



First Nations Tax Commission
Commission de la fiscalité des premières nations



NEW
RELATIONSHIP
TRUST

PROTOCOL ON COOPERATION AND COMMUNICATION

This Protocol is effective from the 7th day of November, 2019,

Between the

- BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS (BCAFN)
- And -
- FIRST NATIONS SUMMIT (FNS)
- And -
- UNION OF BC INDIAN CHIEFS (UBCIC)
- And -
- FIRST NATIONS TAX COMMISSION (FNTC)
- And -
- FIRST NATIONS FINANCIAL MANAGEMENT BOARD (FNFMB)
- And -
- FIRST NATIONS FINANCE AUTHORITY (FNFA)
- And -
- FIRST NATIONS LANDS ADVISORY BOARD (LAB)
- And -
- ABORIGINAL FINANCIAL OFFICERS ASSOCIATION OF BC (AFOABC)
- And -
- FIRST NATIONS PUBLIC SERVICE SECRETARIAT (FNPS)
- And -
- NEW RELATIONSHIP TRUST (NRT)

WHEREAS:

- A. First Nations hold inherent right of self-determination, self-government and title to their respective lands, territories, and resources (including waters), which they have traditionally owned, occupied or otherwise used or acquired and continue to exercise their respective inherent authorities and jurisdictions.
- B. In British Columbia, the land question remains largely outstanding. Not every First Nation in BC has taken the same path in seeking resolution, rather, each making independent decisions on the best way forward: be it treaties, agreements, other constructive arrangements or litigation. Such decisions are specific to individual communities and are respected as such.
- C. Currently, not every First Nation is enjoying or realizing the full economic benefits derived from their respective territories, homelands, waters and resources. In the 1997 decision of *Delgamuukw*, the Supreme Court of Canada (SCC) articulated that, "...lands held pursuant to aboriginal title have an inescapable economic component." Moreover, the SCC *Tsilhqot'in* decision, which reaffirmed the existence of First Nation Title in Canada, reinforced the need for a reconstituted consent-based Crown-First Nations relationship, and provides further support
- D. With the understanding that the socio-economic conditions faced by our communities must not continue as previously, First Nations have been actively engaged in fiscal dialogue discussions for a number of years. In 2000-2001 First Nations in BC worked collaboratively on the First Nation Summit's Fiscal Relations Secretariat to address various challenges with the First Nations-Crown fiscal relationship, including examining tax powers, own source revenue, services and responsibilities, funding, access to capital and institutional support.
- E. A coordinated and Nation-driven approach to a new fiscal framework is needed in order to close the socio-economic gap experienced by most First Nations; such gaps cannot be closed within the status quo framework instituted by the federal and provincial levels of government. There is a pressing interest in assisting all First Nations in BC in moving beyond the existing fiscal relationship with the Crown and to address the need for relevant and effective information-sharing to support First Nations in discussing key fiscal issues, capacity development, and exercising their inherent right of self-determination, self-government, including authorities and jurisdictions.
- F. In December 2015, the Government of Canada reiterated its commitment to implement the recommendations of the Calls to Action of the Truth and Reconciliation Commission of Canada (TRC), in which Call to Action 7 states: "We call upon the federal government to develop with Aboriginal groups a joint strategy to eliminate educational and employment gaps between Aboriginal and non-Aboriginal Canadians."
- G. In May 2016, Canada announced its unqualified endorsement of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), in which articles 4 and 21 provide for Indigenous peoples right to self-determination and the right, without discrimination, to the improvement of their economic and social conditions. Further, the articles require States to implement measures to ensure the continued improvement of such conditions.
- H. Further, in July 2017, the federal government announced its commitment to achieving reconciliation with Indigenous peoples through a renewed, nation-to-nation, government-to-government, and Inuit-Crown relationship based on recognition of rights, respect, co-operation, and partnership as the foundation for transformative change. At the same time, the government identified ten

principles titled, “Principles respecting the Government of Canada’s relationship with Indigenous peoples”. Many Principles speak to nation-to-nation relationships, the responsibility of governments to shift their relationships and arrangements with Indigenous peoples to recognize and respect First Nations inherent right to self-government and the requirement for a new fiscal relationship.

- I. In May 2018, the Province of BC released the document, *Draft Principles that Guide the Province of British Columbia’s Relationship with Indigenous Peoples*. These ten draft principles are modelled after the principles introduced by the federal government in July 2017, and also speak to self-determination, the inherent right to self-government and a renewed fiscal relationship.
- J. Given the timely and important social and political shifts, the overall aim of this protocol is to support First Nations to drive fiscal discussions and develop capacity in a manner that supports the work of their respective First Nation governments.
- K. First Nations and Aboriginal organizations should coordinate their political and technical strengths, advancement of Aboriginal Title and Rights and Treaty Rights, and improvement of the socio-economic conditions of First Nations people and communities in British Columbia.

THEREFORE, THROUGH THIS PROTOCOL:

This protocol represents a commitment by the BCAFN, FNS, UBCIC, FNTC, FNFMB, FNFA, LAB, AFOABC, FNPSS, and NRT to work together and to coordinate our political and technical strengths and efforts toward the aims identified in this Protocol.

