

## Some terminology

The language of land, resource and self-government negotiations includes many words and phrases that have very specific meanings. Here are some words that may be useful to know.

**Aboriginal Government:** The governing body of an Aboriginal group. This body may have jurisdiction and may exercise authority on Aboriginal lands.

**Aboriginal Institution:** An institution serving Aboriginal people which may exercise authority with respect to an Aboriginal group.

**Aboriginal Lands:** Can be one of the following:

- reserved lands as defined in the *Indian Act*
- land claim settlement lands over which Aboriginal governments may exercise jurisdiction
- Métis Settlement areas as defined in Alberta's *Métis Settlements Act*, and any other lands that may be provided by the provinces and which are subject to similar regimes
- lands held by, or on behalf of, an Aboriginal group as "lands reserved for the Indians" under section 91(24) of the *Constitution Act, 1867*
- any other land by agreement between the Aboriginal group, Canada and, where affected, the relevant province or territory

**Aboriginal peoples:** The Indian, Inuit and Métis peoples of Canada.

**Resource revenue sharing:** The Government of Canada currently collects money from companies that extract resources in the NWT. "Resource revenue sharing" refers to the sharing of these monies among the federal, territorial, and Aboriginal governments.

**Settlement area:** Each land claim agreement defines a settlement area for the particular Aboriginal group involved. This area includes the main area where the Aboriginal group traditionally lived and pursued their livelihood. Under the Final Agreement, certain lands known as "settlement lands", which generally are portions of the settlement area, are owned by the Aboriginal group. Some rights and benefits defined by the Final Agreement, such as rights to hunt and fish, or the right to be consulted on exploration and development, may extend to the whole settlement area.

**Subsurface rights:** Rights to exploit the oil, gas and mineral resources of a piece of land, and to benefit from the development of those resources.

**Surface rights:** Rights to undertake activities on a piece of land other than exploitation of oil, gas and mineral resources, and rights to benefit from other resources of the land. Surface rights would encompass activities such as forestry, tourism and transportation.

## Where we're at in the NWT

Three comprehensive land claims have been settled in the NWT:

- Inuvialuit Final Agreement (signed June 1984, effective July 1984)
- Gwich'in Comprehensive Land Claim Agreement (signed April 1992, effective December 1992)
- Sahtu Dene & Métis Comprehensive Land Claim Agreement (signed September 1993, effective June 1994)

One agreement dealing with both comprehensive land claims and self-government has been completed:

- Tłı̨chǫ Agreement with the Dogrib Treaty 11 communities (signed August 25, 2003)

One Treaty Land Entitlement Process has been completed:

- Salt River First Nation Treaty Settlement Agreement (June 2002)

A number of other negotiations are still in progress:

- Akaitcho Treaty 8 Land, Resources, and Self-Government Negotiations
- Beaufort-Delta Self-Government Negotiations (includes the Gwich'in and Inuvialuit)
- Deh Cho Process (land, resources and governance negotiations)
- Déline Community Self-Government Negotiations
- Northwest Territory Métis Nation Process (land and resources negotiations, with self-government negotiations as a second stage)

## Want to find out more about it?

There is much more information available about land, resource and self-government negotiations in the Northwest Territories and elsewhere in Canada, including specific material on individual agreements and negotiations. Information is also available on other topics, such as historic Treaties and the inherent right of self government.

### On the Web

NWT Plain Talk newsletter and more Plain Fact information sheets like this one on land and self-government negotiations at [www.inac-ainc.gc.ca/nt/pt](http://www.inac-ainc.gc.ca/nt/pt)

Other Plain Facts topics include:

- Akaitcho Treaty 8 Land, Resources and Self-government Negotiations
- Beaufort Delta/Gwich'in and Inuvialuit Self-government Negotiations
- Deh Cho Process
- Déline Community Self-government Negotiations
- Gwich'in Comprehensive Land Claim Agreement
- Inuvialuit Final Agreement
- Northwest Territory Métis Nation Land and Resources Negotiations
- Sahtu Dene & Metis Comprehensive Land Claim Agreement
- Tłı̨chǫ Agreement (Dogrib Comprehensive Land Claim and Self-government Agreement)

NWT Region Aboriginal and Territorial Relations Directorate of the Department of Indian Affairs and Northern Development [nwt-tno.inac-ainc.gc.ca/atr\\_e.htm](http://nwt-tno.inac-ainc.gc.ca/atr_e.htm)

Aboriginal Self-Government Policy Guide: [www.inac-ainc.gc.ca/pr/pub/sg/plcy\\_e.html](http://www.inac-ainc.gc.ca/pr/pub/sg/plcy_e.html)



