



Joint Presentation

Renewed Relationship between the Mohawks of Kahnawake and the Government of Canada



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

Introduction

- ' **A renewed relationship between the Mohawks of Kahnawake and Canada is needed:**
 - < **Mohawks have a long history of governing themselves**
 - < **The *Indian Act* passed in 1876 has imposed a band council system**
- ' **The draft Umbrella Agreement sets the framework for this new relationship.**
- ' **The draft Sub-Agreements describe Kahnawake jurisdiction over:**
 - < **Education, Mohawk Language and Culture**
 - < **Kahnawake Membership**
 - < **Kahnawake Lands**
 - < **Policing Aspects of the Administration of Justice**

The Context

- ' **Turning-Point: 1988 police intervention in Kahnawake**
 - < **Kahnawake community gave the mandate to the Mohawk Council of Kahnawake to negotiate a new relationship**
- ' **Signature of an agreement on a negotiation process in 1991**
- ' **Canada's policy on self-government changed:**
 - < **1995: recognition of Aboriginal peoples' inherent right to self-government within section 35 of the *Constitution Act***
- ' **Royal Commission on Aboriginal Peoples (RCAP)**
 - < **1996: tabling of the Royal Commission's Report**
 - < **Need to transform the relationship between Aboriginal peoples and Canada to one of co-operation and growing successes**
- ' **Gathering Strength:**
 - < **1998: Canada's response to the Royal Commission, a commitment to renewal and reconciliation**

The Context (Cont'd)

- ' Kahnawake is managing its own affairs and has established a number of institutions including:**
 - < Education System**
 - < Hospital**
 - < Cultural and Mohawk Language Instruction Centre**
 - < Economic Development Commission**
 - < Social institutions**
 - < Caisse Populaire**
- ' Agreements between Kahnawake and Quebec in 1999**

Draft Umbrella Agreement

Key Elements

- ' Provides framework for renewed relationship based on trust and mutual respect**
- ' Forms the basis for legislation entitled *Canada-Kahnawake Intergovernmental Relations Act*, which establishes a process to gradually replace the application of the *Indian Act* on Kahnawake Territory**
- ' Makes provisions for a Kahnawake Charter, based on Mohawk customs and traditions, which will establish rules governing the Mohawk Government of Kahnawake in areas such as:**
 - < democratic form of governance**
 - < law-making process**
 - < leadership selection**
 - < accountability**
 - < conflict of interest rules**
 - < rights of appeal and redress**

Draft Umbrella Agreement

Key Elements (Cont'd)

- ' Lists 27 areas of jurisdiction and/or authority set out in Sub-Agreements to be negotiated over the next 5 years**
 - < Within these areas of jurisdiction, Kahnawake will make laws and Canada will have no role in approving these laws.**
- ' Establishes processes that will give effect to Sub-Agreements**
- ' The draft Umbrella Agreement also covers:**
 - < Relationship of laws**
 - < Establishment of a Canada/Kahnawake Commission**
 - < Dispute resolution mechanisms**
 - < Basic protections for individual and collective rights**
 - < Interim provisions for administration of justice**
 - < Continuation of the fiduciary relationship**
 - < Financial relationship between Canada and Kahnawake (government-to-government relationship)**

Sub-Agreements

Key Elements

- ' A Sub-Agreement covers:**
 - < Description of the jurisdiction and/or authority to be exercised by Kahnawake**
 - < Specific rules for resolving conflicts between laws**
 - < Identification of those *Indian Act* provisions that will no longer apply**
 - < Ratification procedures**
- ' Four draft Sub-Agreements have been negotiated to date**

Draft Sub-Agreement

Education, Mohawk Language and Culture

- ' Kahnawake has jurisdiction within its Territory:
 - < Primary, secondary and special education, including the continuing ability of students to transfer between education systems**
 - < Administration of post-secondary support funding**
 - < Preservation, enhancement and promotion of Mohawk language and culture****
- ' Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to education, Mohawk language and culture**
- ' In the event of a conflict, Kahnawake laws in relation to education will prevail over federal laws in relation to First Nations Education.**
- ' In the event of a conflict, Kahnawake laws in relation to Mohawk language and culture will prevail over federal laws in relation to First Nation languages and culture.**
- ' The provisions of the *Indian Act* dealing with this sub-agreement will no longer apply to Kahnawake.**

Draft Sub-Agreement

Membership

- ' Mohawk Government of Kahnawake has jurisdiction on membership.**
- ' Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to membership**
- ' In the event of a conflict, Kahnawake laws in relation to membership will prevail over federal laws in relation to First Nation membership.**
- ' Any person entitled to be registered as an Indian under the *Indian Act* will continue to be registered by the Registrar of the Department of Indian Affairs and Northern Development.**
- ' The provisions of the *Indian Act* dealing with membership will no longer apply to Kahnawake.**

Draft Sub-Agreement

Lands

- ' **Mohawk Government of Kahnawake has jurisdiction over its lands including:**
 - < **Development**
 - < **Management**
 - < **Use**
 - < **Possession**
- ' **Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to lands**
- ' **In the event of a conflict, Kahnawake laws in relation to lands will prevail over federal laws in relation to lands reserved for or under the control of a First Nation community.**
- ' **The provisions of the *Indian Act* dealing with this sub-agreement will no longer apply to Kahnawake.**

Draft Sub-Agreement

Policing Aspects of the Administration of Justice

- ' Kahnawake has jurisdiction over the administration of police on its Territory including:
 - < Establishment or maintenance of a police force**
 - < Recruitment, appointment and swearing-in of members of the police force**
 - < Establishment of mechanisms for independence, accountability and management of the police force****
- ' Maintains existing agreements and protocols between Kahnawake, Canada and Quebec, and promotes mutual assistance between police forces**
- ' Dispute mechanism as specified in the Umbrella Agreement**

Next Steps

- ' Kahnawake:**
 - < Consultation on draft agreements**
 - < Negotiation of final agreements**
 - < Ratification of final agreements**
- ' Canada:**
 - < Report to Cabinet on the consultation results**
 - < Negotiation of final agreements**
 - < Cabinet approval and passage of legislation by Parliament**
- ' Negotiations of sub-agreements on remaining 23 subject matters**

The Benefits

- ' The draft agreements represent a major milestone in the relationship between Kahnawake and Canada**
 - < Recognition of essential powers required by the Mohawk Government of Kahnawake for the 21st century**
- ' For Kahnawake:**
 - < Build on existing foundation of governance**
 - < Framework for additional governance powers**
 - < Control over its own affairs**
- ' For Canada:**
 - < Renew the relationship with Kahnawake through negotiations**
 - < Strengthen self-sufficiency and governance for the Mohawks of Kahnawake**
 - < Create a positive environment for Kahnawake with direct benefits for the region**