



NWT
Plain

Facts

*On Land and
Self-government*

Negotiations about land, resources and self-government in the NWT



Tessa Macintosh

In the Northwest Territories, the federal and territorial governments are negotiating land, resources and governance matters with a number of Aboriginal groups.

When the Government of Canada began negotiating these modern-day treaties in the 1970s, only land and resource management matters were addressed – thus the common name, “comprehensive land claims”. Then in 1995, Canada formally recognized that Aboriginal peoples have an inherent right of self-government. This made it possible for Aboriginal groups to begin negotiating self-government along with land claims and resolve matters as part of their “comprehensive land claims” or “modern treaty” processes. This is the most practical and effective way to achieve certainty and develop strong, workable intergovernmental relationships.

Why negotiate on land and resources?

In much of Canada, the relationship between Aboriginal people and the federal Crown was originally defined by numbered treaties. In the Northwest Territories, the Dene signed Treaties

8 and 11 in 1899 and 1921. The Inuvialuit were never offered a treaty, and Métis individuals who did not sign onto a Treaty were offered “script” payments.

From the Government of Canada’s perspective, Treaties were intended to open land for settlement and Crown use by exchanging all rights over land for reserves, harvesting rights, and other benefits. Many Aboriginal people do not agree with this interpretation and see the Treaties as peace and friendship agreements between sovereign nations. In addition, because of the unique and isolated circumstances of the NWT, the reserves were never established and the Treaty relationship remained unfulfilled.

The Government of Canada's Comprehensive Claims Policy was introduced in August 1973. It was reaffirmed and expanded in 1986. In the NWT, rather than focusing on different interpretations of Treaties and, particularly, pursuing those interpretations in court, the Government of Canada decided to resolve outstanding land issues through comprehensive land claim negotiations in the mid-1970s.

The aim of the federal government's Comprehensive Claims Policy is to exchange undefined Aboriginal rights for clearly defined rights and benefits set out in a settlement agreement.

Why negotiate self-government?

The concept of Aboriginal self-government is not new. Aboriginal peoples in Canada have long expressed their aspiration to be self-governing, to chart the future of their communities, and to make their own decisions about matters related to the preservation and development of their distinctive cultures. Aboriginal peoples also maintain that they have an inherent right of Aboriginal self-government, a right which they believe should be recognized by all Canadians.

The Government of Canada recognizes the inherent right of self-government as an existing right within section 35 of the Constitution Act, 1982. It has developed an approach to implementation that focuses on reaching practical and workable agreements on how self-government will be exercised, rather than trying to define it in abstract terms. The Government believes that this approach is flexible and will allow all interested parties to make meaningful progress in the realization of Aboriginal self-government.

-from the Inherent Right of Self-Government Policy

There is No "One-Size-Fits-All" Form of Self-Government

The Government of Canada negotiates self-government agreements to address the unique needs of Aboriginal peoples, that respond to their historical, social, cultural, political, and economic circumstances.

The following principles help guide the self-government negotiation process:

- Self-government is an inherent right recognized in the Canadian Constitution;
- Self-government will be exercised within the Canadian Constitution;
- The Canadian Charter of Rights and Freedoms applies to Aboriginal governments just as it does to all governments in Canada;
- Where all parties agree, rights in self-government agreements may be protected in law as new treaties, as additions to existing treaties, or as part of comprehensive land claim agreements;
- Federal, territorial and Aboriginal laws must work in harmony;
- The interests of all Canadians will be taken into account as agreements are negotiated.

How negotiations work

Land and self-government negotiations in the NWT usually involve three groups, often referred to as "parties": the Government of Canada, the Government of the Northwest Territories, and one or more Aboriginal groups. Each negotiation is unique and reflects the needs and processes of the parties at the negotiation table. However, most negotiations involve a series of distinct steps.

Submission of claim: The Aboriginal group prepares a description of its land claim that identifies the general geographic area of its traditional territory.

Acceptance of claim: The Government of Canada reviews the claim and informs the Aboriginal group whether or not it is prepared to open negotiations. If the answer is no, reasons are provided in writing. If the answer is yes, the process proceeds to the next step.

Framework Agreement: This is the first stage of negotiation when the parties agree on what issues will be discussed and how they will be discussed. They also agree on time lines for reaching an Agreement-in- Principle.

