

Appendix 5D: Proposed Métis Nation Accord*

Métis Nation Accord

Between

Her Majesty the Queen in Right of Canada
as Represented by the Prime Minister

and

Her Majesty the Queen in Right of the Provinces of
British Columbia, Alberta, Saskatchewan,
Manitoba and Ontario

and

The Government of the Northwest Territories
as Represented by Their Respective First Ministers

and

The Métis Nation of Canada as Represented
Nationally by The Métis National Council
and Provincially by
The Pacific Métis Federation
The Métis Nation Of Alberta

The Métis Society of Saskatchewan
The Manitoba Métis Federation

The Ontario Métis Aboriginal Association
The Métis Nation-Northwest Territories
as Represented by Their Respective Presidents

Whereas in the Northwest of Canada the Métis Nation emerged as a
unique Nation with its own language, culture and forms of self-government;

And whereas historically the Métis Nation has sought agreements with Canada to protect its land and other rights;

And whereas Métis were formally recognized in the Manitoba Act, 1870 and the Dominion Lands Act;

And whereas the existing aboriginal and treaty rights of Aboriginal peoples including the Métis are recognized and affirmed in the Constitution Act, 1982;

And whereas the Métis Nation, Canada and the Provinces agree that it is just and desirable to recognize the contribution made by the Métis to the Canadian federation and further agree that measures are necessary to strengthen their place within the Canadian federation;

And whereas the Métis people of Canada have contributed and continue to contribute to the development and prosperity of Canada;

And whereas the Métis Nation, Canada and the Provinces agree that it is necessary and desirable to set out their respective roles and obligations to each other;

NOW THEREFORE the representatives of the Métis Nation, Canada and the Provinces hereby agree to enter into an Accord with the following terms:¹

1. Definitions

For the purposes of the Métis Nation and this Accord,

(a) “Métis” means an Aboriginal person who self-identifies as Métis, who is distinct from Indian and Inuit and is a descendant of those Métis who received or were entitled to receive land grants and/or scrip under the provisions of the Manitoba Act, 1870, or the Dominion Lands Act, as enacted from time to time.

(b) “Métis Nation” means the community of Métis persons in subsection a) and persons of Aboriginal descent who are accepted by that community.

(c) “Incremental program delivery costs” means those costs for the new or enhanced programs intended exclusively for Métis and delivered by Métis self-governing institutions, additional to the costs of programs which are replaced by those new or enhanced programs.

(d) “Transfer payments” means financial transfers provided to Métis self-governing institutions by Canada or the Provinces, whether in the form of block grants, cost-sharing, formula finance or like methods and intended to help defray the costs of Métis self-governing institutions.

(e) “Direct costs of Métis self-governing institutions established as a result of self-government agreements” means the start-up and operating costs of structures established to direct Métis self-government, including boards and legislative bodies, but excluding the operating costs of organizations intended to deliver programs.

(f) “Provinces” means the provinces of British Columbia, Alberta, Saskatchewan, Manitoba and Alberta and the Northwest Territories.

(g) “Métis self-governing institution” means an institution established pursuant to a self-government agreement.

(h) “Self-government negotiations” means negotiations within the context of section 35.2(1) of the Constitution Act, 1982.

2. Enumeration and Métis Registry

Canada and the Provinces will contribute resources to the Métis Nation to conduct an enumeration of the Métis Nation including the costs of administering and maintaining a Métis Nation controlled national registry. This process, which will include a right of appeal, will be determined through multilateral negotiations among the parties to this Accord.

3. Self-Government Negotiations

(a) Without altering the obligations of the Government of Canada and the Provinces under section

35.2 of the Constitution Act, 1982, the Government of Canada, the representatives of the Métis Nation and the Provinces agree to negotiate in good faith the implementation of the right of self-government, including issues of

(i) jurisdiction; and

(ii) economic and fiscal arrangements, with the objective of concluding tripartite self-government agreements elaborating the relationship among the Métis Nation, Canada and the Provinces.

(b) For the purposes of the Northwest Territories, negotiations will be conducted through comprehensive land claims, treaty or self-government negotiations and will include both Métis and Indians as parties.

(c) Notwithstanding subsection b), subsection a) shall apply in the Northwest Territories

(i) in geographic areas where an Indian band proceeds to treaty land entitlement negotiations and where Métis in that geographic area are ineligible or decide not to be participants in said negotiations; and,

(ii) one year following the effective date of this Accord, except for those parts of the Northwest Territories covered by comprehensive land claims, treaty or self-government agreements that include both Métis and Indians as parties or where such negotiations are in progress.

4. Lands and Resources

Within the context of self-government negotiations,

(a) Canada and the Provinces agree, where appropriate, to provide access to lands and resources to Métis and Métis self-governing institutions;

(b) Where land is to be provided, Canada and the Provinces, except Alberta, agree to make available their fair share of Crown lands for transfer to Métis self-governing institutions;

(c) The value of the transfers and access referred to in this section shall be taken into account in self-government negotiations; and

(d) Canada and the Provinces agree to enter into discussion with representatives of the Métis Nation on the establishment of a land negotiation process.

Consistent with the above, it is acknowledged that Alberta has negotiated and transferred the fee simple in 1.28 million acres of land to the Métis in Alberta and has committed to spending \$310 million over 17 years, pursuant to the Alberta-Métis Settlements Accord.

5. Resourcing of Negotiations

Canada and the Provinces agree to contribute adequate resources to enable representatives of the Métis Nation to participate in tripartite self-government negotiations.

