negotiations framework.
- Marks an evolution in Crown-Indigenous policy development. Where there is interest, Canada is ready to discuss using the approaches found in the new policy with negotiation partners elsewhere in the country.

Key Features:

- Bases negotiations on the recognition and continuation of rights without modification, surrender or extinguishment.
- Includes measures to implement self-determination and jurisdiction, and the recognition and implementation of title using section 35 of the *Constitution Act, 1982* and the UN Declaration as foundations.
- Provides greater flexibility to implement recognition of rights-based agreements incrementally and to accommodate Nation building.
- Treaties, agreements and other constructive arrangements set out frameworks for reconciling Crown and Indigenous sovereignty, and can evolve over time.





Canada's Collaborative Self-Government Fiscal Policy

- From 2016-2019, Canada worked in collaboration with representatives of all 25 Self-Governing Indigenous Governments (SGIGs) to co-develop the new policy.
- In Budget 2018, Canada committed \$189M to SGIGs to support key priorities, including closing socio-economic gaps, infrastructure, data collection and governance.
- In 2019, Canada approved the co-developed policy and associated funding increases and renegotiated each of the 25 fiscal agreements with SGIGs to include increased funding for 'governance and administration'.
- The policy sets out a new fiscal model with key components including:
 - funding methodologies to address the expenditure needs of Indigenous governments;
 - measures to ensure SGIGs have sufficient fiscal resources; and,
 - investments to help Indigenous Governments work toward and achieve equity in social well-being, infrastructure and public housing.
- Work at the Collaborative Fiscal Policy Process continues on 'expenditure need' methodologies in the areas of: infrastructure, language revitalization, and lands & resource management.

