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YUKON INDIAN LAND CLAIM

GENERAL GUIDE TO AN AGREEMENT IN PRINCIPLE

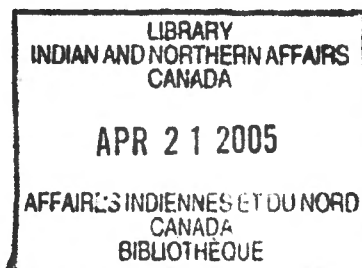
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GENERAL GUIDE TO AN AGREEMENT IN PRINCIPLE



Note:

This guide is intended as a general guide to an Agreement in Principle, and in no way supersedes the Agreement itself. For a precise understanding of the Agreement, please obtain an official copy when available.

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Hon. John C. Munro, P.C., M.P.,
Minister of Indian Affairs
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MESSAGE FROM THE MINISTER

Negotiations to settle the Yukon Indian Land Claim have been directed toward a single overriding objective: to establish a one-government system — a cooperative system — in which Yukon Indians, as beneficiaries, can function as full partners in Yukon institutions and society.

Under the one-government system, Yukon Indian claim beneficiaries will be able to participate as full partners in Yukon society rather than, for example, to operate separately under the more familiar traditional reserve system.

As full partners, Yukon Indian claim beneficiaries will join with other Yukoners in participating in areas of common interest, ranging from government and justice to the administration of community and municipal services. And yet, to preserve their distinctive culture and heritage, beneficiaries will exercise control over certain areas of responsibility that are of primary concern to them alone, such as the management of their settlement lands, the use of funds received through settlement, and the allocation of hunting quotas to their members.

This Agreement in Principle is, in essence, a covenant between the Indian people of Yukon and all Canadians. The agreement was drafted in face-to-face negotiations involving the Government of Canada, the Government of Yukon, and the Council for Yukon Indians representing status and non-status Indians in Yukon.

Tailored to the specific needs and express wishes of Yukon Indians, and adjusted to respect the concerns of others, this agreement will constitute a foundation for a society based on fairness and mutual respect among Yukoners.

This guide provides an overview of the some 30 sub-agreements signed by all three parties prior to the suspension of tripartite negotiations. Because these sub-agreements would form the nucleus of an Agreement in Principle based on a one-government system, this guide is being distributed to interested publics.

The Hon. John C. Munro, P.C., M.P.,
Minister of Indian Affairs and
Northern Development

INTRODUCTION

The Agreement in Principle can be divided into five main elements: lands, wildlife harvesting and management, local government, programs, and financial compensation.

Although each element is described separately, each is closely linked with the others. For example, there are obvious connections between wildlife harvesting and access to land, and between ownership of municipal lands and the involvement of beneficiaries in local government. Clearly, too, financial compensation reflects basic decisions about which government-funded programs will continue and which will be taken over by Yukon Indian beneficiaries.

Eligibility: Who Is a Yukon Indian Claim Beneficiary?

To receive benefits under the Yukon Indian Land Claim settlement, a person must:

1. be a Canadian citizen of native descent from within Yukon;
2. be at least one-quarter Indian;
3. have been a resident of Yukon before January 1, 1940;
- or
4. be a descendant or adopted child of a qualified beneficiary (as defined in 2. or 3.).

There will be, too, a process whereby other people may become beneficiaries. For example, anyone who does not reside in Yukon, but who would otherwise qualify as a beneficiary, may request to be listed as a beneficiary. In each community a credentials committee will be authorized to nominate individuals, and an Enrolment Commission and Appeals Board will be established to determine final acceptance. Each credentials committee will consist of two Yukon Indian beneficiaries from the community, plus two representatives from the Government of Yukon.

LAND

Selection

In each of the twelve Indian communities in Yukon, land has been or will be selected in accordance with five principles:

- preserve and enhance the culture of Yukon Indians;
- protect lands of historical and spiritual importance;
- satisfy particular occupancy requirements;
- preserve the land's capacity to support wildlife; and
- enable Yukon Indian economic development.

In the selection process, extreme care was taken to protect the interests of third parties who hold lands in Yukon.

Conditions of Ownership

Essentially, the lands to be owned by Yukon Indian claim beneficiaries carry rights and responsibilities similar to those applying to private land owned by other Canadian citizens. In other words, these lands will not be reserve lands; they will be privately owned by beneficiaries.

- Land will be owned in “fee simple”, which means that beneficiaries will have surface title to their lands, as do other Canadian landowners. The main difference is that these lands will be held collectively — by band councils rather than by individuals.
- A responsibility of any homeowner is the payment of property taxes, and this will apply to beneficiaries. However, to help beneficiaries to assume this responsibility gradually, the federal government will assist bands in the payment of property taxes for a 10-year period; taxes will be paid entirely by the federal government in the first year, while bands will assume total responsibility in the eleventh year.

