

information

Treaties With Aboriginal People in Canada

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The Government of Canada and the courts understand treaties between the Crown and Aboriginal people to be solemn agreements that set out promises, obligations and benefits for both parties.

Starting in 1701, in what was to eventually become Canada, the British Crown entered into solemn treaties to encourage peaceful relations between First Nations and non-Aboriginal people. Over the next several centuries, treaties were signed to define, among other things, the respective rights of Aboriginal people and governments to use and enjoy lands that Aboriginal people traditionally occupied.

Treaties include historic treaties made between 1701 and 1923 and modern-day treaties known as comprehensive land claim settlements.

Treaty rights already in existence in 1982 (the year the *Constitution Act* was passed), and those that arose afterwards, are recognized and affirmed by Canada's Constitution.

The Royal Proclamation of 1763 and the Pre-Confederation treaties

In the 18th Century, the French and British were competing for control of lands in North America. The two colonial powers formed strategic alliances with First Nations to help them advance their respective colonial interests in the continent. For example, in what are now New Brunswick and Nova Scotia, the British made a series of "Peace and Friendship" treaties with the Mi'kmaq and Maliseet tribes between 1725 and 1779.

By the early 1760s, the British had established themselves as the dominant colonial power in North America. The British Royal Proclamation of 1763 prohibited the purchase of First Nation lands by any party other than the Crown. The Crown could purchase land from a First Nation group that had agreed to the sale at a public meeting of the group.

Several treaties were signed after the Royal Proclamation and before Confederation in 1867. These include the Upper Canada Treaties (1764 to 1862) and the Vancouver Island Treaties (1850-1854). Under

these treaties, the First Nations surrendered interests in lands in areas of what are now Ontario and British Columbia, in exchange for certain other benefits, that could include reserves, annuities or other types of payment, and certain rights to hunt and fish.

Historic treaties after Confederation

Between 1871 and 1921, the Crown entered into treaties with various First Nations that enabled the Canadian government to actively pursue agriculture, settlement and resource development of the Canadian West and the North. Because they are numbered 1 to 11, the treaties are often referred to as the "Numbered Treaties." The Numbered Treaties cover Northern Ontario, Manitoba, Saskatchewan, Alberta, and portions of the Yukon, the Northwest Territories and British Columbia.

Under these treaties, the First Nations who occupied these territories ceded vast tracts of land to the Crown. In exchange, the treaties provided for such things as reserve lands and other benefits like agricultural equipment and livestock, annuities, ammunition, gratuities, clothing and certain rights to hunt



and fish. The Crown also made some promises regarding the maintenance of schools on reserves, or the provision of teachers or educational assistance to the First Nation parties to the treaties. Treaty No. 6 included the promise of a medicine chest.

Modern treaties — comprehensive claims

Comprehensive land claim settlements deal with areas of Canada where Aboriginal people's claims to Aboriginal rights have not been addressed by treaties, or other legal means. The first of these modern-day treaties was the *James Bay and Northern Quebec Agreement*, signed in 1975. To date, the federal government has settled 13 comprehensive claims with Aboriginal people in Canada.

Specific claims

In response to First Nations' frustration at having to take a number of claims-related matters to the courts, the federal government established the Specific Claims Policy. Under the policy, the federal government will look at claims that treaty obligations have not been fulfilled, among other matters.

The contemporary significance of treaties

In *Gathering Strength — Canada's Aboriginal Action Plan*, announced January 7, 1998, the Government of Canada affirmed that both historic and modern-day treaties will continue to be key elements in

the future relationship between Aboriginal people and the Crown. The federal government believes that the treaties, and the relationship they represent, can guide the way to a shared future. The continuing treaty relationship provides a context of mutual rights and responsibilities that will ensure Aboriginal and non-Aboriginal people can together enjoy Canada's benefits.

Exploratory discussions with First Nations

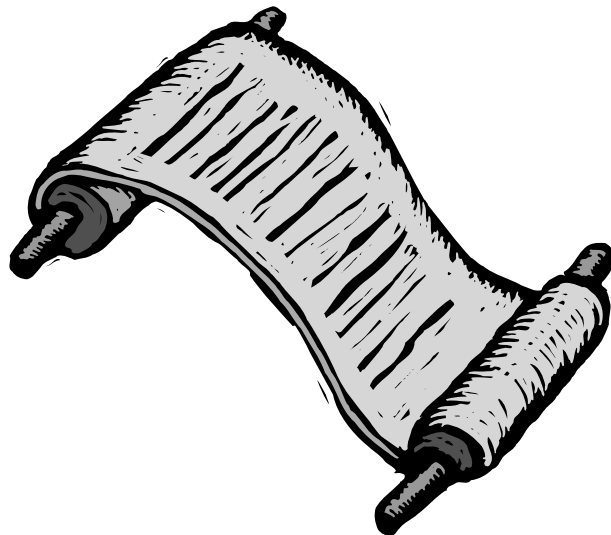
The federal government is seeking the views of groups of Treaty First Nations on how the historic treaties and treaty issues can be understood in contemporary terms. These discussions allow the parties to develop a common understanding of the issues and consider ways to move into a relationship oriented to the future. Since many important treaty provisions are of direct interest to them, provincial governments will also have an important role in this process.

Bridging to self-government

The Government of Canada is working in partnership with Treaty First Nations towards the implementation of self-government through negotiated agreements. These agreements will build on the relationship already established by their treaties.

The role of impartial commissions

Impartial commissions assist in discussions about treaties. In Saskatchewan, for example, the Office of the Treaty Commissioner facilitates these discussions. This Office was established in agreement with the federal government and Treaty First Nations in Saskatchewan, and with the support of the Saskatchewan government. The Indian Commission of Ontario, established by the agreement of First Nations Chiefs in Ontario, and the federal and provincial governments, facilitates discussion and resolution of issues pertaining to First Nations in Ontario.



DEFINITIONS

Aboriginal Peoples: The descendants of the original inhabitants of North America. The Canadian Constitution recognizes three groups of Aboriginal people — Indians, Métis people and Inuit. These are three separate peoples with unique heritages, languages, cultural practices and spiritual beliefs.

Aboriginal rights: Rights that some Aboriginal peoples of Canada hold as a result of their ancestors' longstanding use and occupancy of the land. The rights of certain Aboriginal peoples to hunt, trap, and fish on ancestral lands are examples of Aboriginal rights. Aboriginal rights will vary from group to group depending on the customs, practices and traditions that have formed part of their distinctive cultures.

Aboriginal self-government: Governments designed, established and administered by Aboriginal peoples.

First Nation: A term that came into common usage in the 1970s to replace the word "Indian," which many people found offensive. Although the term First Nation is widely used, no legal definition of it exists. Among its uses, the term "First Nations peoples" refers to the Indian people in Canada, both Status and Non-Status. Many Indian people have also adopted the term "First Nation" to replace the word "band" in the name of their community.

Land claims: In 1973, the federal government recognized two broad classes of claims — comprehensive and specific. **Comprehensive claims** are based on the recognition that there are continuing Aboriginal rights to lands and natural resources. These kinds of claims come up in those parts of Canada where Aboriginal title has not been previously dealt with by treaty and other means. The claims are called "comprehensive" because of their wide scope. They include

such things as land title, fishing and trapping rights and financial compensation. **Specific claims** deal with specific grievances that First Nations may have regarding the fulfilment of treaties. Specific claims also cover grievances relating to the administration of First Nations lands and assets under the *Indian Act*.

Reserve: Land set aside by the federal government for the use and occupancy of an Indian group or band.

Treaty First Nation: First Nation that signed a treaty with the Crown.

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