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Statement of Principles on the Federal Approach to Modern Treaty Implementation

This statement of principles is intended to provide guidance to the Crown in right of Canada on the approach to modern treaty implementation to which it should aspire. Working towards such an approach will help to promote reconciliation. Nothing in this statement is intended to restrict the positions of any treaty party on the principles that govern treaty interpretation or implementation as a matter of law, nor on the legal nature and scope of underlying treaty rights.

1 – Modern treaties are a key component of Canadian nation-building

Modern treaties are a key component of Canadian nation-building. They promote strong and sustainable Aboriginal communities, and create enduring intergovernmental relationships between treaty partners. Further, modern treaties establish certainty with respect to the ownership and management of lands and resources, create a stable climate for investment, and promote broader economic and policy objectives to the benefit of all Canadians. Many modern treaties also establish and provide certainty with respect to self-government, laying out Aboriginal groups' law-making powers and equipping them to develop and deliver programs and services that are tailored to the unique needs of their communities.

2 – Modern treaties are reconciliation in action

The Supreme Court of Canada wrote that treaties serve to reconcile the prior occupation of North America by Aboriginal peoples with the assertion of Crown sovereignty. Treaty rights are recognized and affirmed by section 35 of the *Constitution Act, 1982*. Treaties establish a mutually agreed-on and enduring framework for reconciliation and ongoing relationships between the Crown and Aboriginal people.

Reconciliation frames the Crown's actions in relation to section 35 rights and informs the Crown's broader relationship with Aboriginal peoples. Canada's approach to reconciliation is informed by legal principles articulated by the courts and by negotiation and dialogue with Aboriginal peoples and provincial and territorial governments.

3 – Modern treaty implementation is an ongoing process

Modern treaties require ongoing implementation of the obligations therein.

4 – The implementation of modern treaties must reflect the agreements entered into

Canada's approach to implementing modern treaties must be informed by the text of the particular treaty and by implementation documents entered into by the parties from time to time.

Canada's approach to funding treaty partners for the purposes of treaty implementation must be informed by the text of the particular treaty and by financial agreements entered into by the parties from time to time.

5 – Modern treaties must be implemented in a manner that upholds the honour of the Crown

The honour of the Crown is at stake in Canada's approach to implementing its modern treaty obligations. It speaks to *how* obligations of the Crown must be fulfilled. The honour of the Crown requires the Crown and its departments, agencies and officials to act with honour, integrity and fairness in all its dealing with Aboriginal peoples. The Crown must act diligently to fulfill its obligations in accordance with the terms of the modern treaties. Modern treaty provisions are to be interpreted in a reasonable and purposive manner which requires giving effect to the common intention of the parties at the time the treaties were made.

6 – Aboriginal and treaty rights are constitutionally protected

Modern treaties are implemented by legislation giving the treaties the force of law. Modern treaty rights are recognized and affirmed by Section 35(1) of the *Constitution Act, 1982*. The *Constitution Act, 1982* offers a strong measure of protection for section 35 rights including those enshrined in modern treaties.

7 – The implementation of modern treaties supports a set of broad objectives

Through the implementation of modern treaties, Canada supports a set of broad objectives that it shares with its Aboriginal treaty partners, including the promotion of social, economic, and cultural well-being of Aboriginal peoples; and contribution to the development of prosperous and sustainable Aboriginal communities in Canada. Further, individual modern treaties often articulate shared objectives specific to the unique priorities and circumstances of the Aboriginal signatory. Canada supports these broad objectives, and is committed to collaborating with its treaty partners to work towards them through the negotiation and implementation of treaties that contain mutually acceptable, clearly defined obligations, and through other measures.

8 – The implementation of modern treaties is a shared responsibility

Federal, provincial/territorial and Aboriginal treaty partners each have implementation obligations pursuant to modern treaties. Each party is to diligently meet its obligations.

9 – The Crown as a whole is accountable for its obligations

Modern treaties are entered into on behalf of the Crown as a whole. Consequently, the Crown in right of Canada is accountable for the decisions and actions taken to implement its obligations therein as laid out in the treaty.

Therefore it is important for every federal department and agency to be aware of and to play its proper role in fulfilling those modern treaty obligations of the federal Crown which apply to it.

10 – All federal departments and agencies will conduct their business in a manner that is consistent with Canada's modern treaty obligations

Federal departments and agencies will carry out all functions in line with their mandates, including the development and delivery of programs, services, policy and legislation, in a manner consistent with modern treaty obligations and the evolving legal framework.

11 – A whole-of-Government approach to modern treaty implementation is required

In order to manage the responsibilities of the Crown in right of Canada, the federal government will continue to work to develop effective tools and systems for raising awareness, monitoring and reporting on modern treaty compliance, establishing senior-level oversight, and establishing a strong accountability framework across federal departments and agencies.

12 – Effective intergovernmental relationships are vital to the success of modern treaties

Modern treaties foster mutually respectful, long-term relationships between the treaty signatories. In order for modern treaties to be successfully negotiated and implemented, and to contribute to their objectives, the parties need to commit to working together in an open dialogue. Canada is committed to continuing these collaborative relationships with its treaty partners.

Where disagreements between treaty partners occur, Canada is committed to resolving them in the most expeditious and cost-effective manner possible, in a non-adversarial, collaborative atmosphere. Where disagreements persist, Canada is committed to pursuing their resolution through the use of the dispute resolution mechanisms, as laid out in the treaties.

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