



## Draft Joint Agenda: Implementing the Commitment Document (2015)

### Concrete Actions: Processes, Structures, and Legislative and Policy Change

To implement this framework First Nations and British Columbia (BC) need to establish new institutions, processes and structures to support/facilitate reconciliation efforts, enable new negotiations and dispute resolution approaches, and provide capacity and governance development support to First Nations and BC. To enable and enact new processes and structures, systemic shifts will be needed (i.e. legislation, policy, practice). In addition, the Government of Canada has roles to play which must be engaged.

Simply stated, reconciliation and change will occur through concrete action, not mere verbal commitments.

The following concrete **actions** have been identified as *initial* priorities for development and implementation and address the following themes agreed to in the commitment document: Indigenous Nations & Governance Building; Legislative, Policy and Practice Review and Reform; New Approaches to Effective Negotiations and Dispute Resolution; and, Reconciliation in BC. These actions will be implemented through joint processes agreed to by First Nations and BC, and will engage Canada and other stakeholders as appropriate. This multi-year work is focused primarily on systemic change and is laid out below with concrete outcomes proposed for the next three years of work.

## **Action 1: Indigenous Nations & Governance Building**

First Nations have long identified the need for support to rebuild and strengthen their Nations and to evolve their governance. This work is required to support a robust, constructive and progressive government-to-government relationship with the Crown.

*Goal 1: Establish an Indigenous commission*: designed, established and driven by First Nations, to provide certain supports to First Nations, respectful and reflective of, and consistent with, First Nations' rights of self-government and self-determination. The commission would provide a range of processes and options that First Nations may opt-in to use, from non-binding to binding outcomes. The commission would support First Nations upon request with respect to:

- i) boundary resolution, in accordance with First Nations' respective laws, customs, and traditions; and
- ii) nation and governance building including:
  - a. constitution development,
  - b. territory decision-making,
  - c. law-making,
  - d. policy development, and
  - e. development of political institutions, consistent with principles of the proper title and rights holder.

Once established, it is expected that both the federal and BC provide the necessary, sustainable resources/funding for the effective functioning of the independent commission.

*Outcomes:* Provide First Nations leadership with models for the creation of the independent commission by end of Year One. Establishment of independent Commission by Year Three.

*Goal 2:* Strengthening the Economy/ Jurisdictional Relationship and Responsibilities

The Commitment Document identifies a key theme of strengthening the economy. A new government-to-government relationship requires new approaches and models to the co-existence and exercise of our respective jurisdictions, and for the sharing and distribution of revenues. This relationship is important for all levels of government, municipal, provincial and federal.

- Design and implement new model(s) of fiscal relations, including a systemic fiscal mechanism, consistent with the guiding principles of this framework, including:
  - Recognizing the economic component of Aboriginal title;
  - Recognizing First Nations as key players and drivers in the economic landscape;
  - Recognizing that all governments require multi-streams of revenues to support their capacity to be strong and effective in serving their citizens and, so, a full range of options are to be identified;
  - Recognizing that accountabilities associated with government operations;
  - The shared objective of achieving and maintaining strong local, regional and provincial economies;
  - The shared objective of closing the socio-economic gap.

*Outcomes:* By end of Year Two, provide possible model(s) of jurisdictional relations with options for implementation for review by the parties.

**Action 2: Legislation, Policy and Practice Review and Reform:**

The evolution of section 35 and the objective of advancing reconciliation requires systemic shifts that reflect the existence of Aboriginal title and rights. These shifts will broaden the space for government-to-government relationships and for both Indigenous and Crown decision-making.

