

SNUNEYMUXW GOVERNANCE NEGOTIATIONS

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**GOVERNANCE
AGREEMENT-IN-PRINCIPLE**

February 19, 2003

SNUNEYMUXW GOVERNANCE NEGOTIATIONS

WITHOUT PREJUDICE

CONSULTATION DRAFT

February 19, 2003

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PREAMBLE

WHEREAS:

- A. The Parties are engaged in negotiations under the British Columbia treaty process;
- B. The Parties have negotiated an Agreement-in-Principle;
- C. The Parties intend to conclude a Final Agreement, based on the Agreement-in-Principle, which will be a land claims agreement and treaty for purposes of section 35 the *Constitution Act, 1982*;
- D. The Parties intend that the Final Agreement will provide for the Snuneymuxw Government and will set out certain authorities exercisable by the Snuneymuxw Government;
- E. The Parties wish to provide for other authorities exercisable by the Snuneymuxw Government, but which authorities will not be contained in the Final Agreement and which will not be part of a treaty or a land claims agreement for purposes of section 35 of the *Constitution Act, 1982*; and
- F. Snuneymuxw asserts that it has an inherent right to self-government, and the Government of Canada will negotiate self-government in the Final Agreement and the Governance Agreement based on it's policy that the inherent right to self-government is an existing aboriginal right within section 35 of the *Constitution Act, 1982*;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

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DEFINITIONS

"Agreement" means this Agreement-in-Principle.

"Capital Transfer" means an amount paid by Canada or British Columbia under the Capital Transfer and Negotiation Loan Repayment Chapter.

"Conflict" means where compliance with one law would result in a breach of another law.

"Consult" and "Consultation" mean provision to a party of:

- i) notice of a matter to be decided, in sufficient detail to permit the party to prepare its views on the matter;
- ii) a reasonable period of time to permit the party to prepare its views on the matter;
- iii) an opportunity for the party to present its views on the matter; and,
- iv) a full and fair consideration of any views on the matter so presented by the party.

"Effective Date" means the date upon which the Governance Agreement takes effect.

"Final Agreement" means the agreement among Snuneymuxw, Canada and British Columbia which will be negotiated based on the Agreement-in-Principle.

"Governance Agreement" means the agreement among Snuneymuxw, Canada and British Columbia which will be negotiated based on this Agreement.

"Income Tax Act" means the *Income Tax Act*, S.C. 1985 (5th Supp.) c. 1.

"Income Tax Act (British Columbia)" means the *Income Tax Act*, R.S.B.C. 1996, c. 215.

"Indian" means a person who pursuant to the *Indian Act* is registered as an Indian or is entitled to be registered as an Indian.

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"law" includes federal, provincial and Snuneymuxw legislation, Acts, ordinances, regulations, Orders-in-Council, by-laws, and the common law, but does not include Snuneymuxw customs or traditional laws.

"Minister" means the federal or provincial Minister having responsibility, from time to time, for the exercise of powers in relation to the matter in question, and any person with authority to act in respect of the matter in question.

"Own Source Revenue" means Snuneymuxw actual revenues and revenue capacity where agreed by the Parties.

"Snuneymuxw" means the collectivity of aboriginal people who share the language, culture, customs and traditions of the Snuneymuxw Indians and their descendants.

"Snuneymuxw Capital" means all land, cash, and other assets transferred to, or recognized as owned by, Snuneymuxw under the Final Agreement, except land added to Snuneymuxw Treaty Land under paragraph 14 of the Land Chapter in the Agreement-in-Principle.

"Snuneymuxw Citizen" means a person who is enrolled under the Final Agreement.

"Snuneymuxw Constitution" means the constitution of Snuneymuxw provided for in the Governance Chapter in the Agreement-in-Principle and ratified in accordance with the Ratification Chapter in the Agreement-in-Principle.

"Snuneymuxw Government" means the government of Snuneymuxw as described in paragraph 2 of the Governance Chapter in the Agreement-in-Principle.

"Snuneymuxw laws" include the Snuneymuxw Constitution.

"Snuneymuxw Public Institutions" means a Snuneymuxw Government body, board or commission established under Snuneymuxw law, including a school board or health board.

"Snuneymuxw Treaty Land" means those lands as identified in paragraph 1 of the Land Chapter and in Appendix A in the Agreement-in-Principle.