## For more information:

For more Plain Facts on land and self-government in the NWT, visit the Plain Talk website at [www.inac-ainc.gc.ca/nt/pt](http://www.inac-ainc.gc.ca/nt/pt)

For general information on DIAND policies, programs and services, visit the NWT Region's website at [nwt-tno.inac-ainc.gc.ca](http://nwt-tno.inac-ainc.gc.ca)

Background on Comprehensive Claims (Modern Treaties) in Canada [www.inac-ainc.gc.ca/pr/info/trty\\_e.html](http://www.inac-ainc.gc.ca/pr/info/trty_e.html)

Links to the text of existing agreements in the NWT [nwt-tno.inac-ainc.gc.ca/atr-p\\_e.htm](http://nwt-tno.inac-ainc.gc.ca/atr-p_e.htm)

The Historic Treaty Information Site: [www.inac-ainc.gc.ca/pr/trts/hti/site/mainindex\\_e.html](http://www.inac-ainc.gc.ca/pr/trts/hti/site/mainindex_e.html)

The Claims and Indian Government Sector of the Department of Indian Affairs and Northern Development (includes links to the Comprehensive Claims, Self-Government and Implementation branches of the Department): [www.inac-ainc.gc.ca/ps/clm/index\\_e.html](http://www.inac-ainc.gc.ca/ps/clm/index_e.html)

Gathering Strength – Canada's Aboriginal Action Plan [www.inac-ainc.gc.ca/gs/index\\_e.html](http://www.inac-ainc.gc.ca/gs/index_e.html)

Treaty 8 [www.inac-ainc.gc.ca/pr/trts/trty8\\_e.html](http://www.inac-ainc.gc.ca/pr/trts/trty8_e.html)

Treaty 11 [www.inac-ainc.gc.ca/pr/trts/trty11\\_e.html](http://www.inac-ainc.gc.ca/pr/trts/trty11_e.html)

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# NWT Plain Facts

*On Land and Self-government*

## Negotiations on land, resources and governance in the NWT



In the Northwest Territories, the federal and territorial governments are involved in negotiations with a number of Aboriginal groups on matters related to land, resources and governance.

When the Government of Canada first started to negotiate modern-day treaties in the 1970s, negotiations dealt only with Aboriginal claims regarding land and resource management (also called land claims). Then, in 1995, Canada recognized that Aboriginal peoples have an "inherent right of self-government". This made it possible for Aboriginal groups to begin negotiating self-government arrangements as well.

Today, Aboriginal groups often negotiate land, resources and self-government at the same time. This is a practical and effective way to develop strong, workable intergovernmental arrangements.

### Why negotiate on land and resources?

Aboriginal people have always had a special relationship with the land and natural resources that sustained them. This relationship is an essential part of Aboriginal culture and identity.

In much of Canada, the relationship between Aboriginal people and the federal Crown was originally defined by numbered Treaties. In the Northwest Territories, the Dene

signed Treaties 8 and 11 at the end of the 1800s and in the early 1900s. However some groups, like the Inuvialuit and the Métis, did not sign any Treaties.

From the Government of Canada's perspective, the Treaties involved Aboriginal people giving up their rights over land in exchange for reserves and other benefits. Many Aboriginal people do not agree with this interpretation. In addition, some parts of the Treaties that dealt with land were not implemented in the years that followed their signing.

Rather than focus on different interpretations of historic Treaties, the Government of Canada started to resolve outstanding land issues in the NWT through modern treaty-making negotiations in the mid-1970s. The Government of Canada's Comprehensive Claims Policy was introduced in August 1973. It was reaffirmed and expanded in 1986.

*The aim of the federal government's Comprehensive Claims Policy is to put in place for the Aboriginal party a clearly defined package of rights and benefits set out in a settlement agreement.*



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## Why negotiate self-government?

Before the arrival of Europeans to Canada, First Nation and Inuit peoples in Canada had their own systems of government. These systems reflected their cultures and spiritual beliefs, as well as their economic, social, and geographic circumstances. When the Europeans arrived and established their colonial governments, they introduced their own laws and policies. Over time, the authority and functions of traditional Aboriginal governments were eroded.

The federal government wants to renew its relationship with all Aboriginal people in Canada. It believes Aboriginal people have the right to govern themselves, to make decisions on things that affect their communities and to take the responsibility that comes with self-government.

*The Government of Canada recognizes that Aboriginal people have an “inherent right of self-government” guaranteed in section 35 of the Constitution Act, 1982. In 1995, Canada introduced the Federal Policy on Aboriginal Self-Government (commonly referred to as the Inherent Right Policy) and began working out practical self-government arrangements through negotiated settlements. Many groups are now able to negotiate land and self-government agreements together.*

*Existing Treaties are fundamental to the special relationship between Treaty First Nations and the Government of Canada. The Government does not propose to re-open, change, or displace existing Treaties through the implementation of the inherent right and the negotiation of self-government agreements.*

## Guiding principles of self-government negotiations

Given the different circumstances of Aboriginal people throughout Canada, there cannot be a “one-size-fits-all” form of self-government. The Government of Canada negotiates self-government agreements that meet the unique needs of Aboriginal groups, and that respond to the historical, social, cultural, political, and economic circumstances of the Aboriginal groups, regions, and communities involved.