Interim Measures Agreement: The parties may agree to temporary measures that will apply in the territory that is subject to land and resource negotiations while the negotiations are taking place. These measures can include interim land withdrawals, pre-screening processes for land, water and resource management decisions, and other measures.

Agreement-in-Principle: In this stage, the parties negotiate the issues set out in the Framework Agreement. Reaching an Agreement-in-Principle (commonly called an 'AIP') often takes longer than any other stage in the negotiation process. The AIP should contain all the major elements of the Final Agreement.

Final Agreement: A Final Agreement is the outcome of successful land claim and/or self-government negotiations. It details agreements reached between the Aboriginal group, the Government of Canada and the Government of the Northwest Territories on all issues at hand, which may include land ownership, management of resources, financial benefits and self-government. A Final Agreement must be ratified by all parties. The Government of Canada ratifies a Final Agreement

What's the difference between a comprehensive claim and Treaty Land Entitlement?

Most groups in the NWT have entered into comprehensive claim negotiations which include land, resources, and self-government. However, when a Treaty First Nation has not received reserve land promised under a Treaty, it can choose to negotiate a Treaty Land Entitlement and establish a reserve.

by a vote of Parliament, the Government of the Northwest Territories ratifies it by a vote in the Legislative Assembly, and the Aboriginal group ratifies by a vote of its membership.

Implementation: A process is put in place to ensure that the actions set out in the Final Agreement are carried out in a well-thought-out, orderly and practical way. Together, the parties prepare an implementation plan which will guide this process. The implementation plan is usually monitored and managed by a committee where all three parties to the agreement are represented.

What gets negotiated?

The negotiation of a modern-day treaty is a long and complex process. When they sit down at the negotiation table, the parties work on finding answers to questions like:

- What rights to lands and resources will the Aboriginal group exercise and what will their duties be?
- What rights and duties will the federal and territorial governments have?
- What rights and duties will other Canadians have on land the Aboriginal groups own?
- How will lands and resources be managed, and by whom?
- How will self-governments be structured?
- What self-government powers will the Aboriginal groups have and how will this work together with other governments?

Land and resource negotiations are important for Aboriginal peoples to achieve economic growth and self-sufficiency. The agreements that are negotiated define a wide range of rights and benefits, including:

- land ownership;
- hunting and fishing rights;
- guaranteed participation in land, water, wildlife, and environmental management;
- financial benefits;
- a share of resource revenue;
- measures to stimulate economic development; and
- a role in the management of heritage resources and parks.

Self-government negotiations deal with other issues, such as:

- the legal status and powers of the Aboriginal government;
- the structure and operation of aboriginal government and public government;
- the working relationship between different levels of government and their jurisdictions;
- responsibility for key programs and services; and
- management of natural resources.

Self-government agreements can include arrangements related to a wide variety of government powers. It is up to the parties to decide what jurisdictions they will negotiate, but some examples are:

- wildlife harvesting and management
- environmental matters
- education and training
- social services
- health
- housing
- language, culture and heritage resources
- enforcement and adjudication of the laws of Aboriginal governments
- taxation
- resource revenues
- transportation
- public works



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Métis in the NWT

Canada has addressed Métis issues in the NWT differently than in the rest of the country. Many communities in the NWT have highly mixed and interrelated populations where First Nations and Métis people live together, so the Government of Canada wishes to address their concerns collectively.

Joint negotiations with the Dene and Métis of the entire Mackenzie Valley began in 1981. An agreement was never ratified however, and the negotiations ended. Following the cessation of that effort, Canada and regional Dene and Métis groups began to negotiate an agreement.

The Gwich'in land claim was settled in 1992, followed by the Sahtu land claim in 1994. The Tlicho in the North Slave region signed their agreement in 2003. In the South Slave region, the Akaitcho Dene decided to pursue a Treaty Land Entitlement process, instead of a comprehensive claim. Since the Métis are not a part of the Treaty, they could not participate in the Akaitcho Dene process.

As a result, in 1996, Canada, the Government of the Northwest Territories, the South Slave Métis Tribal Council (now the Northwest Territory Métis Nation) signed a Framework Agreement to begin negotiations on land and resource matters, which negotiations are still progressing.

What are the benefits to all Northerners?

Concluding land, resource and self-government agreements will create a more stable and predictable society and economy for the Northwest Territories.

Clarifying Aboriginal rights related to land and resources will have a positive impact on economic development decisions in the Northwest Territories.

