

# **FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT**

(signed in 1996)

Includes modifications resulting from

Amendment #1 1998

Amendment #2 1998

Amendment #3 2002

Amendment #4 2007

Amendment #5 2011

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## Framework Agreement on First Nation Land Management

### FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

BETWEEN:

THE FOLLOWING FIRST NATIONS:

- WESTBANK,
- MUSQUEAM,
- LHEIDLI
- T'ENNEH (formerly known as "LHEIT-LIT'EN"),
- N'QUATQUA,
- SQUAMISH,
- SIKSIKA,
- MUSKODAY,
- COWESSESS,
- OPASKWAYAK C REE,
- NIPISSING,
- MISSISSAUGAS OF SCUGOG ISLAND,
- CHIPPEWAS OF MNJIKANING,
- CHIPPEWAS OF GEORGINA ISLAND,
- SAINT MARY'S, as represented by their Chiefs and all other First Nations that have adhered to the Agreement

**AND**

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,  
as represented by the Minister of Indian Affairs and Northern Development

# FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

## PREAMBLE

WHEREAS The First Nations have a profound relationship with the land that is rooted in respect for the Spiritual value of the Earth and the gifts of the Creator and have a deep desire to preserve their relationship with the land; The First Nations should have the option of withdrawing their lands from the land management provisions of the Indian Act in order to exercise control over their lands and resources for the use and benefit of their members;

The Parties wish to enter into a government to government agreement, within the framework of the constitution of Canada, to deal with the issues of land management; The Parties understand that this Agreement must be ratified;

NOW THEREFORE, consideration of the exchange of promises contained in this Agreement and subject to its terms and conditions, the Parties agree that the First Nations shall have the option of exercising control over their lands and resources.

# PART 1 PRELIMINARY MATTERS

## 1. Interpretation

### 1.1 In this agreement,

“Canada” or “Crown” means Her Majesty the Queen in Right of Canada; (“Canada”)

“eligible voter” means a member of a First Nation who is eligible, pursuant to clause 7.2, to vote under this Agreement; (“électeurs”)

“federal law” means a law enacted by Canada and does not include a land code or a First Nation law; (“loi fédérale”)

“federal legislation” means the legislation to be enacted by Canada under Part X; (“loi de ratification”)

“First Nation” means a band that is a Party to this Agreement; (“première nation”)

“First Nation land”, in respect of a First Nation, means all or part of a reserve that the First Nation describes in its land code; (“terres de première nation”)

“First Nation Lands Register” means the register established pursuant to clause 51 to register interests or land rights in First Nation land; (“registre des terres de premières nations”)

“First Nation law” means a law enacted by a First Nation in accordance with its land code; (“texte législative de la Première nation”)

“interest”, in relation to First Nation land in any province or territory other than Québec, means any interest, right or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or profit à prendre, but does not include title to that land; (“intérêt”)

“land code” means a code, approved by a First Nation in accordance with this Agreement, that sets out the basic provisions regarding the exercise of the First Nation's rights and powers over its First Nation land (although each First Nation can select its own name for the land code); (“code foncier”)

“land right”, in relation to First Nation land in the Province of Québec, means any right of any nature in or to that land excluding title, and includes the rights of a lessee; (“droit foncier”)

“Lands Advisory Board” means the board referred to in clause 38; (“Conseil consultatif des terres”)

“licence”, in relation to First Nation land, (“permis”)

- a) in a province or territory other than Québec, means any right of use or occupation of First Nation land, other than an interest in that land;
- b) in the Province of Québec, any right to use or occupy First Nation land, other than a land right in that land;

“member”, in respect of a First Nation, means (“membre”)

- a) a person whose name appears on the Band List, or
- b) a person who is entitled to have his or her name appear on the Band List;

“Minister” means the Minister of Indian Affairs and Northern Development, or such other member of the Queen's Privy Council as is designated by the Governor in Council for the purposes of this Agreement; (“ministre”)

“verifier” means the person appointed pursuant to clauses 8 and 44 to monitor and verify the opting in process for a First Nation. (“vérificateur”)

- 1.2 Terms that are defined or used in the Indian Act have the same meaning in this Agreement, unless the context otherwise requires.
- 1.3 This Agreement is not a treaty and shall not be considered to be a treaty within the meaning of section 35 of the Constitution Act, 1982.
- 1.4 The Parties acknowledge that the Crown's special relationship with the First Nations will continue.
- 1.5 This Agreement does not affect any lands, or any rights in lands, that are not subject to this Agreement.
- 1.6 This Agreement is not intended to define or prejudice inherent rights, or any other rights, of First Nations to control their lands or resources or to preclude other negotiations in respect of those rights.
- 1.7 The parties agree that when a provision of this agreement contains both civil law and common law terminology, or terminology that has different meanings in the civil law and the common law, the civil law or meaning is intended to apply to this provision with respect to First Nations in the Province of Quebec and the common law terminology or meaning is intended to apply with respect to First Nations in a province or territory other than Québec.

## 2. First Nation Land

- 2.1 Land that is a reserve of a First Nation is eligible to be managed by that First Nation under a land code as First Nation land.
- 2.2 First Nation land includes all the interests and rights or all the land rights and other rights, as well as the resources that belong to that land, to the extent that these are under the jurisdiction of Canada and are part of that land.
- 2.3 The Parties agree that First Nation lands are lands reserved for Indians within the meaning of section 91(24) of the Constitution Act, 1867.

## 3. Indian Oil and Gas

- 3.1 The Indian Oil and Gas Act will continue to apply to any First Nation lands, or interests or land rights in First Nation land, that are “Indian lands” within the meaning of that Act.
- 3.2 Any interest or land right in First Nation land that is granted to Canada for the exploitation of oil and gas under a land code will be deemed to be "Indian lands" within the meaning of the Indian Oil and Gas Act.
- 3.3 Section 4 of the Indian Oil and Gas Act will continue to apply to revenues and royalties from oil or gas on First Nation land, despite anything to the contrary in clause 12.

## 4. Reserves

- 4.1 Any reserve managed by a First Nation under a land code will continue to be a reserve within the meaning of the Indian Act.
- 4.2 Any reserve, title to which is vested in Canada, and managed by a First Nation under a land code, will continue to be vested in Canada for the use and benefit of the respective First Nation for which it was set nation apart.

