

**Memorandum of Intent
On
Devolution and Resource Revenue Sharing
*Objectives, Principles, Subject Matters and Process***

May 22, 2001

Preamble

Whereas, Canada is prepared to devolve the legislative powers, programs and responsibilities for management of land, waters and natural resources onshore in the NWT currently administered by the Department of Indian and Northern Affairs for the Government of Canada;

And Whereas, leaders at the Intergovernmental Forum meeting in Hay River on May 5, 2000 agreed that building solid intergovernmental relationships will be an essential ingredient for Aboriginal, territorial and federal governments to work together effectively in the Northwest Territories;

And Whereas, the agreement to move forward with discussions is possible because of a positive political environment for devolution, including:

- agreement that there is a government-to-government-to-governments relationship within the framework of the Canadian Constitution as agreed through the Intergovernmental Forum;
- recognition of the Inherent Right of Self-government;
- commitments made in Gathering Strength;
- progress made in land and governance arrangements for Aboriginal people;
- recognition that there needs to be a sharing of revenues and responsibilities; and,
- recognition that devolution can increase self-sufficiency.

And Whereas, NWT control over lands, waters and natural resources in the NWT is a key factor in the economic and fiscal future of the NWT.

Now therefore, this Memorandum of Intent sets out the initial objectives, principles, subject matters and process to guide discussions to establish a formal process on devolution and resource revenue sharing.

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To the Northwest Territories Lands and Resources Devolution Framework Agreement

1.0 Definitions

For the purposes of this Memorandum of Intent only:

- 1.1 "Devolution" means the transfer of the legislative powers, programs and responsibilities associated with DIAND in the NWT, with respect to the following:
- a) powers to develop, conserve, manage and regulate surface and subsurface natural resources in the NWT, with respect to mining and minerals (including oil and gas) administration, water management, land management, environmental management, and the management of archaeological resources;
 - b) powers to control and administer Crown land with the right to use, sell or otherwise dispose of such land; and,
 - c) powers to levy and collect resource royalties and other revenues from natural resources.

2.0 Objectives

Discussions should lead to a process designed to:

- 2.1 Transfer the legislative powers, programs and responsibilities for management of land, water, mines, minerals, oil and gas, the environment and archaeological resources in the NWT currently administered by the Department of Indian and Northern Affairs.
- 2.2 Create a resource management regime in the NWT that manages and regulates resources and development in an effective, efficient and coordinated manner.
- 2.3 Provide that the NWT will receive a fair net fiscal benefit.

3.0 Principles

Discussions will be based on and guided by the following principles:

- 3.1 A devolution transfer agreement will be consistent with land claim agreements, self-government agreements, Treaty entitlement and other similar negotiations, and any existing Aboriginal or Treaty rights.

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- 3.2 Interim agreements may be used where elements of a devolution transfer agreement are to be implemented in advance of concluded land and governance arrangements for Aboriginal people.
- 3.3 Unless otherwise agreed, It is not the intention that this process will impede, hamper or otherwise interrupt any other new or existing regional discussions, agreements or initiatives between the parties.
- 3.4 Existing land and resource rights of third parties will be respected.
- 3.5 A devolution transfer agreement will include the transfer of those program resources dedicated to resource management at the time of transfer.
- 3.6 Canada will provide continuing funding allocations in the subject areas identified for negotiation until a devolution transfer agreement comes into effect.
- 3.7 One-time transitional expenses related to the transfer will be negotiated.
- 3.8 All resource revenues will be used for government purposes.
- 3.9 The net fiscal benefit to the NWT will be shared between the Government of the Northwest Territories and Aboriginal Governments.
- 3.10 All resource revenues will be shared and allocated in an open and transparent manner and according to a mutually agreed upon formula.
- 3.11 The allocation of resource revenues should take into account the location of resource development activities and the potential for increased impacts, particularly upon the responsibilities of governments, in the area the development takes place.
- 3.12 Resource royalties allocated pursuant to land claims agreements will not be affected by devolution.
- 3.13 A devolution transfer agreement will include a human resources development plan dealing with the transfer of permanent Northern Affairs Program employees.
- 3.14 With respect to environmental obligations and liabilities, those arising from the period prior to the transfer will be the responsibility of Canada. Obligations and liabilities arising following the transfer shall be the responsibility of territorial and aboriginal governments.

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4.0 Subject Matters

Discussions will include, but not be limited to, the following subject matters:

- 4.1 Post-devolution governance relationships.
- 4.2 Devolution to territorial and aboriginal governments.
- 4.3 The relationship between a devolution transfer agreement and land claim agreements, self-government agreements, Treaty entitlement and other similar negotiations.
- 4.4 Arrangements for elected governments, which are as close to the people as possible, to make decisions while ensuring an effective, efficient and coordinated management regime.
- 4.5 Interim agreements or arrangements.
- 4.6 The manner in which offshore resource management will be addressed.
- 4.7 Any outstanding resource management and resource program requirements.

5.0 Process

- 5.1 Unless otherwise agreed, the necessary instructions will be sought in order to appoint negotiators to enter into formal negotiations as soon as reasonably possible, but no later than March 31, 2002.
- 5.2 To assist Aboriginal leaders in the formal negotiation process, Canada and the GNWT agree to contribute funding to enable their participation in the process.
- 5.3 All necessary resource and management information not protected by corporate confidentiality will be made available on a timely basis before and during negotiations. Any confidential information disclosed will be held in confidence.

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This Memorandum of Intent creates no legally enforceable rights, obligations or liabilities.

This Memorandum of Intent has been endorsed by the Intergovernmental Forum in Inuvik on May 22, 2001.