Businesses prefer to invest where the future is certain. Once agreements are in place and Aboriginal rights are clarified, there will be a lot more certainty in terms of governmental roles and responsibilities. Businesses and investors will know exactly what structures, processes and conditions apply.

Aboriginal people will be better able to make positive changes in their communities.

Many Aboriginal people in Canada live in conditions far below the standards of most other Canadians, but they don't always have the ability to deal with the social, economic, and health issues they face. Self-government agreements will put control of programs and economic development back in the hands of community members.



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Q: Since the many communities in the NWT have mixed populations, it would not be practical to have two sets of programs and services in one community. How does the negotiation of Aboriginal self-government agreements fit within the diverse population mix of residents in the NWT?

A: *Negotiations are exploring different ways for Aboriginal self-government to fit with a government that represents the needs of all residents. This kind of government is often called a “public government”. To achieve this balance, specific guarantees can be created during negotiations to ensure Aboriginal representation in public governments, or by creating Aboriginal institutions to exercise authority specific to Aboriginal matters.*

Q: What happens to historical Treaties, like Treaty 8 or Treaty 11, when comprehensive land claims or self-government are negotiated?

A: *The Government of Canada does not propose to re-open, change, or displace existing Treaties through land claims and the negotiation of self-government agreements. These agreements are modern treaties which are designed to complement and build upon the relationship which was established by historical treaties.*

Third-party consultations

The Government of Canada recognizes that land and self-government negotiations have implications for other Canadians as well.

In order to reach fair and lasting land, resource and self-government agreements, negotiations are complemented by third-party consultations. Through these consultations, the concerns and interests of all parties can be heard and addressed. Consultations

can also help build relationships between Aboriginal groups and other residents in their communities.

By contributing to a balanced final settlement, third-party consultation helps to ensure that agreements have positive social and economic outcomes for Aboriginal people and all residents of the Northwest Territories.

Agreements in the NWT

Three comprehensive land claims have been settled in the NWT:

- Inuvialuit Final Agreement (signed June 1984, effective July 1984)
- Gwich'in Comprehensive Land Claim Agreement (signed April 1992, effective December 1992)
- Sahtu Dene & Métis Comprehensive Land Claim (signed September 1993, effective June 1994)

One combined comprehensive land claim and self-government agreement has been completed:

- Tlicho Agreement with the four "Dogrib Treaty 11" communities (signed August 25 2003, effective August 2005)

Two Treaty Land Entitlement Processes (specific claim) have been completed:

- Salt River First Nation Treaty Settlement Agreement (June 2002)
- Hay River Reserve Establishment (1974)

A number of other land, resource and self-government negotiations are still being negotiated:

1. Akaitcho Treaty 8 Land, Resources, and Self-Government Negotiations
2. Inuvialuit Self-Government Negotiations
3. Gwich'in Self-Government Negotiations
4. Deh Cho Process (land, resources and governance negotiations)
5. Déline Community Self-Government Negotiations
6. Northwest Territory Métis Nation Process (land and resources negotiations, with self-government negotiations as a second stage)
7. Tulita Yamoria Community Secretariat Self-Government Negotiations
8. Norman Wells Self-Government Negotiations
9. Fort Good Hope and Colville Lake's respective requests to begin negotiations have been made

Want to find out more?