- 4.3 Where a First Nation wishes to manage a reserve, the whole of the reserve will be included as First Nation land to avoid disjointed administration of the reserve, subject to clauses 4.4, 4.5 and 4.5A.
- 4.4 Subject to clause 4.5A, a portion of a reserve may be excluded from a land code only if:
1. the portion of the reserve is in an environmentally unsound condition and the condition cannot be remedied by measures that are technically and financially feasible before the land code is expected to be submitted for community approval;
  2. the portion of the reserve is the subject of ongoing litigation that is unlikely to be resolved before the land code is expected to be submitted for community approval;
  3. the portion of the reserve is uninhabitable or unusable as a result of a natural disaster; or
  4. there exist one or more other reasons which the First Nation and the Minister agree justify excluding a portion of a reserve.
- 4.5 A portion of a reserve may not be excluded if the exclusion would have the effect of placing the administration of a lease or other interest or right in land in more than one land management regime.
- 4.5A Land may be excluded from the application of the land code when it is uncertain whether the land forms part of the reserve. An exclusion for this reason shall be without prejudice to the right of the First Nation or Her Majesty to assert that the land forms part of the reserve. If excluding the land would have the effect of placing a lease, other interest or right in land in more than one land management regime, then all land that is subject to that lease, interest or right shall be excluded from the application of the land code.
- 4.6 The First Nation will make provision to amend the description of its First Nation land in its land code to include the excluded portion of the reserve when the First Nation and the Minister agree that the condition justifying the exclusion no longer exists and the individual agreement will be amended accordingly.

## **PART 2    OPTING IN PROCEDURE**

### **5.    Development of Land Code**

- 5.1 A First Nation that wishes to manage one or more of its reserves will first develop a land code.
- 5.2 The land code of a First Nation will
- a) describe the lands that are subject to the land code;
  - b) set out the general rules and procedures that apply to the use and occupancy of First Nation land, including use and occupancy under
    - (i) licenses and leases, and
    - (ii) interests or land rights in First Nation land held pursuant to allotments under subsection 20(1) of the Indian Act or pursuant to the custom of the First Nation;
  - b.1) set out the procedures that apply to the transfer, by testamentary disposition or succession, of any interest or land rights in First Nation land;
  - c) set out the general rules and procedures that apply to revenues from natural resources belonging to First Nation land;

- d) set out the requirements for accountability to First Nation members for the management of moneys and First Nation lands under the land code;
- e) set out the procedures for making and publishing its First Nation laws;
- f) set out the conflict of interest rules for land management;
- g) identify or establish a forum for the resolution of disputes in relation to interests or land rights in First Nation lands, including the review of land management decisions where a person, whose interest or land right in First Nation land is affected by a decision, disputes that decision;
- h) set out the general rules and procedures that apply to the First Nation when granting or expropriating interests or land rights in First Nation land, including provisions for notice and the service of notice;
- i) set out the general authorities and procedures whereby the First Nation council delegates administrative authority to manage First Nation land to another person or entity; and
- j) set out the procedure by which the First Nation can amend its land code or approve an exchange of its First Nation land.

5.3 A land code could also contain the following provisions:

- a) any general conditions or limits on the power of the First Nation council to make First Nation laws;
- b) in any province or territory other than Quebec, any general exceptions, reservations, conditions or limitations to be attached to the rights and interests that may be granted in First Nation land; (b.1) in the province of Quebec, any general exceptions, reservations,
- b.1) conditions or limits to be attached to the land rights or other rights that may be granted in First Nation land;
- c) any provisions respecting encumbering, seizing, or executing a right or an interest or land right in First Nation land as provided in clause 15; and
- d) any other matter respecting the management of First Nation land.

5.4 In order to clarify the intentions of the First Nations and Canada in relation to the breakdown of a marriage as it affects First Nation land:

- a) a First Nation will establish a community process in its land code to develop rules and procedures, applicable on the breakdown of a marriage, to the use, occupancy and possession of First Nation land and the division of interests or land rights in that land;
- b) for greater certainty, the rules and procedures referred to in clause (a) shall not discriminate on the basis of sex;
- c) the rules and procedures referred to in clause (a) shall be enacted in the First Nation's land code or First Nation laws;
- d) in order to allow sufficient time for community consultation during the community process referred to in clause (a), the First Nation shall have a period of 12 months from the date the land code takes effect to enact the rules and procedures;
- e) any dispute between the Minister and a First Nation in respect of this clause shall, notwithstanding clause 43.3, be subject to arbitration in accordance with Part IX;
- f) for greater certainty, this clause also applies to any First Nation that has voted to approve a land code before this clause comes into force.

## 6. Development of Individual Agreement

- 6.1 The Minister and each First Nation that intends to manage its First Nation land will also enter into an individual agreement to settle the actual level of operational funding for the First Nation and the specifics of the transfer of administration between Canada and the First Nation.
- 6.2 The First Nation and the Minister will each choose a representative to develop the individual agreement and to assist in transferring administration of the First Nation land.
- 6.3 Upon the request of a First Nation that is developing a land code, the Minister will provide it with the following information, as soon as practicable:
  - a) a list of all the interests or land rights and licences, in relation to the proposed First Nation land, that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register under the Indian Act;
  - b) all existing information, in Canada's possession, respecting any actual or potential environmental problems with the proposed First Nation land; and
  - c) any other information in Canada's possession that materially affects the interests or land rights and licences mentioned in clause 6.3(a).
- 6.4 An amendment to an individual agreement with the Minister must be made in accordance with the procedure in that agreement.

## 7. Community Approval

- 7.1 Both the First Nation's land code and its individual agreement with the Minister need community approval in accordance with this clause.
- 7.2 Every person who is a First Nation member, whether resident on or off-reserve, who is at least 18 years of age, is eligible to vote on whether to approve their First Nation's proposed land code and its individual agreement with the Minister.
- 7.3 The land code and individual agreement will be considered approved by the community if
  - a) a majority of eligible voters participate in the vote and at least a majority of the participating voters vote to approve them;
  - b) the First Nation registers all eligible voters who signified, in a manner determined by the First Nation, their intention to vote, and a majority of the registered voters vote to approve them; or
  - c) the community approves them in such other manner as the First Nation and the Minister may agree upon.
- 7.4 The land code and individual agreement will not be considered approved if less than 25% plus one of all eligible voters voted to approve them.
- 7.5 The First Nation council may, by resolution, increase the minimum percentage for community approval otherwise required under this clause.
- 7.6 A First Nation will take reasonable steps to locate its eligible voters and inform them of
  - a) their right to participate in the approval process and the manner in which that right can be exercised; and
  - b) the content of this Agreement, the individual agreement with the Minister, the proposed land code and the federal legislation.
- 7.7 Reasonable steps to locate and inform eligible voters may include the following:

- a) mailing out information to eligible voters at their last known addresses;
  - b) making enquiries of family members and others to locate eligible voters whose addresses are not known or are uncertain;
  - c) making follow up contact with eligible voters by mail or telephone;
  - d) placing advertisements in newspapers circulating in the community and in newspapers circulating in other localities where the number of eligible voters warrants;
  - e) posting notices in the community;
  - f) holding information meetings in the community and in other places where appropriate; and
  - g) making copies of the documents referred to in clause 7.6(b) available at the administration office of the First Nation and in other places where appropriate.
- 7.8 A First Nation will, within a reasonable time before the vote, also take appropriate measures to inform other persons having an interest or land right in its lands of the federal legislation, the proposed land code and the date of the vote.
- 7.9 Where the federal legislation has not yet been enacted when a First Nation proceeds under this clause, Canada will provide the First Nation with a draft copy of its proposed legislation which the First Nation will use to inform its eligible voters and other persons.
- 7.10 An amendment to a land code must be made in accordance with the procedure in the First Nation's land code.