*Goal:* Establish a joint legislative and policy review table to oversee initial subject-matter priorities as identified below: The table will identify priority legislative, policy and practice barriers that are systemic obstacles to reconciliation (e.g. prevent certain shared decision-making models from taking place, prevent or hinder effective engagement, limit available tools for reconciliation or accommodation). Initial subject-matters where substantive work is underway and which can create space for reconciliation and achieving progress include child welfare, environmental assessment and forestry:

1. *Indigenous Child and Family Jurisdiction and Self-Government:* BC is prepared to engage in a process with First Nations for designing and implementing First Nations exercise of jurisdiction over Indigenous children and families . The process will necessarily include First Nations, Delegated Aboriginal Agencies and other service providers, including those created through the previous Indigenous Approaches program, as well as the Federal government. The work will take into account the work underway by the First Nations Health Council through their MOU with BC, on regional strategies and priorities related to the social determinants of health, as developed and approved by each Regional Caucus, to identify key outcomes for joint review and action with the FNLC.
2. *Environmental Assessment:* The need for innovation and change in environmental assessments has been long identified as an area where reconciliation may be advanced. This will take into account work underway by the First Nations Energy and Mining Council and the EAO and direction that has been provided by First Nations

leadership. Environmental assessment processes must be reflective of First Nations title and rights. The Government of Canada is embarking on reform of the *Canadian Environmental Assessment Act*, and related statutes.

3. *Forestry*: Consider statutes and policy in the forestry sector, taking into account work underway by the Forestry Council and BC and direction that has been provided by First Nations leadership, and evaluate options for reform.

*Outcomes*: By end of Year One: Key strategies for implementation of changes to legislation or published policies in the three (3) identified priority areas, and preliminary components for an implementation plan in each of the three (3) identified priority areas. Subject to progress, identify future priority areas to be addressed.

### **Action 3: New Approaches to Effective Negotiations and Dispute Resolution**

First Nations, BC, and all citizens will all benefit from “better” outcomes from negotiations and consultation/engagement processes. Better outcomes include outcomes that may be reached more expeditiously and with less expense, have more flexibility, be more substantive and fair, and be more responsive to specific needs, interests and issues. To support this, new approaches to negotiations and associated dispute resolution options will be designed and implemented, incorporating and borrowing from both western and Indigenous models of interaction and resolution. The following specific initiatives will be advanced:

*Goal*: Design and establishment of a range of negotiation and dispute resolution models:

Reflecting on existing reports discussing the barriers and challenges to successful negotiations, assess gaps and possibilities for new approaches that will be more appropriate, effective, constructive, and successful.

*Outcomes:* By end of Year One: Development of a joint set of innovative and creative principles for how negotiations may be conducted in new ways and collating existing material.

#### **Action 4: Reconciliation in BC**

Section 35 of the *Constitution Act, 1982* calls for a principled reconciliation of Aboriginal rights with the interests of all Canadians. While this is primarily a task of the Crown and First Nations, there is an important role for the rest of society to also support and be engaged in reconciliation efforts. Issues of racism and discrimination hinder reconciliation. Reconciliation is a societal imperative: everyone has something to contribute and everyone will benefit. With key partners we will build understandings, bridges and partnerships.

*Goal:* Jointly promote the education of British Columbians to recognize the history and contributions of First Nations: Priority areas include but are not limited to: curriculum enhancement in the K-12 system; promotion of retention of Indigenous languages and culture; education and cultural initiatives targeting the general public. This work will draw on partnerships with the First Nations Education Steering Committee, the First Peoples Cultural Council, and Reconciliation Canada.

*Outcomes:* By end of Year One: Comprehensive multi-year strategy that can be shared publicly and tracked consistent with the priority areas.

#### **Implementation & Engagement**

The Commitment Document sets out a proposed implementation and engagement process which includes First Nations engagement, BC Government engagement, Business and Industry Engagement, Federal Government Engagement, and Public Awareness and Other Stakeholders.

A Joint Core Working Group has been established comprised of senior officials from BC and the First Nations Leadership Council, and is seeking active participation from the federal government.

The Joint Core Working Group will develop a Terms of Reference and a budget by November 1, 2016, to advance work on all actions identified and ensure achievement of the outcomes. The Working Group may draw on additional expertise as needed and may establish sub-committees as needed to carry out the work.