

**PRINCIPALS' ACCORD**

On Transforming Treaty Negotiations in British Columbia

(the “Accord”)

BETWEEN

**HER MAJESTY THE QUEEN**

**IN RIGHT OF CANADA**

As represented by the Minister of Crown-Indigenous Relations  
(hereinafter “Canada”)

AND

**HER MAJESTY THE QUEEN**

**IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**

As represented by the Minister of Indigenous Relations and Reconciliation  
(hereinafter “British Columbia”)

AND

**THE FIRST NATIONS SUMMIT**

As represented by the First Nations Summit Task Group  
(hereinafter the “First Nations Summit”)

(each a “Principal” and collectively the “Principals”)



## ***Early Crown-Indigenous history***

*Before the arrival of Europeans in British Columbia, Indigenous Nations lived as distinct and self-sufficient nations deeply connected to their homelands, with their respective languages, economies, and systems of laws and governance. Nations interacted through trade, social relations, sharing of resources, and, at times, warfare.*

*From the earliest days of its presence in North America, the British Crown pursued a policy, set out in the Royal Proclamation of 1763, that recognized Aboriginal title, and provided that only the Crown could acquire lands from First Nations, and only by treaty.*

*The Crown's treaty making policies, pursued throughout most of southern Canada, were abandoned in British Columbia and consequently only a small number of treaties – the Douglas Treaties on Vancouver Island and the extension of Treaty 8 into northeastern British Columbia – were concluded prior to the early 1900s. This unique history left British Columbia with what has been referred to as the “outstanding Indigenous land question.”*

*Since the assertion of sovereignty by the British Crown, various Crown ordinances, legislation, and policies have denied Aboriginal title and rights and the existence of Indigenous systems of governance. Destructive and assimilative policies such as the Indian Act and residential schools devastated First Nations families, resulted in the near extinction of Indigenous languages and marginalized and impoverished First Nations in their own homelands. Further, Crown policies denied First Nations the right to vote, organize, and raise funds to retain legal representation to pursue outstanding land claims.*

## ***Modern-day context***

*The BC Claims Task Force was established in 1990 to determine how First Nations in British Columbia, British Columbia, and Canada could begin modern-day treaty negotiations and what those negotiations should include. In 1991, the BC Claims Task Force issued its report, which set out a blueprint for a made-in-British Columbia framework for negotiations. The report was accepted by the First Nations Summit in its entirety, however, British Columbia and Canada accepted only the report's 19 recommendations.*

*In 1992, the Prime Minister, Premier, and First Nations Summit Task Group signed the British Columbia Treaty Commission Agreement, establishing the British Columbia Treaty Commission and launching a new era of made-in-British Columbia treaty negotiations.*

*Although several treaties have been concluded under this treaty negotiations framework, treaty negotiations have proceeded more slowly and encountered more challenges than were initially anticipated. Negotiations have been complicated by the exceptional diversity and large number of First Nations whose territories cover most of British Columbia.*

*Recognition by the Canadian courts over the last number of decades that First Nations have Aboriginal title in British Columbia has provided a further impetus for the Crown to address the outstanding Indigenous land question and work towards building a new relationship with First Nations. The recognition of the pre-existence of First Nations as sovereign peoples with title and rights to lands and resources remains fundamental to resolving this outstanding land question.*

## WHEREAS:

- A. The federal and provincial governments' relationships with Indigenous Nations have been steeped in colonialism. The failure of successive governments to respect Indigenous Nations' Aboriginal title and rights, and their distinct governments, laws, traditions and cultures, has had a profound and lasting impact on Indigenous Nations and undermined the social and economic growth of the country.
- B. Through the negotiation of modern treaties, the Principals seek to end the legacy of colonialism, recognize the vital place of Indigenous governments within the constitutional fabric of Canada, revitalize Indigenous languages and cultures, unlock economic development opportunities, close socio-economic gaps between Indigenous and non-Indigenous communities, and ensure a true sharing of prosperity.
- C. The Principals agree that we need to further improve and expedite treaty negotiations in British Columbia. While we have made progress in implementing many of the proposals in the report entitled *Multilateral Engagement Process to Improve and Expedite Treaty Negotiations in British Columbia* (the "Multilateral Engagement Report") released in 2016, we recognize that more work needs to be done to transform treaty negotiations in British Columbia. This will support the conclusion of treaties, agreements and other constructive arrangements in a timely manner and advance reconciliation between the Crown and Indigenous peoples in British Columbia.
- D. Since the release of the Multilateral Engagement Report, Canada and British Columbia have adopted approaches to forge a new relationship with Indigenous peoples – a relationship based upon the recognition, affirmation and implementation of rights, respect, cooperation, and partnership, including commitments to:
  - (i) implement the United Nations Declaration on the Rights of Indigenous peoples (UN Declaration), which sets out the minimum standards for the survival, dignity and well-being of Indigenous peoples;
  - (ii) implement the Truth and Reconciliation Commission's (TRC) 94 Calls to Action; and
  - (iii) negotiate treaties and other agreements that are consistent with the understanding that section 35 of the *Constitution Act, 1982* contains a full box of rights.
- E. Canada has released *Principles respecting the Government of Canada's relationship with Indigenous peoples* as the foundation for transforming how the federal government partners with and supports Indigenous peoples and governments. In addition, the Prime Minister announced the creation of a new Department of Crown-Indigenous Relations and Northern Affairs, as a symbol of Canada's commitment to supporting healthy and self-determining Indigenous Nations.
- F. British Columbia is working collaboratively with Indigenous peoples to establish a clear, cross-government vision for reconciliation to guide the adoption and implementation of the UN Declaration, the TRC's 94 Calls to Action, and the *Tsilhqot'in* Supreme Court decision. All BC Cabinet members have been tasked with finding ways to implement the UN Declaration through a review of the province's policies, programs, and legislation.