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GENERAL PROVISIONS

1. On the Effective Date, the Parties will enter into a Governance Agreement.

Nature of the Governance Agreement-in-Principle

2. The Parties acknowledge and agree that the Governance Agreement-in-Principle and for greater certainty any of its provisions are not legally binding on any of the Parties and are without prejudice to the respective legal positions of the Parties prior to the Effective Date and neither the Governance Agreement-in-Principle nor any related communications over the course of these negotiations will be used against any of the Parties in any court proceeding or any other forum or be construed as creating, abrogating, negating, denying, recognizing, defining, or amending any rights or obligations of any of the Parties except as expressly provided for in the Governance Agreement and only upon the Effective Date.
3. Based upon this Agreement-in-Principle, the Parties will begin as soon as practicable to negotiate the Governance Agreement.

Nature of the Governance Agreement

4. The Governance Agreement, once ratified by the Parties, will be legally binding on all persons and all Parties, including the Crown, and can be relied on by all persons.
5. Upon ratification of the Governance Agreement by the Parties, the Governance Agreement will not be a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
6. The Governance Agreement will not recognize, confirm, deny, abrogate, or derogate from Snuneymuxw aboriginal rights which rights are not modified into rights in the Final Agreement.
7. Canada and British Columbia will recommend to Parliament and the Legislative Assembly, respectively, legislation to bring into effect the Governance Agreement.

Assurances

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8. For the purposes of the Governance Agreement, Snuneymuxw will provide assurances that it represents all people who are eligible to be enrolled in the Final Agreement.
9. The Parties will each provide assurances that they have the authority to enter into the Governance Agreement.

Other Rights, Benefits and Programs

10. The Governance Agreement will not affect the ability of Snuneymuxw Citizens who are Canadian citizens to enjoy rights and benefits for which they would otherwise be eligible as Canadian citizens.
11. The Governance Agreement will not affect the eligibility of Snuneymuxw Citizens for federal and provincial programs and services for aboriginal people, unless Snuneymuxw assumes responsibility over those Citizens for those programs or services.
12. Snuneymuxw Citizens will be eligible to participate in programs established by Canada or British Columbia and to receive public services from Canada or British Columbia, in accordance with general criteria established for those programs or services from time to time, to the extent that Snuneymuxw has not assumed responsibility for those programs or public services under a Snuneymuxw fiscal agreement.

Constitution of Canada

13. The Governance Agreement will not alter the Constitution of Canada, including:
 - a) the distribution of powers between Canada and British Columbia;
 - b) the identity of Snuneymuxw as aboriginal people of Canada within the meaning of the *Constitution Act, 1982*; and
 - c) sections 25 and 35 of the *Constitution Act, 1982*.
 14. The *Canadian Charter of Rights and Freedoms* will apply to Snuneymuxw Government in respect of all matters within its authority.
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15. The Governance Agreement will provide for the application and operation of federal laws and provincial laws in respect of human rights.
16. Prior to Final Agreement, the Parties will address specific issues that arise from the application of federal laws and provincial laws in respect of human rights.

Relationship of Laws

17. Federal laws and provincial laws will apply concurrently with Snuneymuxw laws.
18. Notwithstanding any other rule of priority in the Governance Agreement, federal laws and provincial laws will prevail over Snuneymuxw laws to the extent of the Conflict involving a provision of a Snuneymuxw law that:
 - a) has a double aspect on, or an incidental impact on, any area of federal legislative jurisdiction or provincial legislative jurisdiction for which Snuneymuxw does not have any law-making authority set out in the Governance Agreement; or
 - b) has a double aspect on, or an incidental impact on, any area of federal legislative jurisdiction or provincial legislative jurisdiction for which Snuneymuxw does have law-making authority set out in the Final Agreement but in respect of which federal laws and provincial laws prevail in the event of Conflict.
19. In the event of a Conflict between a Snuneymuxw law made under any law-making authority set out in the Final Agreement and a federal law in relation to peace, order and good government, criminal law, human rights, and the protection of the health and safety of all Canadians, or other matters of overriding national importance, the federal law will prevail to the extent of the Conflict.
20. Canada will recommend to Parliament that federal legislation enacted to bring into effect the Governance Agreement include a provision that, to the extent that a law of British Columbia does not apply of its own force to Snuneymuxw, Snuneymuxw Government, Snuneymuxw Treaty Land, Snuneymuxw Public Institutions, or Snuneymuxw Citizens, that law of British Columbia will, subject to the federal legislation enacted to bring into effect the Governance Agreement and any other Act of Parliament, apply in accordance with the Governance

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Agreement to Snuneymuxw, Snuneymuxw Government, Snuneymuxw Treaty Land, Snuneymuxw Public Institutions, or Snuneymuxw Citizens, as the case may be.