There are other rights and conditions:

- Settlement lands may be expropriated for public use. The exact terms and conditions governing this procedure will be defined in the Final Agreement.
- Settlement lands will be subject to the easements and rights-of-way identified in the Agreement in Principle. This is a normal requirement. For example, most property owners are familiar with the easements required to allow an electrical power line to pass over private land.

- As is true for other Canadians, beneficiaries will not own the bed of any body of water unless their land completely surrounds the water. Nor can they own the water itself, which remains with the Crown.
- To protect the interests of non-beneficiaries, and the public good in general, certain types of access to and across Yukon Indian settlement lands will be guaranteed. The federal government will have access in order to carry out public duties, for example. Trapping rights and mining claims already registered at the time of the Agreement in Principle will continue. And professional outfitters must be able to cross selected lands where such access is necessary to reach registered guiding areas.

Ownership of private land is a fundamental aspect of the Yukon Indian Land Claim. But beneficiaries also have a vital interest in Crown land, as do all Canadians. The Agreement in Principle guarantees a place for Yukon Indians on various boards and committees that will assist and advise the federal government on the best use of Crown land. These boards and committees will be established within one year from the date the Final Agreement is signed.

WILDLIFE

Wildlife harvesting and management relates directly to the traditional activities of hunting, trapping and fishing by Yukon Indians. In laying the groundwork for a partnership between Yukon Indian beneficiaries and other Yukoners, the Agreement in Principle calls for certain changes in these activities.

In becoming beneficiaries, many Yukon Indians will be giving up unlimited hunting, fishing and trapping rights. In exchange, the Agreement in Principle specifies certain measures to guarantee that beneficiaries will be able to participate effectively and decisively in the management of these activities. In addition, a quota system, under which a share of Yukon wildlife is guaranteed to beneficiaries, will ensure that these traditional activities continue to be a vital part of Yukon Indian lifestyle and culture.

Hunting

The quota system, outlined in the Agreement in Principle, will operate on the basis of two fundamental decisions to be made each year. First, it must be decided how many moose, caribou, bears, sheep, goats, and other types of animal may be killed during the year without endangering their long-term survival. Second, once this over-all quota for each type of animal has been established, it must be decided what share of each animal quota will be allocated to beneficiaries and to other Yukoners.

A Wildlife Management Board, comprised equally of representatives of beneficiaries and the Yukon government, will advise the Government of Yukon on these and all other matters relating to the protection and management of wildlife.

The allocation of animal quotas between beneficiaries and others will generally reflect the population ratio that year. For example, if Yukon Indians comprised 25 per cent of the Yukon population, and the total allowable "kill" of goats or bears for that year were established at 100, then Yukon Indian beneficiaries would be able to kill 25 goats. The exception to this rule is that beneficiaries are guaranteed a minimum kill of caribou and moose.

Once the Wildlife Management Board has allocated hunting quotas for each type of animal, Yukon Indian beneficiaries will distribute hunting opportunities among themselves, while the Government of Yukon will assign hunting licences to other Yukoners.

In addition, the Agreement in Principle specifies a number of hunting rights for Yukon Indian claim beneficiaries:

- the right to hunt on certain Crown lands;
- an extended hunting season for moose and caribou, to be established each year by the Yukon government on the recommendation of the Wildlife Management Board; and
- for those who have hunted on lands subsequently incorporated into a national park, the right to have preferential access to game in that park.

Except as specified in the Agreement in Principle, territorial and federal hunting laws will apply to all Yukoners, beneficiaries and non-beneficiaries alike.

Trapping

The Agreement in Principle ensures that the interests of current trappers will be protected. Traplines belonging to Yukon Indians currently comprise approximately 70 per cent of all traplines in Yukon, and beneficiaries may continue to trap at this level in future should they choose to do so.

Allowance is made for all trappers to transfer traplines within families or to eligible assistant trappers without offering the traplines for sale or lease.

The Government of Yukon will continue to be responsible for all aspects of managing fur resources in Yukon: qualifications to trap; methods of trapping; selection of areas suitable for trapping; and the seasons in which trapping is permitted. However, the Yukon government will establish an acceptable, formal procedure for consulting with Yukon Indian trappers, to ensure that they have an effective influence in management decisions on trapping.

Fishing

In becoming claim beneficiaries, many Yukon Indian people will be exchanging fishing rights currently enjoyed for guaranteed rights under a quota system. Specific measures will ensure that beneficiaries may effectively participate in the planning and development of Yukon's fishing industry.