6. Devolution

In self-government negotiations, Canada and the Provinces will negotiate the transfer to Métis self-governing institutions the portion of aboriginal programs and services currently available to Métis.

7. Cost of Institutions

Canada agrees to provide a substantial portion of the direct costs of Métis self-governing institutions established as a result of self-government agreements. The Provinces and the Métis Nation will provide the remaining portion of the costs. The Métis Nation share of the remaining portion of the cost will be determined in self-government negotiations taking into account the capacity of Métis governments to raise revenue from their own sources.

8. Net Incremental Program and Delivery Costs

Canada agrees to provide its share of the net incremental program and delivery costs deriving from self-government agreements. The Provinces and the Métis Nation will provide the remaining portion of the costs. The

Métis Nation share of the remaining portion of the cost will be determined in self-government negotiations taking into account the capacity of Métis governments to raise revenue from their own sources.

9. Transfer Payments

Within the context of self-government negotiations,

(a) Canada and the Provinces agree to provide Métis self-governing institutions with transfer payments to enable them to establish and deliver programs and services to Métis.

(b) These transfer payments shall assist Métis self-governing institutions to establish similar types of programs and services as those enjoyed by other Aboriginal peoples.

10. Preservation of Existing Commitments

(a) Canada will not reduce funding or services to the Aboriginal peoples of Canada as a result of the signing of this Accord or the coming into force of section 91A of the Constitution Act, 1867.

(b) Canada and the Provinces will not reduce funding or services to Métis as a result of the signing of this Accord or the coming into force of section 91A of the Constitution Act, 1867.

11. Alberta Métis Settlements

Without derogating from the Métis Nation's right of representation on general matters, this Accord recognizes that the Alberta Métis Settlements' General Council has the sole right to negotiate, conclude and implement intergovernmental agreements respecting the lands, members, and self-government of the Métis Settlements in Alberta.

12. Gender Equality

The rights and benefits referred to in this Accord are guaranteed equally to female and male persons.

13. Non-Derogation

(a) Nothing in this Accord shall be construed so as to abrogate from any aboriginal, treaty, or other rights or freedoms that pertain to the Aboriginal people of Canada.

(b) Nothing in this Accord is intended to apply to any other Aboriginal people who are not within the ambit of this Accord.

14. Nature of Instrument and Legal Certainty²

Upon a proclamation issued by the Governor General under the Great Seal of Canada of amendments to the Constitution of Canada, which include an amendment to the Constitution Act, 1982 recognizing the inherent right of self-government of the Aboriginal peoples of Canada and the coming into force of section 91A of the Constitution Act, 1867, clarifying that all of the Aboriginal peoples of Canada are included in section 91(24), the Government of Canada shall recommend to Parliament and the Governments of the Provinces shall recommend to their Legislative Assemblies legislation or take such other steps as are necessary to confirm that this Accord is approved, is legally binding on Her Majesty and is both enforceable and justiciable. The Accord shall be included as a schedule to the legislation.

15. Application of Political Accord Relating to Aboriginal Constitutional Matters

The provisions of the Political Accord Relating to Aboriginal Constitutional Matters and the proposed "Negotiations Processes Accord" shall apply to the Métis Nation. Where the provisions of the Métis Nation Accord are more specific or relate to matters not addressed in the Political Accord Relating to Aboriginal Constitutional Matters and the proposed "Negotiations Processes Accord," the provisions of the Métis Nation Accord shall prevail.

16. Representation of the Métis Nation

(a) The Métis Nation is represented nationally by the Métis National

Council. Provincial and territorial representation of the Métis Nation includes the Pacific Métis Federation, Métis Nation of Alberta, Métis Society of Saskatchewan, Manitoba Métis Federation, Ontario Métis Aboriginal Association and the Métis Nation-Northwest Territories, acting either collectively or in their individual capacity, as the context requires, or their successor Métis organizations, legislative bodies or governments.

(b) The parties agree that:

(i) self-government agreements referred to in this Accord shall be negotiated only by duly mandated representatives of the Métis Nation directly concerned including, for greater certainty, duly mandated representatives of Métis Nation communities;

(ii) the preferred means for resolving issues with respect to the representation of Métis for the purposes of participation in self-government negotiations, is to use procedures internal to the Métis Nation; and

(iii) if requested by a group of Métis, the federal and provincial governments concerned may participate in an informal, mutually agreed upon process with the Métis Nation to resolve a representation issue that is not resolved internally.

17. Ratification Procedure

This Accord shall be considered adopted by the Métis Nation upon the passage of a duly authorized motion by a special assembly of elected Métis representatives of the Métis Nation as defined herein.

Yvon Dumont, President
Métis National Council
Manitoba Métis Federation

Larry Desmeules, President
Métis Nation of Alberta

Gary Bonnet, President
Métis Nation— Northwest
Territories

Norm Evans, President
Pacific Métis Federation

Gerald Morin, President
Métis Society of Saskatchewan

Ron Swain, President
Ontario Métis Aboriginal Association

British Columbia

Alberta

Saskatchewan

Manitoba

Ontario

Canada

Northwest Territories

Notes:

* This document is the best efforts draft of the Métis Nation Accord, dated 7 October 1992, prepared for final review by first ministers and Aboriginal leaders.

1 Provisions referring to the proposed constitutional amendments are under consideration pending finalization of the legal text and the general Political Accord.

2 Canada and British Columbia have indicated that legislation will be introduced.