

**CANADA - AKWESASNE
PROCESS AND SCHEDULE AGREEMENT**

BETWEEN

The MOHAWKS OF AKWESASNE

As represented by the Mohawk Council of Akwesasne
(Hereinafter referred to as Mohawks of Akwesasne);

AND

HER MAJESTY, THE QUEEN IN RIGHT OF CANADA

As represented by the Minister of Indian and Northern Affairs Canada
(Hereinafter referred to as "Canada")

WHEREAS the Mohawks of Akwesasne and Canada, in good faith, wish to enter into negotiations regarding the exercise of jurisdiction by the Mohawks of Akwesasne;

WHEREAS the parties recognize the unique geographic and jurisdictional character of Akwesasne;

WHEREAS the Mohawks of Akwesasne assert and will continue to assert that they have aboriginal title and an inherent right to exercise jurisdiction over the territory of Akwesasne;

WHEREAS the parties agree that the Mohawks of Akwesasne have experienced on-going difficulties directly attributed to the location of the Ontario/Quebec inter-provincial boundary and the Canada/United States international border through Akwesasne;

WHEREAS it is recognized that Akwesasne is jurisdictionally unique and many issues have been addressed in the past through innovative arrangements between the Mohawks of Akwesasne and Canada;

WHEREAS the parties wish to renew their relationship and to negotiate the exercise of jurisdiction and governance by the Mohawks of Akwesasne in agreed subject areas;

WHEREAS the Mohawks of Akwesasne affirm that they are part of the Mohawk Nation (Kanienkehaka) and the Iroquois Confederacy (Rotinonshonni), which are guided by an ancient constitution known as the Great Law of Peace (Kaianerakowa), which was in place prior to the arrival of the Europeans;

WHEREAS the Mohawks of Akwesasne affirm that they have a community charter, the Akwesasne Wolf Belt (Okwaho Kaionwi ne Akwesasne), which outlines their commitment to the continued existence of a community government at Akwesasne;

WHEREAS Canada recognizes that the Mohawks of Akwesasne have the capacity and ability to exercise jurisdiction and governance;

WHEREAS the Mohawk Council of Akwesasne established the Nation Building Process to support social, political and economic development at Akwesasne, including negotiations with Canada on jurisdiction and governance;

WHEREAS the Mohawks of Akwesasne have developed principles to guide their negotiations with Canada;

WHEREAS the Mohawks of Akwesasne and Canada are committed to working together in a spirit of peace, respect and friendship;

WHEREAS the Mohawks of Akwesasne will be guided by the spirit and principles of peace, power and the good mind (Skennen, Kasastenera and Kanikonriio) in their negotiations with Canada and encourage Canada to be guided by the same principles;

WHEREAS the Mohawks of Akwesasne are committed to building a strong community with culturally appropriate governance for present and future generations;

WHEREAS the parties entered into a Political Protocol on June 7, 1999 to support the implementation of new arrangements between the Mohawks of Akwesasne and Canada; and

WHEREAS, consistent with that Political Protocol, the Mohawks of Akwesasne and Canada wish to enter into this Agreement to guide the negotiations provided for herein:

NOW THEREFORE THE MOHAWKS OF AKWESASNE AND CANADA AGREE AS FOLLOWS:

1. Definitions

For the purposes of this Agreement:

“**Akwesasronon**” means a person(s) who is registered or entitled to be registered on the Akwesasne membership list established and maintained pursuant to the Akwesasne Membership Code.

“**Agreement**” means the Canada-Akwesasne Process and Schedule Agreement.

“**Agreement-in-Principle**” means an agreement preliminary to the Final Agreement and which will address, in a certain degree of detail, the issues to be covered by the Final Agreement.

“**Authority**” means any power other than the power to enact laws.

“Council” means the Mohawk Council of Akwesasne duly elected as a community government under the Akwesasne Election and Voting Custom Regulation.

“Final Agreement” means the final version of the agreement based on the Agreement-in-Principle and which will set out, among other things, agreed rules governing the new relationship between the Mohawks of Akwesasne and Canada.

“Implementation Plan” means the agreed upon plan, specifying the activities, timeframes and financial resources, to implement the Final Agreement.

“Jurisdiction” means the power to enact laws, and includes authority.

“Sectoral Agreement” means an agreement with respect to jurisdiction or authority over a specific subject matter and which is subject to the Final Agreement.

2. Purpose of the Agreement

2.1 The purpose of this Agreement is:

- 2.1.1 to establish the agenda, process, time frames and scope of the negotiations between the parties towards an Agreement-in-Principle, draft and final Sectoral Agreements and a Final Agreement; and
- 2.1.2 to guide the conduct of the parties through these negotiations.