Under the quota system, a central Indian organization will be formed to collaborate with the Government of Yukon in establishing each year an allowable catch of fish in each river system. These annual quotas will be based on good environmental practices. Fishing quotas for each river system will be allocated between beneficiaries and other Yukoners based on the share of fish caught by each group in that river system.

In addition, Yukon Indian beneficiaries will be guaranteed exclusive fishing rights at certain traditional and other specified sites. All sites will be identified in the Final Agreement. The selection of sites will be based on fishing activities prevailing in 1979 and 1980.

The Agreement in Principle establishes the principle that fishing for food and for sport takes precedence over commercial fishing. Where fishing stocks are large enough to permit commercial fishing, however, a quota system will ensure that beneficiaries receive a share of commercial fishing licences based on the population ratio. For example, if beneficiaries comprise 25 per cent of Yukon's population, then 25 per cent of commercial fishing licences will be offered first to beneficiaries.

Except as specified in the Agreement in Principle, general fishing laws apply to all Yukoners.

LOCAL GOVERNMENT

While it is true that Yukon Indians already participate in government at the territorial level, it is clear that participation in community government will become increasingly important, particularly since communities will be largely responsible for their own planning processes.

Participation in local government generally means participation in the design and delivery of community services and programs. Involvement in local government may be explained, in general terms, according to three broad categories of concern.

The first category includes concerns that are common to everyone living in a community. These include utilities, planning and roads, and taxation. Yukon Indian beneficiaries may deal with these concerns by means of municipal government structures available to every Yukoner.

The second category involves common or community concerns that are of "special interest" to Yukon Indian beneficiaries, such as education, justice, and health. "Special interest" does not mean that beneficiaries are more concerned about these items than other Yukoners, but only that beneficiaries have unique needs that can only be satisfied if the programs are specially designed. Therefore, particular measures have been included in the Agreement in Principle to ensure that Yukon Indian beneficiaries are effectively involved in these areas (see also **Programs**).

The third category includes concerns of exclusive interest to Yukon Indian beneficiaries. A short list includes administering housing on their own lands, allocating traplines to beneficiaries, allocating hunting quotas and fishing licences to band members, allocating land to band members, and so on. Exclusive control over these concerns by beneficiaries will be coordinated by a central Indian organization.

Consistent with the "full partners" approach to the land claim settlement, these measures will enable Yukon Indian beneficiaries to participate effectively in local government while exercising complete control over exclusively Indian concerns.

PROGRAMS

Every Canadian benefits each day from government programs that cover a gamut of needs ranging from education and health care to housing. The Agreement in Principle ensures that Yukon Indian claim beneficiaries will be effectively served by the same programs that are extended to all Yukoners. The traditional and more familiar option of a separate set of programs for Indians on reserves was rejected by all parties to the Yukon Indian Land Claim negotiations.

Yukon Indian beneficiaries may wish to establish certain programs exclusively for themselves, in which case such programs will be administered solely by Yukon Indians, and largely paid for out of settlement funds.

Programs are organized in the Agreement in Principle into five categories: housing, municipal services, education, health and social services, and justice.

Housing

For a 10-year period after the enactment of settlement legislation, a committee will be established to improve housing for Yukon Indian beneficiaries. With funds provided jointly by beneficiaries and the federal government, existing houses may be renovated or repaired and new houses built.

The membership of the housing committee will ensure that Yukon Indian claim beneficiaries have primary control over renovation and construction of their own housing. Of the five members on the committee, three will be beneficiaries, one will represent the Government of Yukon, and one will represent the Government of Canada.

Municipal Services

Municipal services on proposed settlement lands need to be upgraded in many cases. To improve amenities such as roads, water, sewage, and electrical power to a uniform standard, a committee will be established for a 10-year period. The committee will consist of five members: three beneficiaries, one representative of the Government of Canada, and one representative of the Government of Yukon.

The cost of improving services on settlement lands will be financed jointly from claim settlement funds and from monies earmarked for this

purpose by the federal government. At the same time, these services will be integrated, where possible, with existing services in each community to avoid duplication.

Education

Education has a profound influence on the cultural identity, traditional beliefs, and basic values of any society. The Agreement in Principle therefore ensures that Yukon Indian beneficiaries will be able to influence all levels of education, including the design of courses of study.

For a period of 25 years, Yukon Indian claim beneficiaries will be guaranteed representation on a Yukon education council and on school committees in each community. Representation will depend on population. If, for example, beneficiaries make up 25 per cent of the Yukon population, then 25 per cent of the members on the Yukon Education Council will be beneficiary representatives. If beneficiaries make up half the population of a community, then beneficiaries will make up half the representation on the school committee for that community.