However, the Government of Canada is guided by the following principles in negotiating all self-government arrangements:

- Self-government is an inherent right recognized in the Canadian Constitution
- Self-government will be exercised within the existing Canadian Constitution
- Self-government does not mean sovereignty in the international law sense, and will not result in sovereign Aboriginal nation-states.

Aboriginal peoples will continue to be citizens of Canada and of the province or territory where they live

- The Canadian Charter of Rights and Freedoms applies to Aboriginal governments just as it does to all other governments in Canada
- Where all parties agree, rights in self-government agreements may be protected in law as new treaties, as part of comprehensive land claim agreements or as additions to existing Treaties
- Federal, territorial and Aboriginal laws must work in harmony
- The interests of all Canadians will be taken into account as agreements are negotiated

## How negotiations work

Land and self-government negotiations in the NWT usually involve three groups, often referred to as “parties”: the Government of Canada, the Government of the Northwest Territories, and one or more Aboriginal groups. Each negotiation is unique and reflects the needs and processes of the parties at the negotiation table. However, most negotiations involve a series of distinct steps, as follows.

**Submission of claim:** The Aboriginal group prepares a description of its land claim that identifies the general geographic area of its traditional territory.

**Acceptance of claim:** The Government of Canada reviews the claim and informs the Aboriginal group whether or not it is prepared to open negotiations. If the answer is no, reasons are provided in writing. If the answer is yes, the process proceeds to the next step.

**Framework Agreement:** This is the first stage of negotiation when the parties agree on what issues will be discussed and how they will be discussed. They also agree on time lines for reaching an Agreement-in-Principle.

**Interim Measures Agreement:** The parties may agree to temporary measures that will apply in the territory that is subject to land and resource negotiations while the negotiations are taking place. These measures can include interim land withdrawals, pre-screening processes for land, water and resource management decisions, and other measures.

**Agreement-in-Principle:** In this stage, the parties negotiate the issues set out in the Framework Agreement. Reaching an Agreement-in-Principle (commonly called an ‘AIP’) often takes longer than any other stage in the negotiation process. The AIP should contain all the major elements of the Final Agreement.

**Final Agreement:** A Final Agreement is the outcome of successful land claim and/or self-government negotiations. It details agreements reached between the Aboriginal group, the Government of Canada and the Government of the Northwest Territories on all issues at hand, which may include land ownership, management of resources, financial benefits and

## What’s the difference between a comprehensive claim and Treaty Land Entitlement?

Most groups in the NWT have entered into comprehensive claim negotiations which aim to deal with a wide range of land and resource matters. However, if a First Nation is of the view that it did not receive all the land it was entitled to under a historic Treaty, it can choose to enter into another kind of negotiation called a Treaty Land Entitlement or TLE instead.

This type of negotiation seeks to settle the land debt owed to a First Nation and to provide it with a reserve land base. A TLE deals with the ownership and administration of lands and other assets and usually involves financial compensation and the transfer of ownership of reserve lands to the First Nation.

A good example of this type of negotiation in the Northwest Territories is the Salt River First Nation Treaty Settlement Agreement. This agreement was signed in August 2002, and fulfills outstanding land provisions from Treaty 8, which was signed over 100 years ago.



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self-government. A Final Agreement must be ratified by all parties. The Government of Canada ratifies a Final Agreement by a vote of Parliament, the Government of the Northwest Territories ratifies it by a vote in the Legislative Assembly, and the Aboriginal group ratifies by a vote of its membership.

**Implementation:** A process is put in place to ensure that the actions set out in the Final Agreement are carried out in a well-thought-out, orderly and practical way. Together, the parties prepare an implementation plan which will guide this process. The implementation plan is usually monitored and managed by a committee where all three parties to the agreement are represented.

*Negotiations in the Northwest Territories are exploring different ways to have Aboriginal self-government fit within a government that represents all residents and deals with the needs of all residents, often referred to as a “public government”. This is because many communities in the NWT have mixed populations and it would not be practical or efficient to have two sets of programs and services in one community. This can be achieved by creating specific guarantees for Aboriginal groups in the public government or by creating Aboriginal institutions to exercise authorities specific to the Aboriginal group.*

## What gets negotiated?

The negotiation of a modern-day treaty is a long and complex process. When they sit down at the negotiation table, the parties work on finding answers to questions like:

- What rights to lands and resources will the Aboriginal group have and what will their duties be?
- What rights and duties will the federal, territorial and Aboriginal governments have?
- What rights and duties will other Canadians have on land the Aboriginal group owns?
- How will lands and resources be managed and by whom?
- What self-government powers will the Aboriginal group have and how will those powers fit with the powers of other governments?