3. Goal of Negotiations

3.1 The Mohawks of Akwesasne and Canada will strive to reach agreements that:

- 3.1.1 implement practical arrangements for the exercise of jurisdiction or authority by the Mohawks of Akwesasne in identified areas;
- 3.1.2 identify the structures and procedures through which the Mohawks of Akwesasne will exercise jurisdiction and authority; and
- 3.1.3 identify matters for future negotiations on jurisdiction and authority.

4. Joint Guiding Principles

4.1 The parties agree to conduct themselves in accordance with the following principles:

- 4.1.1 they will negotiate in good faith and make every reasonable effort to conclude an Agreement-in-Principle, draft Sectoral Agreements, and ultimately, a Final Agreement and Sectoral Agreements;
- 4.1.2 they will strive to work together in a spirit of peace, respect and friendship; and

4.1.3 they will negotiate with one another on a government-to-government basis.

5. Scope of Negotiations

5.1 Negotiations will address matters related to governance, exercise of jurisdiction and authority by the Mohawks of Akwesasne, and the relationship between Canada and the Mohawks of Akwesasne.

5.2 The subject areas to be addressed in new arrangements in respect of governance by the Mohawks of Akwesasne include, but are not limited to, the following essential elements of a governance code:

- 5.2.1 leadership selection;
- 5.2.2 Akwesasne law enactment procedures;
- 5.2.3 political accountability of leaders to their members;
- 5.2.4 financial management and accountability;
- 5.2.5 internal dispute resolution mechanisms;
- 5.2.6 structures and procedures of government;
- 5.2.7 conflicts of interest;
- 5.2.8 community consultations;
- 5.2.9 voting and referenda;
- 5.2.10 access to information;
- 5.2.11 membership; and
- 5.2.12 legal status and capacity.

5.3 The subject areas to be negotiated in relation to jurisdiction or authority may include, but are not limited to, the following:

- 5.3.1 Justice;
- 5.3.2 Economic development;
- 5.3.3 Public works, capital works and infrastructure development;
- 5.3.4 Health;
- 5.3.5 Social services;
- 5.3.6 Child welfare and protection;
- 5.3.7 Education;
- 5.3.8 Environmental protection, assessment and conservation;
- 5.3.9 Lands and estates management;
- 5.3.10 Division of matrimonial property on marriage breakdown
- 5.3.11 Landlord and tenant;
- 5.3.12 Membership, records and vital statistics;
- 5.3.13 Labour;
- 5.3.14 Policing;
- 5.3.15 Public safety;
- 5.3.16 Traffic and transportation;
- 5.3.17 Natural resources;
- 5.3.18 Language and culture;

- 5.3.19 Licensing of businesses;
- 5.3.20 Intoxicants;
- 5.3.21 Housing;
- 5.3.22 Revenue raising mechanisms; and
- 5.3.23 Gaming.

5.4 The Agreement-in-Principle will address, among other matters:

- 5.4.1 Fiscal relations between Canada and the Mohawks of Akwesasne;
- 5.4.2 Dispute resolution mechanisms between Canada and the Mohawks of Akwesasne;
- 5.4.3 Application and relationship of Akwesasne laws to other laws, including the *Canadian Charter of Rights and Freedoms*;
- 5.4.4 International legal obligations;
- 5.4.5 Treatment of information and personal information under the *Access to Information Act* and the *Privacy Act*, including access to and disclosure of such information;
- 5.4.6 The transition from the *Indian Act* and other federal statutes;
- 5.4.7 Liability of the parties before and after conclusion of a Final Agreement and Sectoral Agreements;
- 5.4.8 Implementation matters;
- 5.4.9 The ratification process for the Agreement-in-Principle and Sectoral Agreements; and
- 5.4.10 Any other matters applicable to all Sectoral Agreements.

6. Negotiation Process and Schedule

- 6.1 The parties agree that the process outlined in this Agreement will apply to all negotiations toward an Agreement-in-Principle, draft Sectoral Agreements, Sectoral Agreements and Final Agreement.
- 6.2 The parties are committed to making best efforts to conclude an Agreement-in-Principle, and to conclude draft Sectoral Agreements in respect of lands, justice, health and economic development, by March 31, 2008, and to conclude the Final Agreement and Sectoral Agreements by August 1, 2009.
- 6.3 Notwithstanding subsection 6.2, the parties agree that nothing precludes the conclusion of interim administrative arrangements in respect of subject matters outlined in this Agreement in advance of the dates specified in subsection 6.2, provided such interim arrangements do not impede or otherwise conflict with the negotiations provided for in this Agreement.
- 6.4 The parties will each appoint a lead negotiator who will have the responsibility to oversee the negotiations and to ensure that the process adheres to the schedule set out in subsection 6.2.