21. The Governance Agreement will prevail to the extent of any Conflict with a federal law or provincial law.
22. The Governance Agreement will confirm that federal legislation enacted to bring into effect the Governance Agreement will prevail over other federal laws to the extent of any Conflict, and provincial legislation enacted to bring into effect the Governance Agreement will prevail over other provincial laws to the extent of any Conflict.
23. Snuneymuxw laws will not apply to Canada and British Columbia.
24. Any Snuneymuxw law that is inconsistent or in Conflict with the Governance Agreement will be of no force or effect to the extent of the inconsistency or Conflict.
25. Prior to the Governance Agreement, the Parties will address the issue of consistency of Snuneymuxw laws and actions with Canada's international legal obligations.

Certainty

26. The Governance Agreement will set out the agreement of Snuneymuxw not to assert or exercise any rights other than as set out in the Governance Agreement, for as long as the agreement is in force. This is not intended to affect the exercise of rights under the Final Agreement.
27. Snuneymuxw will indemnify Canada and British Columbia regarding liability for any claims relating to any Snuneymuxw aboriginal rights which Snuneymuxw agrees in the Governance Agreement not to assert or exercise.
28. Paragraph 27 is not intended to prevent Snuneymuxw from accessing the orderly process set out in the Final Agreement.

Court Decisions

29. If a superior court of a province, the Federal Court of Canada, or the Supreme Court of Canada finally determines any provision of the Governance Agreement to be invalid or

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unenforceable.

- a) the Parties will make best efforts to amend the Governance Agreement to remedy or replace the provision; and
 - b) the provision will be severable from the Governance Agreement to the extent of the invalidity or unenforceability, and the remainder of the Governance Agreement will be construed, to the extent possible, to give effect to the intent of the Parties
30. No Party will challenge, or support a challenge to, the validity of any provision of the Governance Agreement.
31. A breach of the Governance Agreement by a Party does not relieve any Party from its obligations under the Governance Agreement.

Amendment Provisions

32. The Parties agree that the Governance Agreement will only be amended with the agreement of the Parties.
33. Any one or more of the Parties may propose an amendment to the Governance Agreement.
34. In the event of a proposal pursuant to section 33, the Parties agree that, before they proceed with amending the Governance Agreement, they may attempt to find other means of satisfying the interests of the Party proposing the amendment.
35. The process for ratifying amendments to the Governance Agreement, after the Effective Date, will be set out in the Governance Agreement.
36. The Parties agree to take the necessary steps to implement amended provisions of the Governance Agreement as soon as possible after the amendment has been ratified by all of the Parties.

Information and Privacy

37. The Governance Agreement will set out arrangements among the Parties relating to privacy and
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access to information requirements of the Parties.

Interpretation

38. To the extent of any Conflict or inconsistency, the provisions in the General Provisions Chapter of the Governance Agreement will prevail over the provisions in the other chapters of the Governance Agreement.
39. The terms of the Governance Agreement will not be presumed to be interpreted in favour of any Party.
40. For greater certainty, the Parties acknowledge that the *Official Languages Act* applies to the Governance Agreement, including the execution of the Governance Agreement.
41. In the Governance Agreement:
 - a) a reference to a statute will include every amendment to it, every regulation made under it, and any law enacted in substitution for, or replacement of it;
 - b) a reference to “Canada’s international legal obligations” will include those which are in effect on, or after, the Effective Date; and
 - c) unless it is otherwise clear from the context, the use of the singular will include the plural, and the use of the plural will include the singular.
42. The Governance Agreement will set out other provisions concerning interpretation of the Governance Agreement.

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STRUCTURE AND PROCEDURES

Snuneymuxw Self-Government

1. Snuneymuxw will have the authority to make laws as set out in the Governance Agreement.
2. Snuneymuxw will exercise the authority to make laws through the Snuneymuxw Government.
3. In exercising authorities under the Governance Agreement, the Snuneymuxw Government will act in accordance with:
 - a) the Final Agreement;
 - b) Snuneymuxw laws, including the Snuneymuxw Constitution; and
 - c) the Governance Agreement.

Appeal and Review of Administrative Decisions

4. Snuneymuxw Government will establish processes for appeal or review of administrative decisions made by Snuneymuxw Government or Snuneymuxw Public Institutions.
5. The Supreme Court of British Columbia will have jurisdiction to hear appeals or reviews of administrative decisions of Snuneymuxw Government or Snuneymuxw Public Institutions.