The costs of education for all Yukoners will continue to be the responsibility of the Government of Yukon. However, beneficiaries will be financially responsible for a number of special educational projects designed to meet their specific cultural and educational needs.

One special project will be the Yukon Indian Education Centre, which will develop institutional materials such as school books and teachers' guides for use in Yukon classrooms.

Band Education Authorities will develop special educational programs geared to beneficiaries, and will collaborate with the Yukon government to introduce these courses into Yukon classrooms. Yukon students would thus benefit from a unique curriculum designed jointly by Indians and non-Indians.

Health and Social Services

Yukon Indian claim beneficiaries will benefit from the same health and social services that are offered to all Yukoners. A Health and Social Services Board will be established for a 25-year period to oversee the delivery of these services. This Board will report directly to the Yukon government. At least 33 per cent of the members of the Board, and in any event not less than two members, will be nominated by beneficiaries.

Where a band wishes to establish other health and social services programs, the costs would be paid out of the financial portion of the land claims settlement.

Justice

To assist Yukon Indian claim beneficiaries to function as full partners in Yukon society, the Yukon's Justice System will undergo some changes. First, beneficiaries will become more actively involved in the administration of justice. Second, the cultural values and beliefs of Yukon Indians will be taken into account in the administration of justice, particularly in court. Finally, a mechanism will be established to resolve disputes between beneficiaries arising out of the Final Agreement.

These objectives will be met when a Yukon Community Courts System replaces the existing "Justice of the Peace" system, within one year of settlement legislation. Under the new system, judicial districts will be created to correspond generally to existing communities. For example, one judicial district will serve Haines Junction, another judicial district will serve Old Crow, and so on. This arrangement will allow the courts to take the unique conditions and needs of a community into account.

In addition to their present jurisdiction over child support, small claims, and juvenile offenders, Justices of the Peace will interpret settlement legislation, and will settle actions arising from band by-laws.

Each Yukon resident will be eligible for appointment by the Government of Yukon as a Justice of the Peace or to some other judicial position. The over-all purpose is that appointments should generally reflect the population ratio: if Yukon Indian beneficiaries comprise, say, 25 per cent of the population in a particular community, they should receive approximately the same percentage of judicial appointments in that community. For an initial period, therefore, the costs of training new Justices of the Peace will be paid for by the federal government.

This Community Court System will be a major step forward in the attempt to make the judicial process in Yukon flexible and responsive to the needs of all Yukoners. To ensure that this system operates as effectively as possible, a Yukon Justice Commission will be established within one year of claim settlement legislation to advise the Yukon government on administration of the system. For a period of 25 years, two of the nominees to the Justice Commission will be representatives of Yukon Indian claim beneficiaries.

FINANCIAL COMPENSATION

Rather than opt for a reserve system, in which programs and benefits would be guaranteed but responsibility for self-development might be hampered, Yukon Indian claim beneficiaries have preferred to negotiate the financial means of controlling their own economic destiny.

To make this choice more feasible, the Agreement in Principle stipulates that the sum of \$183.69 million, in 1982 dollars, be paid to Yukon Indian beneficiaries over a 20-year period. \$53,690,000 (again, in 1982 dollars) is earmarked for improvements to joint programs and for the development of new programs designed solely for Yukon Indian beneficiaries (see **Programs**). From the first five payments will be deducted loans, plus any interest incurred, advanced by the federal government to the Council for Yukon Indians for the development and negotiation of the Yukon Indian Land Claim.

The financial settlement has been expressed in 1982 dollars to give a realistic indication of the value of the agreement. However, payments to beneficiaries are scheduled over a 20-year period, and the value of the Canadian dollar will be different at that time than in 1982. Under the Agreement in Principle, beneficiaries will be protected against dollar depreciation, and total payments will amount to \$540 million.

To manage the financial compensation in the best interests of beneficiaries over the long term, a number of corporations will be established. A short list would include a Yukon Indian Heritage Foundation, a Land and Resources Corporation, and a Settlement Corporation for each band. The exact list will be worked out in the Final Agreement.

These corporations will be incorporated under federal or Yukon laws, and will be controlled and operated by beneficiaries. The corporations will be treated like any corporation in Canada. While the financial compensation paid by the federal government to beneficiaries over the next 20 years will not be taxed, income from the corporations *will* be taxed.

CONCLUSION

The Yukon Indian Land Claim is charting new territory in the evolving relationships between Canada and its aboriginal citizens. This Agreement in Principle is the blueprint for a settlement based on fairness, the interests of all concerned, and on the conviction that Yukon Indians can and will participate with dignity and confidence as full partners in Yukon society.