## 8. Verification Process

- 8.1 Where a First Nation develops a proposed land code and resolves to submit it to the community for approval, an independent person will be appointed as a verifier to monitor and verify the opting in process. The verifier will be chosen in accordance with clause 44.
- 8.2 The representatives of the First Nation and the Minister, who have been assisting in the process of transferring administration of the land, will meet with the verifier and provide information and advice to the verifier, after consulting with their respective Parties.
- 8.3 The First Nation will submit the following information to the verifier:
- a) a copy of the proposed land code;
  - b) an initial list of the names of every First Nation member who, according to the First Nation's records at that time, would be eligible to vote on whether to approve the proposed land code; and
  - c) a detailed description of the community approval process that the First Nation proposes to use under clause 7.
- 8.4 the Verifier will
- a) decide whether the proposed land code conforms with the requirements of clause 5;
  - b) decide whether the proposed community approval process conforms with the requirements of clause 7;
  - c) determine whether the community approval process is conducted in accordance with the process that was confirmed; and
  - d) certify as being valid a First Nation's land code that is properly approved by the First Nation.

- 8.5 The verifier also has the power to make a final decision to resolve
- a) any dispute regarding whether a portion of a reserve may be excluded from a land code pursuant to clause 4.4; and
  - b) any dispute regarding the specifics of the transfer of administration between Canada and the First Nation.
- 8.6 A verifier will make decisions that are consistent with clauses 4.4 and 4.5.
- 8.7 A verifier will not deal with disputes over funding.
- 8.8 Within 30 days of receiving the First Nation's information pursuant to clause 8.3, the verifier will issue a written notice to the First Nation and the Minister stating whether the proposed land code and community approval process are consistent with this Agreement.
- 8.9 The verifier will provide written reasons to the First Nation and the Minister in any case where he or she decides that the proposed land code and community approval process are not consistent with this Agreement.

## 9. Conduct of Community Vote

- 9.1 Once the verifier confirms that the proposed land code and community approval process are consistent with this Agreement, the First Nation may proceed to submit its proposed land code, and the individual agreement with the Minister, for community approval.
- 9.2 The verifier will publish one or more notices advising the community of the date, time and place of the First Nation's approval vote.
- 9.3 The verifier may designate one or more assistants to help observe the conduct of the vote.
- 9.4 The verifier and any assistant observers will have complete authority to observe the approval process.
- 9.5 Within 15 days of the conclusion of the vote, the verifier will issue a written report to the First Nation and to the Minister on whether the community approval process was conducted in accordance with the process as previously confirmed.

## 10. Certification of Land Code

- 10.1 Where a First Nation approves a land code and its individual agreement with the Minister, the First Nation council must, without delay, send a true copy of the land code to the verifier together with a true copy of the fully signed individual agreement and a statement from the First Nation council that the land code and the individual agreement were properly approved.
- 10.2 Upon receiving a copy of a First Nation's land code, signed individual agreement and statement, the verifier will, subject to clause 11, certify the land code as being valid.
- 10.3 The verifier will immediately provide the First Nation, the Lands Advisory Board and the Minister with a copy of any certified land code.
- 10.4 The Lands Advisory Board will, in such manner as it considers advisable, publish a notice announcing the certification of a land code and the date the land code takes effect and advising the public of the means of obtaining copies of it.
- 10.4.1 Certified copies of the land code will be made available to the public at such places deemed necessary by the First Nation.
- 10.5 Once a land code is certified by a verifier and takes effect, the land code has the force of law and will be given judicial notice.

- 10.6 A land code that has been certified pursuant to this Agreement is deemed to have been validly approved by the First Nation.
- 10.7 A land code takes effect on the day that it is certified by the verifier or on such later date as may be specified in the land code.

## 11. Disputed Vote

- 11.1 The Minister or any eligible voter may, within five days after the conclusion of the vote, report any irregularity in the voting process to the verifier.
- 11.2 A verifier will not certify a land code if he or she is of the opinion that the following two conditions exist:
  - 1) the process by which the land code was approved varied from the process previously confirmed by the verifier or was otherwise irregular; and
  - 2) the land code might not have been approved but for the irregularity in the process.
- 11.3 Before making a decision under this clause, the verifier will provide the First Nation and the Minister with a reasonable opportunity to make submissions on the issue.
- 11.4 Any decision by a verifier under this clause must be made within 10 days of the conclusion of the vote.

# PART 3 FIRST NATION LAND MANAGEMENT RIGHTS AND POWER

## 12. Land Management Powers

- 12.1 A First Nation with a land code in effect will, subject to clause 13, have the power to manage its First Nation land and exercise its powers under this Agreement.
- 12.2 This power includes
- 12.3 In any province or territory other than Quebec, an interest or licence granted in relation to First Nation land is subject to any exception, reservation, condition or limitation established by the First Nation in its land code.
- 12.3A In the province of Quebec, a land right or licence granted in relation to First Nation land is subject to any exceptions, reservations, conditions or limits established by the First Nation in its land code.
- 12.4 For any purpose related to First Nation land, a First Nation will have legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise its powers and to perform its duties.
- 12.5 First Nation land, revenues, royalties, profits and fees in respect of that land will be managed by the First Nation council or its delegate for the use and benefit of the First Nation.
- 12.6 If a First Nation establishes an entity for the purpose of administering its First Nation land, the entity shall be deemed to be a legal entity with the capacity, rights, powers and privileges of a natural person.
- 12.7 A First Nation has the right, in accordance with its land code, to receive and use all moneys acquired by or on behalf of the First Nation under its land code.