Individuals who are not Snuneymuxw Citizens

6. Snuneymuxw Government will Consult with individuals residing on or having a property interest in Snuneymuxw Treaty Land who are not Snuneymuxw Citizens regarding proposed Snuneymuxw Government decisions that may directly affect the rights or interests of those individuals.
7. The Governance Agreement will provide for participation in Snuneymuxw Government and Snuneymuxw Public Institutions by individuals residing on or having a property interest in Snuneymuxw Treaty Land who are not Snuneymuxw Citizens.

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8. Snuneymuxw will provide that individuals residing on or having a property interest in Snuneymuxw Treaty Land who are not Snuneymuxw Citizens will have access to the appeal and review procedures under paragraphs 4 and 5.

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AUTHORITIES

Snuneymuxw Law-Making Authority

1. The Parties will negotiate the nature and scope of each Snuneymuxw law-making authority to be set out in the Governance Agreement, including to whom Snuneymuxw laws apply, and where and when Snuneymuxw laws apply.
 2. The Governance Agreement will set out the relationship of laws to govern Conflicts between Snuneymuxw laws and federal or provincial laws.
 3. The Parties may negotiate Snuneymuxw law-making authorities with respect to:
 - a) aspects of preschool to grade 12 education provided by Snuneymuxw on Snuneymuxw Treaty Land which laws would include provisions for curriculum, examination, and other standards that permit transfers of students between school systems at a similar level of achievement and permit entry of students to the provincial post-secondary systems on the same basis as other British Columbians;
 - b) aspects of child and family services provided by Snuneymuxw on Snuneymuxw Treaty Land which laws would include standards comparable to provincial standards for the safety and well-being of children and families;
 - c) health services provided by Snuneymuxw;
 - d) direct tax over Snuneymuxw Treaty Land;
 - e) aspects of administration of justice provided by Snuneymuxw;
 - f) licensing, regulation and operation of business on Snuneymuxw Treaty Land;
 - g) emergency preparedness provided by Snuneymuxw on Snuneymuxw Treaty Land;
 - h) social assistance provided by Snuneymuxw;
 - i) prohibition of, and terms and conditions for, the sale, exchange, possession, or
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- consumption of intoxicants on Snuneymuxw Treaty Land;
 - j) fire protection provided by Snuneymuxw on Snuneymuxw Treaty Land;
 - k) solemnization of marriage;
 - l) police;
 - m) post-secondary education, including the establishment of post-secondary institutions that have the ability to grant diplomas but not degrees, provided by Snuneymuxw on Snuneymuxw Treaty Land which laws would include standards comparable to provincial standards;
 - n) public works, buildings, and structures on Snuneymuxw Treaty Land;
 - o) the regulation, control or prohibition of actions or activities on Snuneymuxw Treaty Land that may constitute a threat to peace, order, and safety;
 - p) social services and housing provided by Snuneymuxw; and
 - q) traffic and transportation on Snuneymuxw Treaty Land.
4. For greater certainty, the authority of Snuneymuxw Government to make laws in respect of a subject matter, as set out in the Governance Agreement, will include the authority to make laws and do other things as may be necessarily incidental to exercising its authority.
5. Snuneymuxw law-making authority will not include criminal law or criminal procedure.

Placement of Law-Making Authorities

6. The placement of all law-making authorities that will be exercised by Snuneymuxw will be reviewed by the Parties between the Agreement-in-Principle and Final Agreement.

Review of Governance Agreement

7. After 10 years, the Parties will review the Governance Agreement to determine if any amendments are required.

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8. After the initial review, at the request of a Party, the Parties will review the Governance Agreement.

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LOCAL AND REGIONAL GOVERNMENT RELATIONS

Regional District of Nanaimo/Snuneymuxw Membership

1. Prior to the Final Agreement, Snuneymuxw and the Regional District of Nanaimo will negotiate and seek terms for full Snuneymuxw Government membership in the Regional District of Nanaimo on a basis similar to that of a municipality.
2. British Columbia's settlement legislation will give effect to Snuneymuxw participation on the Regional District of Nanaimo Board.

Service Participation

3. Subject to the Parties reaching agreement on funding arrangements, Snuneymuxw, as a member of the Regional District of Nanaimo Board, will participate in the following Regional District of Nanaimo services:
 - a) general administration;
 - b) regional planning;
 - c) solid waste; and
 - d) Regional Hospital District.
4. Subject to the Parties reaching agreement on funding arrangements, Snuneymuxw will consider participating in the following Regional District of Nanaimo services:
 - a) Vancouver Island Regional Library Services;
 - b) E-911;
 - c) regional parks;

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- d) Southern Community recreation; and
- e) Port Theatre.