1.0 PURPOSE

- 1. We recognize and affirm that First Nations Peoples continue to exist in British Columbia and Canada and have traditional ownership over and in their territories, homelands and resources and continue to exercise their authority in and over their territories, homelands and resources.
- 2. We recognize and affirm the Aboriginal Title and Rights, and any Treaty Rights of First Nations in British Columbia, including their autonomy, jurisdiction and authority with respect to their homelands and, within this context, the purposes of this Protocol are to:
 - a. affirm our intentions to work together in a cooperative manner, and to provide support for one another’s efforts, and First Nations efforts, to advance the recognition, respect and accommodation of Aboriginal Title and Rights, and Treaty Rights to improve the lives of First Nations people in British Columbia;
 - b. establish a mechanism by which we can:
 - i. identify areas where we can work together, within our respective mandates, to advance initiatives or processes aimed at improving the conditions of First Nations communities;
 - ii. identify how we can coordinate efforts to support capacity development in governance and governance administration in First Nation communities in British Columbia; and,
 - iii. identify how we will communicate, exchange information, effectively organize activities, and streamline our efforts;

- c. deal with any other purpose we identify and agree to.
3. This Protocol is only for communications and to support advocacy for the protection of Aboriginal Title and Treaty Rights and to improve the socio-economic conditions of First Nations.

2.0 PRINCIPLES

4. We agree that the implementation of this Protocol will be guided by principles endorsed by First Nations in BC and other parts of Canada via support resolutions adopted at the First Nations Summit and the Union of BC Indian Chiefs' quarterly assemblies in June 2017, which later received national endorsement of the Assembly of First Nations through a July 2017 AFN resolution of support.
 - Be Nation driven, premised on Aboriginal Title and Treaty Rights;
 - Reflect United Nations Declaration on the Rights of Indigenous Peoples, in particular, Article 4;
 - Expand tax powers and clear revenue and service jurisdictions and authorities, (respective of legal pluralism);
 - Provide incentives for economic development;
 - Ensure revenues related to service responsibilities;
 - Promote service comparability;
 - Improve statistics; and
 - Be supported by First Nations institutions.

3.0 IMPLEMENTATION

5. We commit to engage in an ongoing, cooperative dialogue to achieve the purposes of this Protocol. In this regard, the Parties agree to establish a joint working group to implement this Protocol.
6. The Parties will meet quarterly to review joint initiatives and projects and to monitor progress on the purposes of this Protocol.
7. The Parties will establish and maintain a network of contact/resource people who are able to act promptly when required to do so.
8. The Parties will undertake the activities listed in Schedule 1 of this Protocol (to be updated annually) to assist First Nations communities in effectively addressing fiscal issues, consistent with the fiscal principles set out above.
9. The Parties will enhance communications between First Nations, governments, and local and regional organizations to strengthen shared partnerships.
10. Coordination of activities to implement this Protocol will be undertaken by the First Nations Public Service Secretariat, including secretariat support to the implementation activities listed above.
11. The Parties may develop strategies or work plans, and/or establish committees and working groups to advance the purposes of this Protocol.

GENERAL PROVISIONS

12. This Protocol does not create any financial obligations on any of the parties to it.

13. This Protocol does not limit or affect the mandate or the ability of any member organization of the First Nations Leadership Council that has signed onto this protocol to pursue their respective mandates.
14. This Protocol shall not be used by a Party in the interpretation or application of any other agreement.
15. The Parties agree to work together throughout the duration of this Protocol in a respectful, professional and co-operative manner.
16. Where permissible, the Parties will share information, observations and documents relevant to this Protocol.
17. This Protocol is a statement of intent and does not create legally binding obligations on any Party. This Protocol does not define, create, recognize, deny or amend any of the rights, obligations or authorities of the Parties.

TERM

18. This Protocol shall take effect from the date that it is signed by the Parties and will continue until such time as we agree it is no longer required.
19. This Protocol may be amended or terminated at any time. Any Party to this Protocol may terminate their involvement in this Protocol by issuing written notice of such intention to the other Parties to this Protocol.
20. One year from the effective date of this Protocol, the Parties will review the effectiveness of it and identify opportunities for improvement.

In witness of this agreement, the following representatives have executed this Protocol:

On behalf of the BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS:

Chief Marilyn Slett

On behalf of the FIRST NATIONS SUMMIT:

Cheryl Casimer

Robert Phillips

Lydia Hwitsum

On behalf of the UNION OF BC INDIAN CHIEFS:

Grand Chief Stewart Phillip

Chief Don Tom

Kukpi7 Judy Wilson

On behalf of the FIRST NATIONS TAX COMMISSION:

Clarence T. (Manny) Jules

On behalf of the FIRST NATIONS FINANCIAL MANAGEMENT BOARD:

Harold Calla

On behalf of the FIRST NATIONS FINANCE AUTHORITY:

Ernie Daniels

On behalf of the FIRST NATIONS LANDS ADVISORY BOARD:

Robert Louie

On behalf of the ABORIGINAL FINANCIAL OFFICERS ASSOCIATION OF BC:

Barbara Joe

On behalf of the FIRST NATIONS PUBLIC SERVICE SECRETARIAT:

Jehan Casey

On behalf of the NEW RELATIONSHIP TRUST:

Chief David Jimmie