Land and resource negotiations are important for Aboriginal people to achieve economic growth and self-sufficiency. The agreements that are negotiated may define a wide range of rights and benefits, including:

- land ownership
- hunting and fishing rights
- guaranteed participation in land, water, wildlife, and general environmental management
- financial payments
- a share of resource revenues
- measures to stimulate economic development
- a role in the management of heritage resources and parks

Self-government negotiations deal with other issues, such as:

- the legal status of any newly-established government
- the structure and operation of Aboriginal government and any new public government
- the working relationships between different levels of government
- responsibility for key programs and services
- management of natural resources

## Métis in the NWT

Canada has addressed Métis issues in the NWT differently than in the rest of the country. Many communities in the NWT have highly mixed populations where First Nations, Inuit and Métis people live together, so the Government of Canada has decided to address their concerns together.

Joint negotiations with the Dene and Métis of the Mackenzie Valley began in 1981. The Dene/Métis Comprehensive Land Claim Agreement which would have encompassed all the Dene and Métis interests in the territory, was completed in 1990. However, it was never ratified and the negotiations ended. Canada decided to proceed by negotiating regional agreements with the different groups in the NWT for their traditional territory, including both the Dene and Métis in those regions.

The Gwich’in land claim was settled in 1992, followed by the Sahtu land claim in 1994. The Tlicho in the North Slave region just signed their agreement in 2003. In the South Slave region, the Dene decided to pursue a Treaty Land Entitlement process, instead of a comprehensive claim. Since the Métis in that region had not signed Treaty 8, they could not participate in these types of negotiations and were left without a negotiation process.

As a result, in 1996, Canada, the South Slave Métis Tribal Council (now the Northwest Territory Métis Nation) signed a Framework Agreement to begin negotiations on a land and resources package. This process is not meant to address Métis claims to constitutional Aboriginal rights – that is done through a treaty or a land claims agreement. Instead, the Parties are negotiating a contract with the NWTMN that would achieve many of the same goals as a land claim, but would not have the same status under the law.

Self-government agreements can include governmental powers on a wide variety of subjects or “jurisdictions”. It is up to the parties to decide what jurisdictions they will negotiate, but some examples are:

- forestry
- wildlife harvesting and management
- fisheries harvesting and management
- environmental matters
- education and training
- social services
- child welfare, guardianship and adoption
- health
- housing
- heritage resources
- enforcement and adjudication of the laws of Aboriginal governments
- gaming
- wills and estates
- economic development
- taxation
- resource revenues, including resource royalties
- Aboriginal language and culture
- transportation
- public works



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## What are the benefits to Aboriginal people and other Northerners?

Concluding land, resource and self-government agreements will create a more stable and predictable environment in the Northwest Territories and encourage political, social, and economic development. There are real economic and social reasons for negotiating agreements that will benefit Aboriginal people and all other residents of the Northwest Territories.

## Clarifying the rights of Aboriginal people related to land and resources will have a positive impact on economic development decisions in the Northwest Territories.

Businesses prefer to invest where legal rights and rules are clear and the future is certain. Once agreements are in place and Aboriginal rights are clarified, there will be a lot more certainty. Businesses and investors will know who has what rights over land and resources, and which governments have responsibilities for which subjects. This will make it easier for them to make business decisions.

## Aboriginal people will be better able to make positive changes in their communities.

Many Aboriginal people in Canada live in conditions far below those of most other Canadians, and they don’t always have the power and resources they need to deal with the social, economic, and health issues they face. Self-government agreements will put control of programs and economic development back in the hands of community members. While self-government and land settlements will not in themselves improve the conditions of Aboriginal people, they will provide essential tools for Aboriginal people to set their own priorities and work out their own solutions.



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## Third-party consultations

The Government of Canada recognizes that land and self-government negotiations also have implications for a wide variety of people and groups – Aboriginal and non-Aboriginal – who are not parties to the particular agreement.

In order to reach fair land, resource and self-government agreements, negotiations are usually complemented by third-party consultations. Through these consultations, the concerns and

interests of all parties can be heard and addressed. Consultations can also help build relationships between the Aboriginal parties and other residents, groups and businesses in the affected communities.

By contributing to a balanced final settlement, third-party consultation helps to ensure that agreements have positive social and economic outcomes for the Aboriginal parties and for all other residents of the Northwest Territories.