Land Use Planning

5. Snuneymuxw Government will have law making authority over land use planning on Snuneymuxw Treaty Land and will exercise this law making authority over Snuneymuxw Treaty Land on Vancouver Island in a manner consistent with the agreed-upon Regional District of Nanaimo Growth Strategy.
6. Prior to the Governance Agreement, the Regional District of Nanaimo and Snuneymuxw will agree to an amendment to the Regional District of Nanaimo Growth Strategy.
7. The Snuneymuxw First Nation will prepare an Official Community Plan that provides a statement of objectives and policies to guide decisions on planning and land use management.
8. Snuneymuxw Government will develop the Snuneymuxw Official Community Plan using a process that ensures broad Snuneymuxw community input and provides reasonable opportunities for meaningful input from neighbouring jurisdictions and neighbouring residents.
9. The Snuneymuxw Official Community Plan will include a “Regional Context Statement” that identifies the relationship between the Snuneymuxw Official Community Plan and the content of the Regional District of Nanaimo Growth Strategy.
10. Snuneymuxw will work with the Regional District of Nanaimo collaboratively to resolve inconsistency between the Snuneymuxw Official Community Plan and the Regional District of Nanaimo Growth Strategy.

Gabriola Island

11. Snuneymuxw Government will have law making authority over land-use planning on Snuneymuxw Treaty Land on Gabriola Island.
12. Prior to the Final Agreement, the Snuneymuxw First Nation will develop a land-use plan for Snuneymuxw Treaty Land on Gabriola Island and will:

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- a) consult with neighboring jurisdictions and residents; and
 - b) consider the unique amenities and environment of Gabriola Island.
 13. Prior to the Effective Date, the Islands Trust and the Snuneymuxw First Nation will develop joint principles that will guide development of a joint land-use strategy for Gabriola Island.
 14. On the Effective Date, the Islands Trust and Snuneymuxw Government will establish a Gabriola land committee which will consider:
 - a. development permit areas for the protection of culturally significant sites and of the environment;
 - b. residential density;
 - c. buffers;
 - d. trail access; and
 - e. building height as it relates to fire protection.
 15. The Gabriola land committee will establish a joint land-use strategy.
 16. After the Effective Date, amendments or changes to either the Snuneymuxw land use plans regarding Gabriola Island or the Gabriola Island Local Trust Committee Official Community Plan will be consistent with the joint land-use strategy.
 17. The Snuneymuxw First Nation and the Gabriola Island Local Trust Committee acknowledge and agree to the principle of dispute resolution to resolve outstanding land-use planning issues.
 18. If prior to the Final Agreement the Gabriola Island Local Trust Committee Official Community Plan is reviewed, the Gabriola Island Local Trust Committee will consult with the Snuneymuxw First Nation.
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FISCAL RELATIONS

Fiscal Agreements

1. Every five years, or other periods as agreed, the Parties will negotiate and attempt to reach agreement on Snuneymuxw fiscal agreements which will set out how funding will be provided to Snuneymuxw to support the provision of agreed-upon programs and services to Snuneymuxw Citizens and, where applicable, non-Snuneymuxw occupants of Snuneymuxw Treaty Land.
2. In negotiating Snuneymuxw fiscal agreements in respect of the agreed-upon programs and services, the Parties will take into account the following:
 - a) the financial resources to support the provision by Snuneymuxw Government, either directly or indirectly, of agreed-upon programs and services at a level reasonably comparable to the level of programs and services available in aboriginal and non-aboriginal communities of similar size and circumstances in southwest British Columbia;
 - b) existing levels of federal and provincial funding provided to Snuneymuxw at the time of each agreement renewal;
 - c) affordability in relation to prevailing federal, provincial and Snuneymuxw fiscal policies;
 - d) efficiency and effectiveness in providing agreed-upon programs and services;
 - e) Snuneymuxw Own Source Revenue determined in accordance with this Chapter;
 - f) the costs of operating the Snuneymuxw Government which may include agreed-upon adjusters to base funding such as price and volume;
 - g) costs associated with Snuneymuxw Government participation in local governments;
 - h) the location and accessibility of Snuneymuxw Treaty Land;
 - i) the desirability of reasonably stable, predictable and flexible funding arrangements; and