- 12.8 Once a First Nation's land code takes effect, all revenue moneys collected, received or held by Canada for the use and benefit of the First Nation or its members before that date, and from time to time thereafter, shall cease to be Indian moneys under the Indian Act, except for the purposes of paragraph 90 (1) (a), and shall be transferred by Canada to the First Nation

## 13. Protection of First Nation Land

- 13.1 Title to First Nation land is not changed when a First Nation's land code takes effect.
- 13.2 The Parties declare that it is of fundamental importance to maintain the amount and integrity of First Nation land.
- 13.3 First Nation land will not be sold, exchanged, conveyed or transferred, except for any exchange or expropriation of First Nation land made in accordance with this Agreement.

## 14. Voluntary Exchange of First Nation Land

- 14.1 A First Nation has the right to exchange a parcel of First Nation land for another parcel of land, if that other parcel of land becomes First Nation land. An exchange of First Nation land may provide for additional compensation, including land that may not become First Nation land, and may be subject to any other terms and conditions.
- 14.2 Any exchange of First Nation land will require community approval in accordance with the process established in the land code.
- 14.3 First Nation land will only be exchanged for land that Canada consents to set apart as a reserve. In addition, the agreement of Canada is required on the technical aspects of the exchange.
- 14.4 The title to the land to be received in exchange for that First Nation land will be transferred to Canada and will be set apart by Canada as a reserve, as of the date of the land exchange or such later date as the First Nation may specify. This does not apply to land that is received by the First Nation as additional compensation and that is not intended to become First Nation land.
- 14.5 Where an exchange of First Nation land is approved by a First Nation in accordance with its land code, the First Nation can execute an authorization to Canada to transfer title to the land.
- 14.6 Upon the issuance to Canada of an authorization to transfer title to First Nation land under clause 14.5, Canada will transfer title to the land in accordance with the authorization and the applicable terms and conditions of the exchange.
- 14.7 A copy of the instruments or acts transferring title to First Nation land will be registered in the First Nation Lands Register.
- 14.8 As of the date of the land exchange, or such later date as the First Nation may specify, the description of First Nation land in the land code will be deemed to be amended to delete the description of the First Nation land that was exchanged and to add the description of the First Nation land received in exchange.
- 14.9 For greater certainty, the First Nation land that was exchanged will cease to be a reserve.

## 15. Immunity from Seizure, Etc.

- 15.1 The Parties confirm that section 29 and subsections 89(1) and (2) of the Indian Act will continue to apply to any reserve that is First Nation land.
- 15.2 Subsection 89(1.1) of the Indian Act will continue to apply to all leasehold interests or leases that existed when the land code took effect if the First Nation land was designated land at that time.

- 15.3 A land code may provide that some or all of the provisions of subsection 89(1.1) of the Indian Act are also applicable to other leasehold interests or leases in any First Nation lands.
- 15.4 The Parties confirm that section 87 of the Indian Act continues to apply to First Nation land, so that
- a) the interest of an Indian or a First Nation in a reserve that is First Nation land remains exempt from taxation, subject to section 83 of the Indian Act; and
  - b) the personal property or the movables of an Indian or a First Nation, situated on a reserve that is First Nation land, remains exempt from taxation.

## 16. Third Party Interests

- 16.1 Interests or land rights or licences held by third parties or Canada in First Nation land, that exist at the time the land code takes effect, continue in force according to their terms and conditions.
- 16.2 Any rights of locatees in possession of First Nation land, either by custom or by allotment under the Indian Act, to transfer, lease and share in natural resource revenues will be defined in the land code.
- 16.3 Once a land code takes effect, no interest, land right or licence in relation to First Nation land may be acquired or granted except in accordance with the land code.
- 16.4 For greater certainty, disputes in relation to third party interests shall be dealt with in the forum identified or established in a land code pursuant to clause 5.2(g).

## 17. Expropriation by First Nations

- 17.1 A First Nation with a land code in effect has the right to expropriate interests or land rights in First Nation lands without consent if deemed by the First Nation council to be necessary for community works or other First Nation purposes.
- 17.2 A First Nation's power of expropriation will be exercised in accordance with the rules and procedures specified in its land code, its laws and this Agreement.
- 17.3 In any province or territory other than Québec, an interest in First Nation land that a First Nation expropriates becomes the property of the First Nation free of any previous claim or encumbrance in respect of the interest.
- 17.3A In the province of Québec, the First Nation that expropriates a land right in its First Nation lands becomes the holder of that right free of any previous right, charge or claim in respect of that land right.
- 17.4 A First Nation that expropriates an interest or land right in First Nation land will give fair compensation based on the heads of compensation set out in the Expropriation Act (Canada).
- 17.5 A First Nation will establish a mechanism to resolve disputes over compensation it pays for expropriation.
- 17.6 Any interest in First Nation land that was obtained pursuant to section 35 of the Indian Act or any interest or land right that has been acquired by Canada, or that is acquired after this Agreement comes into force by Canada in accordance with this Agreement, is not subject to First Nation expropriation.
- 17.7 A First Nation is not precluded from entering into an agreement with a utility or public body for the purpose of granting it an interest or land right in First Nation land that is exempt from expropriation by the First Nation.
- 17.8 No expropriation of an interest or land right in First Nation land by a First Nation takes effect earlier than either of the following days:

- a) the date the notice of expropriation is registered in the First Nation Lands Register; or
- b) the 30th day after the day the last the notice is served.

## **PART 4 FIRST NATION LAW MAKING**

### **18. Law Making Powers**

- 18.1 The council of a First Nation with a land code in effect will have the power to make laws, in accordance with its land code, respecting the development, conservation, protection, management, use and possession of First Nation land and interests or land rights and licences in relation to that land. This includes laws on any matter necessary or ancillary to the making of laws in relation First Nation land.
- 18.2 The following examples illustrate some of the First Nation laws contemplated by the Parties:
  - a) laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
  - b) laws on the creation, regulation and prohibition of interests or land rights and licences in relation to First Nation land;
  - c) laws on environmental assessment and protection;
  - d) laws on the provision of local services in relation to First Nation land and the imposition of equitable user charges; and
  - e) laws on the provision of services for the resolution, outside the courts, of disputes in relation to First Nation land.
- 18.3 A land code will not address the taxation of real or personal property or of immovables or movables. Section 83 of the Indian Act will continue to apply.
- 18.4 In any proceeding, a copy of a First Nation law, appearing to be certified as a true copy by an officer of the First Nation is, without proof of the officer's signature or official character, evidence of its enactment on the date specified in the law.
- 18.5 This Agreement does not affect or extend existing rights and powers, or create additional rights and powers, related to fisheries.

### **19. Enforcement of First Nation Laws**

- 19.1 To enforce its land code and its First Nation laws, a First Nation will have the power to
  - a) establish offences that are punishable on summary conviction;
  - b) provide for fines, imprisonment, res titution, community service, and alternate means for achieving compliance; and
  - c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information.
- 19.2 First Nation laws may adopt or incorporate by reference the summary conviction procedures of the Criminal Code for the purpose of enforcement.