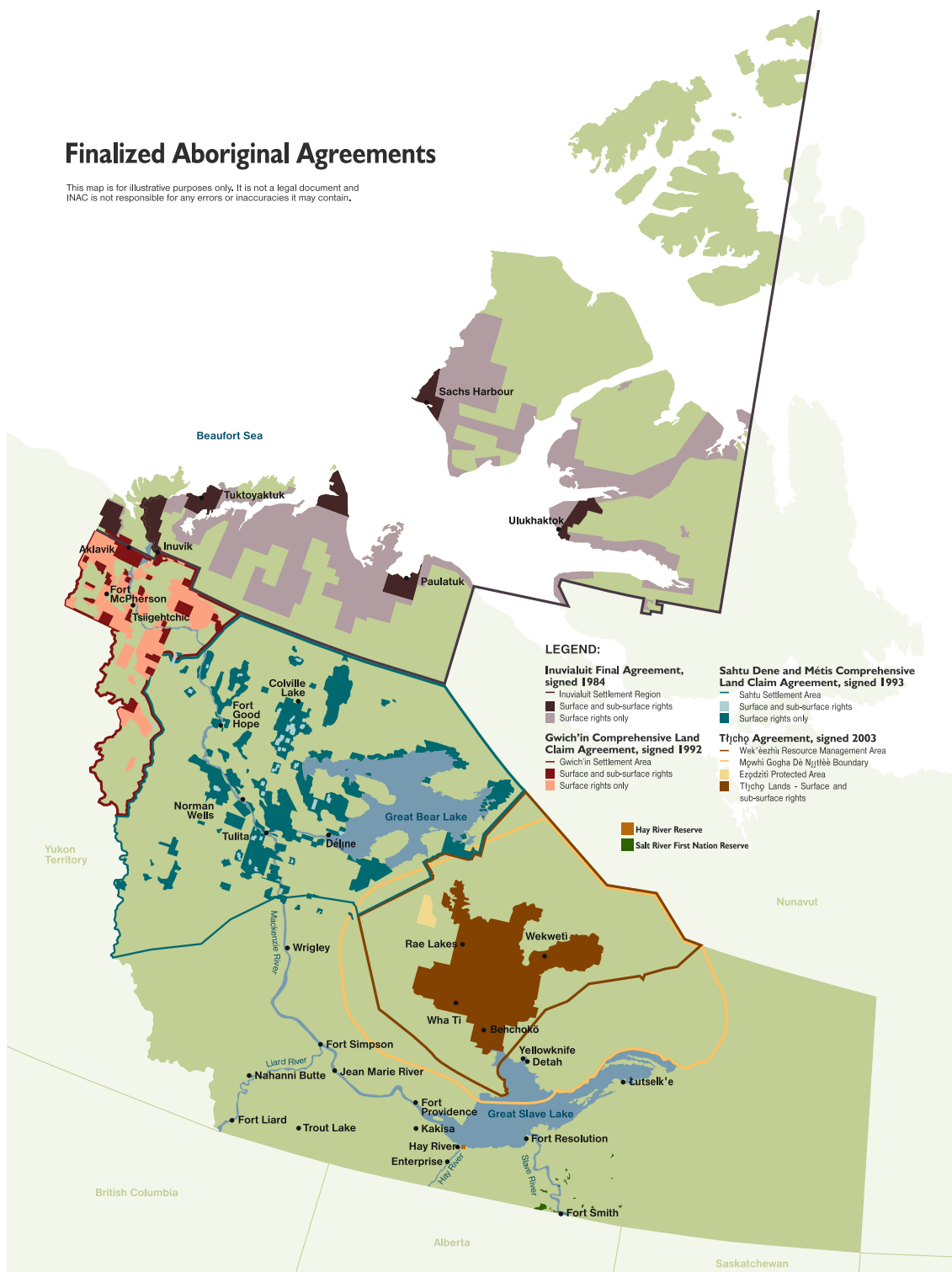
There is much more information available about land, resource and self-government negotiations in Canada and the Northwest Territories, including specific material on individual agreements and negotiations. Information is also available on other topics, such as the Treaties and the inherent right of self government.

Here are some resources you can check out:

1. Akaitcho Treaty 8 Land, Resources and Self-Government Negotiations
2. Deh Cho Process
3. Déline Community Self-Government Negotiations
4. Gwich'in Comprehensive Land Claim and Self-Government Negotiations
5. Inuvialuit Final Agreement and Self-Government Negotiations
6. Northwest Territory Métis Nation Land and Resources Negotiations
7. Sahtu Dene & Metis Comprehensive Land Claim Agreement
8. Tlicho Agreement (Dogrib Comprehensive Land Claim and Self-government)

Finalized Aboriginal Agreements

This map is for illustrative purposes only. It is not a legal document and INAC is not responsible for any errors or inaccuracies it may contain.



For more information:

For more Plain Facts on land and self-government in the NWT, visit the website at www.ainc-inac.gc.ca/nt/pt

For general information on INAC policies, programs and services, visit the department's website at www.ainc-inac.gc.ca

To read about the Inherent Right of Self-Government, please visit www.ainc-inac.gc.ca/pr/pub/sg/plcy_e.html#Intro

Plain Facts on Land and Self-government is produced by Indian and Northern Affairs Canada in the NWT to help northerners understand these concepts, how they work, and what they mean in our day-to-day lives. It is not a legal document.

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