- 6.5 The lead negotiators will develop a work plan, to be approved by the parties, for each year of the negotiations that:
- 6.5.1 outlines the subject matters to be negotiated, either individually or in combination;
 - 6.5.2 recommends the appropriate work groups and participants to pursue the negotiation of those subject matters; and
 - 6.5.3 establishes a timetable for the negotiation of those subject matters.
- 6.6 The parties will each appoint Chairs who will have the responsibility to lead negotiations in respect of designated subject matters according to the approved annual work plans. The Chairs will report to their respective lead negotiators and to the parties as required.
- 6.7 Negotiations in respect of each subject matter identified herein, and any other matters as agreed by the parties, will proceed at a mutually-agreed pace, bearing in mind priorities established by the Mohawks of Akwesasne, as well as its capacity and readiness for assuming greater responsibilities.
- 6.8 Canada will provide funding to the Mohawks of Akwesasne in support of negotiations leading to the Agreement-in-Principle, Sectoral Agreements and the Final Agreement in accordance with annual work plans that set out milestones and reporting requirements.

7. Relationship of the Provincial Governments

- 7.1 The parties recognize that certain subject matters set out in subsection 5.3 may affect areas of provincial jurisdiction. With respect to these subject matters the parties will make best efforts to conclude agreements among the Mohawks of Akwesasne, Canada, Quebec and Ontario.
- 7.2 Where in respect of a subject matter the Mohawks of Akwesasne conclude separate agreements with Canada and with Quebec and Ontario, the Mohawks of Akwesasne will make best efforts to ensure that the resulting agreements are consistent with one another.
- 7.3 For greater certainty, subsection 7.1 is not intended to expand or increase the application of provincial laws at Akwesasne.

8. General Provisions

- 8.1 Nothing in this Agreement will be construed to abrogate or derogate from any inherent right of self-government or other aboriginal right of the Mohawks of Akwesasne, or from any treaty rights of the Mohawks of Akwesasne, or from any aboriginal or treaty rights of other communities

within the Mohawk Nation or Iroquois Confederacy, recognized and affirmed by section 35 of the *Constitution Act, 1982*.

- 8.2 Nothing in this Agreement will affect any traditional or historical government at Akwesasne.
- 8.3 Nothing in this Agreement will limit or restrict the Mohawks of Akwesasne in their ability to participate in other forums, processes or negotiations with any other party, or in pursuing their land claims or other claims through other forums.
- 8.4 The fiduciary relationship between the parties will continue. Certain fiduciary obligations of Canada may, however, evolve as a result of a Final Agreement or Sectoral Agreement.

9. **Other Processes, Programs or Services**

- 9.1 Responsibilities for programs and services currently administered by Canada will remain with Canada until such time as the Mohawks of Akwesasne agree to assume those responsibilities in a Final Agreement, Sectoral Agreements, or interim arrangements that may be agreed to by the parties.
- 9.2 Where the Mohawks of Akwesasne do not receive funding for a program or service, *Akwesasronon* will continue to be eligible to participate in government programs and to enjoy government benefits according to the ordinary rules of entitlement for such programs or benefits.
- 9.3 Subsection 9.2 shall not apply to programs and services for which the Mohawks of Akwesasne have received funding from Canada and have agreed to administer the program or service.

10. **Term of the Agreement**

- 10.1 Subject to subsection 10.2, this Agreement will terminate on August 1, 2009.
- 10.2 This Agreement may be terminated immediately upon the mutual consent of the parties, or by either party without cause upon ninety (90) days written notice to the other party.

11. **Political Commitment of the Parties**

- 11.1 This Agreement reflects the political commitment of the parties to pursue the negotiations process outlined herein. The parties agree that they will not seek to enforce this Agreement through the courts.

12. **Amendment**

12.1 This Agreement may be amended by written agreement of the parties.

13. **Signature of the Parties**

Dated at _____ this ____ Day of _____

**Signed on Behalf of The Mohawks
of Akwesasne**

Grand Chief Angie Barnes

Witness

**Signed on Behalf of Her Majesty in Right
of Canada**

The Honourable Andy Scott, PC MP
Minister of Indian Affairs and Northern
Development

Witness