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- j) any other matters set out in the Governance Agreement and the Final Agreement.
3. Prior to the Final Agreement, the Parties will negotiate and attempt to reach agreement on the extent to which Snuneymuxw local government taxation on real property will be used to fund Snuneymuxw Government participation in local government.
4. In negotiating the first Snuneymuxw fiscal agreement, the Parties will take into account, in addition to paragraph 2, the following:
- a) the start-up costs of operating Snuneymuxw Government;
 - b) the level and condition of agreed-upon physical community infrastructure assets and the management, maintenance and replacement costs of those assets over time;
 - c) the cost implications of Snuneymuxw participation in the Regional District of Nanaimo; and
 - d) necessary training requirements for agreed-upon programs and services to the extent to which this has not been provided in implementation funding.
5. The first fiscal agreement will come into effect on the Effective Date of the Final Agreement.
6. If the Parties do not reach a further fiscal agreement by the expiry date of a fiscal agreement, the fiscal agreement will continue in effect for two years from its original expiry date, or for any other period that the Parties may agree while they attempt to reach a further fiscal agreement.
7. Setting out Snuneymuxw Government authorities, including law-making authorities in the Final Agreement, will not create or imply any financial obligations or service responsibility for any Party.
8. In negotiating fiscal agreements, the Parties will consider procedures for:
- a) negotiating the subsequent fiscal agreement;

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- b) assuming or transferring responsibility for the provision of agreed-upon programs and services for the term of a fiscal agreement;
 - c) funding, and assuming or transferring responsibility for, the provision of additional agreed-upon programs and services during the term of the fiscal agreement;
 - d) payment of funds to Snuneymuxw Government under a fiscal agreement;
 - e) the collection and exchange of information, including statistical information, to facilitate the implementation of the fiscal agreements;
 - f) dispute resolution in relation to the fiscal agreements;
 - g) the accountability of the Snuneymuxw Government to the funding governments; and
 - h) other procedures agreed to by the Parties.
9. Any amounts required for the purposes of a fiscal agreement will be subject to appropriations as may be made by the Parliament of Canada or the Legislature of British Columbia for those purposes.
10. Unless the Parties otherwise agree, they will initial the first fiscal agreement no later than the date at which the Final Agreement is initialed.
11. Any Snuneymuxw fiscal agreements will not be part of the Final Agreement, will not be a treaty or land claims agreement, and will not recognize or affirm any rights.

Snuneymuxw Revenue

12. Snuneymuxw will contribute to the funding of agreed-upon programs and services from its own revenue sources, and it is the shared objective of the Parties that this contribution will be enhanced over time so as to reduce dependency on transfers.
13. Snuneymuxw Own Source Revenue will not be taken into account so as to unreasonably reduce the incentive for the Snuneymuxw Government to raise revenues.

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14. Prior to initialing the Final Agreement, the Parties will negotiate and reach agreement on how Snuneymuxw Own Source Revenue will be used to determine the net amount of funding provided by Canada or British Columbia.
15. In calculating Snuneymuxw Own Source Revenue, all Snuneymuxw revenue sources will be included except for the following:
 - a) Capital Transfer payments under the Final Agreement;
 - b) any federal or provincial payments under fiscal agreements or other agreements for programs and services;
 - c) proceeds from the sale of Snuneymuxw Treaty Land; and
 - d) any other matters set out for exclusion in the Final Agreement or Governance Agreement.
16. Prior to the Final Agreement, the Parties will explore issues with respect to additional exclusions in relation to paragraph 15.
17. The manner in which Snuneymuxw Own Source Revenue will be used in determining the funding amount to be provided by Canada or British Columbia shall be phased-in on an agreed-upon basis over an agreed-upon period as negotiated and specified before the initialing of the Final Agreement.
18. Prior to initialing of the Final Agreement, the Parties will explore the issue of competitive equity as it relates to Snuneymuxw commercial activities and commercial activities elsewhere in British Columbia.

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TAXATION

Direct Taxation

1. Snuneymuxw Government may make laws in respect of direct taxation of Snuneymuxw Citizens on Snuneymuxw Treaty Land in order to raise revenue for Snuneymuxw purposes.
2. Snuneymuxw Government powers provided for in paragraph 1 will not limit the powers of Canada or British Columbia to impose or levy taxes or make laws in respect of taxation.