## **THEREFORE, THROUGH THIS ACCORD, THE PRINCIPALS:**

1. Acknowledge the inherent nature of Aboriginal title and rights, which are tied to First Nations' homelands, territories, waters and resources, and that Aboriginal title includes an inescapable economic component and encompasses the right to choose to what uses Aboriginal title land can be put.
2. Agree that section 35 of the *Constitution Act 1982* contains a full box of rights and that Aboriginal title and rights are not contingent on recognition by the Crown, government action, court declarations or agreements for their existence. Treaties, agreements and other constructive arrangements are a preferred means to support the exercise and implementation of Aboriginal title and rights and to advance legal and political reconciliation.
3. Acknowledge the remarkable resilience of Indigenous peoples and Nations. Against devastating odds, Indigenous Nations' inherent systems of governance, laws, cultures, practices and languages have survived.
4. Agree that this Accord is intended to be a foundation for transforming and strengthening the made-in-BC treaty negotiations framework in order to achieve legal and political reconciliation. Nothing in this Principals' Accord is intended to abrogate or derogate, nor should it be construed as abrogating or derogating, from the Aboriginal title and rights, treaty rights and human rights of Indigenous Nations in British Columbia.
5. Agree that extinguishment and surrender of rights, in form or result, do not have any place in modern-day Crown-Indigenous relations, treaty negotiation mandates, treaties or other agreements. Rather, Aboriginal title and rights are continued through treaties, agreements and other constructive arrangements. The Principals agree that the made-in-BC treaty negotiations framework is grounded in the recognition, affirmation and implementation of Aboriginal title and rights. The Principals also agree to support the implementation of existing treaties and treaty rights.
6. Respect the inherent right of each Indigenous Nation to select their own pathway to exercising self-determination, which may lead them to conclude treaties, agreements or other constructive arrangements that support the ongoing nation-to-nation relationship between Indigenous governments and the Crown.
7. Affirm the Crown's constitutional obligations to Aboriginal title and rights holders, whether or not they are participating in the negotiation of treaties.
8. Recognize that treaties are one of the principal mechanisms for implementing the UN Declaration and the TRC's 94 Calls to Action, in particular Call #45 for the federal government to:
  - ... renew or establish treaty relationships based on principles of mutual recognition, mutual respect and shared responsibility for maintaining those relationships into the future; and

reconcile Aboriginal and Crown constitutional and legal orders to ensure that Aboriginal peoples are full partners in Confederation, including the recognition and integration of Indigenous laws and legal traditions in negotiation and implementation processes involving Treaties, land claims, and other constructive agreements.

9. Agree that in reinvigorating treaty negotiations, the Crown's treaty negotiation mandates and approach to implementing treaties must:
  - a. be based on recognition of Aboriginal title and rights and Indigenous human rights, consistent with domestic legal principles, including those set out in the *Tsilhqot'in* decision (2014), and with the UN Declaration; and
  - b. respect the TRC's 94 Calls to Action, as applicable, and the Report of the British Columbia Claims Task Force (1991).
10. Endorse the co-development of mandates at individual treaty negotiation tables and the co-development of policies through broader collective processes involving multiple Indigenous Nations.
11. In the spirit of seeking to improve and expedite treaty negotiations in British Columbia, agree to work collaboratively to implement the remaining proposals set out in the Multilateral Engagement Report.
12. Commit to continually educate all citizens regarding the troubled history and relationship between the Crown and Indigenous peoples and our promise for a new, prosperous future.
13. Commit to meet at least twice a year in person and to continue to collaborate on addressing issues that may be impeding progress in treaty negotiations with the goal of further transforming treaty negotiations in British Columbia.
14. Agree to work in collaboration to:
  - a. advance legal and political reconciliation;
  - b. ensure that the made-in-BC treaty negotiations framework and treaty mandates are reflective of the recognition, affirmation and implementation of Aboriginal title and rights, including the economic component and decision-making authority arising from Aboriginal title;
  - c. address challenges that arise in treaty negotiations, including any issues that one or more Principals identify as a priority;
  - d. discuss the impact and application of any current and future recognition or reconciliation initiatives on the made-in-BC treaty negotiations framework; and
  - e. come together to support and celebrate the efforts and achievements of First Nations in British Columbia.

This Accord has been executed on behalf of the Principals on the \_\_\_\_ day of \_\_\_\_\_, 2018.

On behalf of the First Nations Summit:

On behalf of Canada:

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Cheryl Casimer  
First Nations Summit Task Group

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Carolyn Bennett  
Minister, Crown-Indigenous Relations

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Grand Chief Ed John  
First Nations Summit Task Group

On behalf of British Columbia:

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Robert Phillips  
First Nations Summit Task Group

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Scott Fraser  
Minister, Ministry of Indigenous Relations  
and Reconciliation