- 19.3 Persons may be appointed by the First Nation or the Governor in Council to act as justices of the peace for the purposes of enforcement. If no justice of the peace is appointed, then First Nation laws will be enforced through the provincial courts.
- 19.4 A person appointed as a justice of the peace under this clause will have jurisdiction to try offences established by or under a land code or a First Nation law.
- 19.5 Decisions made by a justice of the peace appointed under this clause may be appealed to a court of competent jurisdiction.
- 19.6 The First Nation will protect the independence of each justice of the peace it appoints in a way similar to that in a province, for example tenure, removal and remuneration.
- 19.7 The First Nation and Canada may enter into agreements for the training, supervision and administrative support for justices of the peace appointed by the First Nation. Provinces may also be parties to such agreements with First Nations.
- 19.8 The First Nation and Canada will enter into an agreement for the appointment, training, supervision and administrative support for any justice of the peace appointed under this clause by the Governor in Council. The affected province will be invited to participate in the development of and be a party to such agreement.
- 19.9 For the purpose of prosecuting offences, the First Nation will follow one or more of these options:
  - a) retain its own prosecutor;
  - b) enter into an agreement with Canada and the government of the province to arrange for a provincial prosecutor; or
  - c) enter into an agreement with Canada to arrange for a federal agent to prosecute these offenses.

## 20. Application of Federal Laws

- 20.1 Federal laws applicable on First Nation land will continue to apply, except to the extent that they are inconsistent with the federal legislation.
- 20.2 Notwithstanding any inconsistency with the federal legislation, the Emergencies Act will apply on First Nation land, but any appropriation of an interest or land right in First Nation land under the Emergencies Act shall be authorized expressly by an order in council.
- 20.3 For greater certainty, and subject to Part VII, the Atomic Energy Control Act or any successor legislation continue to apply to First Nation lands.

## 21. Inapplicable Sections of Indian Act and Regulations

- 21.1 Once a land code takes effect, the First Nation, its members and its First Nation land will not be subject to the following:
- a) sections 18 to 20 and 22 to 28 of the Indian Act;
  - b) sections 30 to 35 of the Indian Act;
  - c) sections 37 to 41 of the Indian Act;
  - d) sections 49, 50(4) and 53 to 60 of the Indian Act;
  - e) sections 66, 69 and 71 of the Indian Act;
  - f) section 93 of the Indian Act;

- g) regulations made under section 57 of the Indian Act; and
- h) regulations made under sections 42 and 73 of the Indian Act to the extent that they are inconsistent with this Agreement or the land code or the laws of the First Nation.

## 22. Existing First Nation By-Laws

- 22.1 A First Nation will continue to have the authority under the Indian Act to make by- laws.

# PART 5 ENVIRONMENT

## 23. General Principles

- 23.1 The council of a First Nation with a land code in effect will have the power to make environmental laws relating to First Nation land.
- 23.2 The Parties intend that there should be both an environmental assessment and an environmental protection regime for each First Nation.
- 23.3 The principles of these regimes are set out below.
- 23.4 The environmental assessment and protection regimes will be implemented through First Nation laws.
- 23.5 The Parties agree to harmonize their respective environmental regimes and processes, with the involvement of the provinces where they agree to participate, to promote effective and consistent environmental regimes and processes and to des avoid uncertainty and duplication.
- 23.6 This Agreement is not intended to affect rights and powers relating to migratory birds or endangered species. These matters may be dealt with in the context of other negotiations. This Agreement is not intended to determine or prejudice the resolution of these issues.

## 24. Environmental Management

- 24.1 Subject to clause 27, a First Nation with a land code in effect will develop an environmental protection regime, with the assistance of the appropriate federal agencies to the extent that they agree to participate.
- 24.2 Each First Nation agrees to harmonize environmental protection with the province in which the First Nation is situated, where the province agrees to participate
- 24.3 The First Nation environmental protection standards and punishments will have at least the same effect as those in the laws of the province in which the First Nation is situated.
- 24.4 For greater certainty, if there is an inconsistency between the provision of a federal law respecting the protection of the environment and a provision in a land code or First Nation law respecting the protection of the environment, the federal provision will prevail to the extent of any inconsistency.

## 25. Environmental Assessment

- 25.1 Subject to clause 27, a First Nation will, with the assistance of the Lands Advisory Board and the appropriate federal agencies, make best efforts to develop an environmental assessment process

within one year after the First Nation's land code takes effect, or within such longer period as the Minister and the First Nation may agree to.

- 25.2 The First Nation and the Minister will, in the individual agreement referred to in clause 6, address how to conduct the environmental assessment of projects on First Nation land during the interim period until the First Nation's environmental assessment process is developed.
- 25.3 The First Nation's environmental assessment process will be consistent with requirements of the Canadian Environmental Assessment Act.
- 25.4 The First Nation's environmental assessment process will be triggered in appropriate cases where the First Nation is approving, regulating, funding or undertaking a project on First Nation land. The assessment will occur as early as possible in the planning stages of the project before an irrevocable decision is made.
- 25.5 The Parties agree that section 10 of the Canadian Environmental Assessment Act will not apply to projects located on First Nation land.
- 25.6 The Parties agree to use their best efforts to implement the principle that the First Nation's environmental assessment process be used where an environmental assessment of a project on First Nation land is required by the Canadian Environmental Assessment Act.
- 25.7 The Parties agree to develop a plan to harmonize their respective environmental assessment processes, with the involvement of the provinces where they agree to participate.

## 26. Other Agreements

- 26.1 The First Nation and Canada recognize that it may be advisable to enter into other agreements with each other and other jurisdictions to deal with environmental issues like harmonization, implementation, funding and enforcement.
- 26.2 Where matters being negotiated pursuant to clause 26.1 normally fall within provincial jurisdiction, or may have significant impacts beyond the boundaries of First Nation land, the parties will invite the affected province to be a party to such negotiations and resulting agreements. Subject to clause 27, a First Nation will, with the assistance of the Lands Advisory Board and the appropriate federal agencies, make best efforts to develop an environmental assessment process within one year after the First Nation's land code takes effect, or within such longer period as the Minister and the First Nation may agree to.

## 27. Resources

- 27.1 The Parties understand that the obligation of a First Nation to establish environmental assessment and environmental protection regimes depends on adequate financial resources and expertise being available to the First Nation.

# PART 6 FUNDING

## 28. Appropriation

- 28.1 Any amounts provided by Canada to the First Nations pursuant to funding arrangements in relation to First Nation land shall be paid out of such moneys as may be appropriated by Parliament for this purpose.