Other Taxation and Tax Administration Agreements

3. From time to time, Canada or British Columbia may enter into negotiations and attempt to reach an agreement with Snuneymuxw in relation to the following matters:
 - a) the extent to which Snuneymuxw Government may enact laws for the direct taxation of persons on Snuneymuxw Treaty Land who are not Snuneymuxw Citizens; and
 - b) the manner in which taxation by Snuneymuxw Government will be coordinated with existing federal and provincial tax systems.
 4. Prior to the Final Agreement, the Parties may negotiate and attempt to reach agreement:
 - a) in respect of sales tax and income tax, the extent to which Canada will provide Snuneymuxw Government direct taxation authority over all persons on Snuneymuxw Treaty Land; and
 - b) the manner in which taxation by Snuneymuxw Government will be co-ordinated with the existing federal and provincial taxation systems.
 5. British Columbia agrees not to impose property tax on persons on Snuneymuxw Treaty Land in respect of their land or interests in land provided that, prior to the Final Agreement, British Columbia and Snuneymuxw negotiate and reach agreement on:
 - a) terms and conditions to provide Snuneymuxw Government with the authority to impose property tax on persons on Snuneymuxw Treaty Land who are not Snuneymuxw
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Citizens; and

- b) arrangements to provide provincial services to all persons on Snuneymuxw Treaty Land.

Snuneymuxw Treaty Land

- 6. Snuneymuxw will not be subject to taxation of lands, or interest in lands, on Snuneymuxw Treaty Land on which there are no improvements or on which there is an improvement all or substantially all of which is used for a public purpose and not for profitable purpose.

Taxation Treatment Agreements

- 7. Prior to Final Agreement, the Parties will enter into a Taxation Treatment Agreement, which will take effect on the Effective Date. The Parties agree to address the following in taxation negotiations:
 - a) tax treatment of Snuneymuxw Government and its subsidiaries;
 - b) GST rebate;
 - c) British Columbia Social Services Tax, including motor fuel tax and retail sales tax;
 - d) Property Transfer Tax;
 - e) transfer of Snuneymuxw Capital between Snuneymuxw and Snuneymuxw Government, and its subsidiaries;
 - f) gifts to Snuneymuxw;
 - g) *Cultural Property Export and Import Act* (tax treatment respecting donations of cultural artifacts);
 - h) international treaties;
 - i) implementation (giving effect to the Taxation Treatment Agreement);

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- j) dispute resolution;
- k) amendment;
- l) Valuation Date;
- m) other items agreed to by the Parties which may include Snuneymuxw Government exemptions or rebates; and

the placement of these items in either the Final Agreement, the Governance Agreement, or a separate agreement.

8. Any Taxation Treatment Agreement is not intended to be a treaty or a land claims agreement, and is not intended to recognize or affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
9. Canada and British Columbia will recommend to Parliament and the Legislature, respectively, that the provisions of the Taxation Treatment Agreement be given effect under federal legislation and provincial legislation.

Review

10. The Parties acknowledge that Canada, British Columbia and representatives of aboriginal groups may agree upon other approaches to taxation or fiscal relations for general use in negotiations with First Nations in British Columbia. Prior to the Final Agreement, the Parties will review the Taxation and Fiscal Relations Chapters to determine whether any of those approaches are appropriate for use in the Final Agreement or related agreements.
11. Prior to the Final Agreement, the Parties will determine the placement of the provisions in this Chapter in either the Final Agreement, the Governance Agreement, or a Taxation Treatment Agreement.

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DISPUTE RESOLUTION

1. The Governance Agreement will set out a dispute resolution process for:
 - a) disputes over interpretation, application, implementation and alleged breaches of the Governance Agreement; and
 - b) other matters identified in the Governance Agreement.
2. The Parties share the following objectives to avoid disputes:
 - a) to co-operate and develop respectful working relationships; and
 - b) to identify disagreements and issues early, efficiently, and resolve them in the most expeditious and cost-effective manner possible and in a non-adversarial way.
3. Unless otherwise provided for in the Governance Agreement, any disputes that arise among the Parties will progress, until resolved, through the following stages of the dispute resolution process:
 - a) informal discussions among the Parties;
 - b) formal negotiations among the Parties;
 - c) mediation or another non-binding process; and
 - d) a binding decision-making process, either by arbitration where agreed to in the Governance Agreement, or by court proceedings.
4. Unless otherwise provided for in the Governance Agreement, each Party will bear its own costs of participating in the dispute resolution process and the Parties will share common costs.

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IMPLEMENTATION

General

1. The Parties will, prior to the initialing of the Final Agreement, conclude an implementation plan that will take effect on the Effective Date of the Final Agreement, and have a term of 10 years.