## 29. Developmental Funding

- 29.1 Canada and the Lands Advisory Board will enter into a funding arrangement to allow the First Nations to develop land codes and community approval processes for their land codes, to negotiate the individual agreements mentioned in clause 6 and to seek community approval under clause 7.

## 30. Operational Funding

- 30.1 An individual agreement between the Minister and a First Nation will determine the resources to be provided by Canada to the First Nation to manage First Nation lands and make, administer and enforce its laws under a land code. The agreement will determine specific funding issues, for example period of time, and terms and conditions.
- 30.2 A method for allocating such operating funds as may have been appropriated by Parliament will be developed by the Parties and the Lands Advisory Board.
- 30.3 Unless a First Nation and Canada agree otherwise, an individual agreement respecting the provision of funding under this clause will have a maximum term of five years and will include provisions for its amendment and renegotiation.

## 31. Lands Advisory Board Funding

- 31.1 Canada will enter into a funding arrangement with the Lands Advisory Board for the five year period following the coming into force of this Agreement.

# **PART 7    EXPROPRIATION OF FIRST NATION LAND BY CANADA**

## 32. Restrictions

- 32.1 In accordance with the principle stated in clause 13.2, the Parties agree, as a general principle, that First Nation lands will not be subject to expropriation.
- 32.2 Despite the general principle against expropriation, First Nation land may be expropriated by Canada
- a) only with the consent of the Governor in Council; and
  - b) only by and for the use of a federal department or agency.
- 32.3 The Governor in Council will only consent to an expropriation of First Nation land if the expropriation is justifiable and necessary for a federal public purpose that serves the national interest.
- 32.4 When making a decision to expropriate First Nation land, the Governor in Council, in addition to other steps that may be required before making such a decision, will at a minimum follow these steps:
- a) it will consider using means other than expropriation and will use those other means where reasonably feasible;
  - b) it will use non-First Nation land, where such land is reasonably available;
  - c) if it must use First Nation land, it will make reasonable efforts to acquire the land through agreement with the First Nation, rather than by expropriation;

- d) if it must expropriate First Nation land, it will expropriate only the smallest interest or land right necessary and for the shortest time required; and
  - e) in every case, it will first provide the First Nation with information relevant to the expropriation.
- 32.5 Prior to the Governor in Council issuing an order consenting to the expropriation of First Nation land, the federal department or agency will make public a report on the reasons justifying the expropriation and the steps taken in satisfaction of this clause and will provide a copy of the report to the First Nation.
- 32.6 Where a First Nation objects to a proposed expropriation it may refer the issue to an independent third party for a neutral evaluation under Part IX, within 60 days of the release of the report referred to in clause 32.5.
- 32.7 An order of the Governor in Council consenting to the expropriation will not be issued earlier than When making a decision to expropriate First Nation land, the Governor in Council, in addition to other steps that may be required before making such a decision, will at a minimum follow these steps:
- a) the end of the 60 day period referred to in clause 32.6; or
  - b) the day the opinion or recommendation of the neutral evaluator is released, where the First Nation referred the proposed expropriation to an independent evaluator under clause 32.6.

### 33. Compensation by Canada

- 33.1 In the event of the expropriation of First Nation land by Canada under this Part, Canada will provide compensation to the First Nation in accordance with this clause.
- 33.2 The compensation will include alternate land of equal or greater size or of comparable value. If the alternate land is of less than comparable value, then additional compensation will be provided. The alternate land may be smaller than the land being expropriated only if that does not result in the First Nation having less land area than when its land code took effect.
- 33.3 The total value of the compensation provided by Canada under this clause will be based on the following:
- a) the market value of the land or interest or land right that is acquired;
  - b) the replacement value of any improvement to the land that is acquired;
  - c) the damages attributable to disturbance;
  - d) the value of any special economic advantage arising out of or incidental to the occupation or use of the affected First Nation land to the extent that this value is not otherwise compensated.
  - e) damages for any reduction in the value of a remaining interest or land right; and
  - f) damages for any adverse effect on any cultural or other special value of the land.
- 33.4 If the value and nature of the compensation cannot be agreed upon by the federal department or agency and the affected First Nation, either party may refer a dispute on compensation to arbitration under Part IX.
- 33.5 In any province or territory other than Québec, any claim or encumbrance in respect of the interest, or in Québec any right, charge or claim in respect of the land right, expropriated by Canada may only be claimed against the amount of compensation that is otherwise payable to the person or entity whose interest or land right is being expropriated.

- 33.6 Interest on the compensation is payable from the date the expropriation takes effect, at the same rate as for prejudgment interest in the superior court of the province in which the First Nation land is located.

## 34. Status of Lands

- 34.1 Where less than the full interest or only part of the land right of the First Nation in First Nation land is expropriated by Canada,
- a) the land retains its status as First Nation land;
  - b) the land remains subject to the land code and to any law of the First Nation that is otherwise applicable, except to the extent the land code or law is inconsistent with the expropriation; and
  - c) the First Nation may continue to use and occupy the land, except to the extent the use or occupation is inconsistent with the expropriation.
- 34.2 Alternate land accepted by the First Nation as part of the compensation will become both a reserve and First Nation land.

## 35. Reversion or Return of Interest or Land Right in First Nation Land

- 35.1 In any province or territory other than Québec, where an expropriated interest in First Nation land which is less than the full interest of the First Nation in the land is no longer required by Canada for the purpose for which it was expropriated, the interest in land will revert to the First Nation.
- 35.1A In the province of Québec, where the expropriated land right in First Nation land constitutes only part of the land right of the First Nation in the land, and it is no longer required by Canada for the purpose for which it was expropriated, the land right will return to the First Nation.
- 35.2 The Minister responsible for the expropriating department or agency, without the consent of the Governor in Council, may decide that the interest or the land right is no longer required and determine the disposition of any improvements.

## 36. Return of Full Interest of Entire Land Right in First Nation Land

- 36.1 Where the full interest or the entire land right of a First Nation in First Nation land was expropriated but is no longer required by Canada for the purpose for which it was expropriated, the land will be returned to the First Nation on terms negotiated by the First Nation and the federal department or agency, at the time of the expropriation or at later date as agreed to by them.
- 36.2 Where the terms and conditions of the return cannot be agreed upon by the First Nation and the federal department or agency, either party may refer the dispute to arbitration under Part IX.
- 36.3 The Minister responsible for the expropriating department or agency, without the consent of the Governor in Council, may decide that the land is no longer required and determine the disposition of any improvements.

## 37. Application of Expropriation Act

- 37.1 Any provisions of the Expropriation Act, (Canada) that are applicable to an expropriation of First Nation land by Canada continue to apply, unless inconsistent with this Agreement.

## PART 8 LANDS ADVISORY BOARD

### 38. Lands Advisory Board

- 38.1 The Lands Advisory Board shall consist of at least three members appointed:
- a) Prior to September 1, 2003, by the Councils of the original First Nation parties to this Agreement; and
  - b) After September 1, 2003, by the Councils of the First Nations that have ratified this Agreement, whether they ratify the Agreement on, before or after that date.
- 38.2 The Lands Advisory Board will have all necessary powers and capacity to properly perform its functions under this Agreement.
- 38.3 The Lands Advisory Board will select a chairperson to preside over the Board and, subject to the direction of the Board, to act on its behalf.

### 39. Functions of the Lands Advisory Board

- 39.1 In addition to any other functions specifically assigned to it by the Parties, the Lands Advisory Board will be responsible for the following functions: e Lands Advisory Board shall consist of at least three members appointed:
- a) developing model land codes, laws and land management systems;
  - b) developing model agreements for use between First Nations and other authorities and institutions, including public utilities and private organizations;
  - c) on request of a First Nation, assisting the First Nation in developing and implementing its land code, laws, land management systems and environmental assessment and protection regimes;
  - d) assisting a verifier when requested by the verifier;
  - e) establishing a resource centre, curricula and training programs for managers and others who perform functions pursuant to a land code;
  - f) on request of a First Nation encountering difficulties relating to the management of its First Nation lands, helping the First Nation in obtaining the expertise necessary to resolve the difficulty;
  - g) proposing regulations for First Nation land registration;
  - h) proposing to the Minister such amendments to this Agreement and the federal legislation as it considers necessary or advisable;
  - i) in consultation with First Nations, negotiating a funding method with the Minister; and
  - j) performing such other functions or services for a First Nation as are agreed to between the Board and the First Nation.
- 39.2 The Lands Advisory Board will have authority to adopt rules for the procedure at its meetings and generally for the conduct of its affairs.

### 40. Record Keeping

- 40.1 The Lands Advisory Board will maintain a record containing

- a) the name of each First Nation that approves a land code;
  - b) a copy of that land code;
  - c) a copy of each amendment to a land code; and
  - d) the dates on which each was approved and certified
- 40.2 The Lands Advisory Board shall, in consultation with the Minister, prescribe procedures for a First Nation to authorize the signing of this Agreement and for the formal signature of the First Nations to this Agreement, and shall advise the Minister when a First Nation has completed the procedures.
- 40.3 Subject to sub-clause 40.2.1, a First Nation may only become a signatory under this section with the consent of Canada, and Canada shall advise the Lands Advisory Board if and when such consent is given.
- 40.4 The Lands Advisory Board shall receive and record the adhesion of a First Nation party to this Agreement, made after January 1, 2001, and advise the Minister that the said First Nation has signed the Framework Agreement.

## 41. Annual Report

- 41.1 Within 90 days following the end of each year of operation, the Lands Advisory Board will deliver to the Parties an annual report, in both official languages, on the work of the Board for that year.
- 41.2 The Minister will cause a copy of the Lands Advisory Board's annual report to be laid before each House of Parliament within the first 30 sitting days of that House after the Minister receives it.

## 42. Lands Advisory Report no Longer in Existence

- 42.1 In the event that the Lands Advisory Board is no longer in existence, the functions of the Lands Advisory Board under this Agreement will be performed by the Parties, except as follows:
- a) the functions set out in clauses 29 and 39, except clause 39.1(g), will be performed by the First Nations; and
  - b) the functions set out in clauses 10 and 40 will be assumed by the First Nations Lands Register.

# PART 9 DISPUTE RESOLUTION

## 43. General Principles

- 43.1 The Parties are committed to resolving any dispute that may arise out of this Agreement among themselves, amicably and in good faith. Where they cannot resolve a dispute through negotiation, the Parties agree to establish and participate in the out-of-court processes referred to in this Part to resolve the dispute.
- 43.2 Nothing in this Agreement is to be construed as preventing the Parties from using mediation to assist them in reaching an amicable agreement in respect of any issue in dispute. Where a Party has referred a dispute to mediation, the other Party is obliged to attend an initial meeting with the mediator. However, either Party can end a mediation process any time after the initial meeting.

- 43.3 Subject to clause 43.4, any dispute arising from the implementation, application or administration of this Agreement, the federal legislation, an individual agreement or an environmental management agreement may be resolved in either of two ways:
- a) Neutral evaluation - it may be referred to neutral evaluation by one party to the dispute;  
or
  - b) Arbitration - it may be referred to arbitration by both parties to the dispute.
- 43.4 Any dispute respecting compensation for First Nation land expropriated by Canada or the terms and conditions for the return of the full interest or the entire land right in First Nation land will be referred to arbitration.
- 43.5 Any objection by a First Nation to a proposed expropriation under Part VII that has been referred to neutral evaluation will be evaluated and a report submitted by the neutral evaluator to the First Nation and Canada within 60 days of the referral to the neutral evaluator.

## 44. Panels of Arbitrators, Etc.

- 44.1 The Parties and the Lands Advisory Board will jointly establish lists of mutually acceptable persons willing to act as mediators, arbitrators, verifiers and neutral evaluators.
- 44.2 Parties who become involved in a dispute may select mediators, arbitrators and neutral evaluators from the appropriate list, or may agree to the appointment of an individual who is not on the list.
- 44.3 The selection and assignment of verifiers and the procedure to be followed by verifiers will be arranged by the Lands Advisory Board, Canada and the First Nation.
- 44.4 Individuals appointed to act as mediators, arbitrators, verifiers or neutral evaluators must be unbiased and free from any conflict of interest relative to the matter in issue and have knowledge or experience to act in the appointed capacity.

## 45. Neutral Evaluation

- 45.1 Where a dispute is referred to neutral evaluation, the evaluator will where appropriate,
- a) identify the issues in the dispute;
  - b) assess the strengths of each party's case;
  - c) structure a plan for the progress of the case;
  - d) encourage settlement of the dispute; and provide the parties with a non-binding opinion or recommendation to resolve the dispute.

## 46. Arbitration

- 46.1 Unless otherwise agreed by the Parties, each arbitration will be conducted in accordance with this clause.
- 46.2 The procedure will follow the Commercial Arbitration Code, which is a schedule to the Commercial Arbitration Act.
- 46.3 If no appropriate procedural provision is in that Code, the parties in dispute may adopt the Commercial Arbitration Rules in force from time to time of the British Columbia International Commercial Arbitration Centre.
- 46.4 The arbitrator will establish the procedures of the arbitration, subject to this clause.