Implementation Plan

2. The implementation plan will:
 - a) identify the obligations in the Final Agreement, the activities to be undertaken to fulfill these obligations, the responsible Party(s) and when the activities will be completed;
 - b) specify how the implementation plan may be amended;
 - c) specify how the implementation plan may be renewed or extended; and
 - d) address other matters agreed to by the Parties.
3. The implementation plan will not:
 - a) form part of the Final Agreement;
 - b) be a treaty or land claims agreement;
 - c) recognize or affirm aboriginal or treaty rights, within the meaning of sections 25 or 35 of the *Constitution Act, 1982*;
 - d) create legal obligations;
 - e) alter any rights or obligations set out in the Final Agreement;

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- f) preclude any Party from asserting that rights or obligations exist under the Final Agreement even though they are not referred to in the implantation plan; and
- g) be used to interpret the Final Agreement.

Implementation Working Group

- 4. The Parties agree to establish a tripartite implementation working group during Final Agreement negotiations which will:
 - a) be responsible for the development of an implementation plan prior to the initialing of the Final Agreement; and
 - b) be responsible for the development of a list of activities that the Parties must complete by the Effective Date of the Final Agreement.

Implementation Committee

- 5. On the Effective Date of the Final Agreement, the Parties will establish a tripartite implementation committee.
- 6. The implementation committee will have a term of 10 years which may be renewed or extended upon agreement by the Parties.
- 7. The Parties will each appoint one representative to the implementation committee.
- 8. The implementation committee will:
 - a) establish its own procedures and operating guidelines;
 - b) develop a communications strategy in respect of the implementation and content of the Final Agreement;
 - c) provide a forum for the Parties to discuss the implementation of the Final Agreement;

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- d) provide for the preparation of annual reports on the implementation of the Final Agreement; and
- e) prior to the expiry of the implementation plan, advise the Parties on the further implementation of the Final Agreement and recommend whether the implementation plan may be renewed or extended.

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APPROVAL OF THE GOVERNANCE AGREEMENT-IN-PRINCIPLE

1. The federal and provincial Chief Negotiators and the Snuneymuxw First Nation Chief and Council will jointly recommend in writing to their respective principals approval of this Agreement and a time frame for carrying out the approval process.
2. Snuneymuxw will have approved this Agreement-in-Principle when it is signed by the person authorized by Snuneymuxw after a community process.
3. Canada will have approved this Agreement-in-Principle when it is signed by a Minister authorized to do so by the federal Cabinet.
4. British Columbia will have approved this Agreement-in-Principle when it is signed by a Minister authorized to do so by the provincial Cabinet.

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RATIFICATION OF THE GOVERNANCE AGREEMENT

General

1. The Governance Agreement will be legally binding once ratified by all of the Parties in accordance with the Governance Agreement.
2. The Governance Agreement will be submitted to the Parties for ratification as set out in the Governance Agreement after it has been initialled by each Chief Negotiators.

Ratification by Snuneymuxw

3. The Parties will establish a Ratification Committee with representation of each of the Parties to be responsible for the Snuneymuxw ratification process, including preparing a list of eligible voters, as set out in the Governance Agreement.
4. Ratification of the Governance Agreement by Snuneymuxw requires:
 - a) that Snuneymuxw voters have a reasonable opportunity to review the Governance Agreement;
 - b) a vote, by way of a secret ballot, in favour of the Governance Agreement by a majority of eligible voters;
 - c) ratification of the Snuneymuxw Constitution through the process set out in the Governance Agreement; and
 - d) the Governance Agreement be signed by the authorized representative of Snuneymuxw.

Ratification by Canada

5. Ratification of the Governance Agreement by Canada requires:
 - a) the Governance Agreement be signed by a Minister authorized by the federal Cabinet;

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and

- b) the coming into force of federal settlement legislation giving effect to the Governance Agreement.

Ratification by British Columbia

- 6. Ratification of the Governance Agreement by British Columbia requires:
 - c) that the Governance Agreement be signed by a Minister authorized to do so; and
 - d) the coming into force of provincial settlement legislation giving effect to the Governance Agreement.

Ratification of the Snuneymuxw Constitution

- 7. Ratification of the Snuneymuxw Constitution by Snuneymuxw requires:
 - a) that Snuneymuxw voters have a reasonable opportunity to review the Snuneymuxw Constitution; and
 - b) a vote, by way of secret ballot, in favour of the Snuneymuxw Constitution by a majority of eligible voters.