## 47. Related Issues

- 47.1 The parties to a dispute will divide the costs of the dispute resolution process equally between themselves.
- 47.2 Any person whose interests will be adversely affected by a dispute that is referred to a dispute resolution process may participate in the process, if
- a) all parties to the process consent; and
  - b) the person pays the costs of his or her participation, unless otherwise agreed by the other parties to the dispute.
- 47.3 The decision of a verifier and a decision or award of an arbitrator will be final and binding on the participating parties.
- 47.4 No order shall be made, processed, entered or proceeding taken in any court, whether by way of injunction, mandamus, certiorari, prohibition or quo warranto to contest, review, impeach or limit the action of a person acting as a verifier, an arbitrator or a neutral evaluator under this Agreement.
- 47.5 Despite clause 47.4, judicial review may be taken under the Federal Court Act within 30 days of a decision of a person acting as a verifier, an arbitrator or a neutral evaluator under this Agreement in respect of such person exceeding his or her jurisdiction, refusing to exercise his or her jurisdiction or failing to observe a principal of natural justice.

# PART 10 RATIFICATION AND ENACTMENTS BY THE PARTIES

## 48. Ratification of Agreement

- 48.1 The Parties agree that they will seek to ratify this Agreement and implement it in the following manner:
- a) each First Nation agrees to develop a land code and to seek community approval; and
  - b) following community approval by two First Nations, Canada agrees to recommend to Parliament the enactment of legislation.
- 48.2 This Agreement will be considered to have been ratified by a First Nation when the First Nation approves a land code, and to have been ratified by Canada when the federal legislation comes into force.

## 49. Enactments by the Parties

- 49.1 Canada agrees that the federal legislation that it recommends to Parliament will be consistent with and will ratify this Agreement.
- 49.2 In the event of an inconsistency or conflict between the federal legislation and any other federal enactment, the federal legislation will prevail to the extent of the inconsistency or conflict.
- 49.3 In the event of any inconsistency or conflict between the land code of a First Nation and the provisions of a First Nation law or of a by-law made by its council under section 81 of the Indian Act, the land code will prevail to the extent of the inconsistency or conflict.

## PART 11 OTHER MATTERS

### 50. Liability

- 50.1 The First Nation will not be liable for acts or omissions of Canada or any person or entity authorized by Canada to act in relation to First Nation land that occurred before the First Nation's land code takes effect.
- 50.2 Canada will not be liable for acts or omissions of the First Nation or any person or entity authorized by the First Nation to act in relation to First Nation land that occur after the First Nation's land code takes effect.
- 50.3 Canada will indemnify a First Nation for any loss arising from an act or omission by Canada, or any person or entity acting on behalf of Canada, in respect of First Nation land that occurred before the First Nation's land code takes effect.
- 50.4 The First Nation will indemnify Canada for any loss arising from an act or omission by the First Nation, or any person or entity acting on behalf of the First Nation, in respect of First Nation land that occurs after the land code takes effect.
- 50.5 No action or other proceeding lies or shall be commenced against a person acting as a member of the Lands Advisory Board, a mediator, verifier, neutral evaluator or arbitrator for or in respect of anything done, or omitted to be done, in good faith, during the course of and for the purposes of carrying out his or her functions under this Agreement.

### 51. First Nation Lands Register

- 51.1 Canada will establish a First Nation Lands Register to record documents respecting First Nation land or interests or land rights in First Nation land. It will be administered by Canada as a subsystem of the existing Reserve Land Register.
- 51.2 A separate register will be maintained for each First Nation with a land code in effect.
- 51.3 The Governor in Council will be authorized in the federal legislation to make regulations respecting the First Nation Lands Register. These regulations will be developed by the Lands Advisory Board and the Minister.

### 52. Status of Documents

- 52.1 The Statutory Instruments Act, or any successor legislation, will not apply to a land code or to First Nation laws.

### 53. Provincial Relations

- 53.1 Where Canada and a First Nation intend to enter into an agreement that is not referred to in this Agreement but is required to implement this Agreement and where it deals matters that normally fall within provincial jurisdiction, or may have significant impacts beyond the boundaries of First Nation land, Canada and the First will invite the affected province to be a party to the negotiations and resulting agreement.

## 54. Time Limits

54.1 The time limits in this Agreement for the doing of anything may be waived on consent.

## 55. Other Regimes

55.1 Nothing in this Agreement prevents a First Nation, at any time, from opting into any other regime providing for community decision-making and community control, if the First Nation is eligible for the other regime and opts into it in accordance with procedures developed for that other regime.

55.2 Sub-clause 38.1 and clause 57 do not apply to a First Nation to which sub-clause 55.1 applies.

## 56. Review Process

56.1 The Lands Advisory Board will, on a continuing basis, consult with representatives of the Parties for the purpose of assessing the effectiveness of this Agreement and the federal legislation.

56.2 Within four years of the federal legislation coming into force, the Minister and the Lands Advisory Board or their representatives will jointly conduct a review of this Agreement. It will focus on the following issues, among others:

- a) the functioning of land management under this Agreement;
- b) the adequacy and appropriateness of the funding arrangements;
- c) the role of the Lands Advisory Board;
- d) whether there is a demand by other First Nations to use this Agreement;
- e) changes that may improve the functioning of First Nation land management;
- f) the dispute resolution processes; and
- g) such other issues as may be agreed to by the Parties.

56.3 Canada and the First Nations will make best efforts to complete this review within one year. Following completion of the review, the Minister will meet with representatives of the First Nations to discuss the results of the review.

## 57. Amendments

57.1 Until September 1, 2003, this Agreement may be amended by agreement the parties, provided that the amendments to Part VIII may be made with the consent of Canada and 2/3 of the original First Nation parties to this Agreement.

57.2 No amendment affecting the powers, authorities, obligations, operations or operational funding of a First Nation that has ratified this agreement is effective with respect to that First Nation without the consent of that First Nation.

57.3 After September 1, 2003, this Agreement, may, subject to 57.2, be amended with the consent of Canada and 2/3 of the First Nations which have ratified the Agreement, before, on or after that day.

## 58. Recitals

58.1 The recitals form part of this Agreement.

## 59. Coming into Force

- 59.1 This Agreement will come into force in respect of Canada and a First Nation when Canada and that First Nation both ratify this Canada Agreement under Part X.
- 59.2 Despite clause 59.1, such provisions of this Agreement as are necessary to allow a First Nation to ratify this Agreement before Canada ratifies this Agreement will have effect as of the day Canada and that First Nation both sign this Agreement.