

Messaging for Key Overarching Questions Raised During 1st Ratification Vote

Please note: These answers were developed with input from Canada and have been approved by the Anishinabek Nation Negotiators.

Key Questions/Suggested Answers:

- 1) This agreement is not implementable within the framework of the Constitution or could lead to termination of our rights.**

The Governance Agreement only terminates the application of the sections of the Indian Act related to elections, membership and the rules on operation of band meetings for those First Nations that ratify the agreement, so that our laws in these areas can be applied. It also sets out that it is not to affect our aboriginal and treaty rights at all.

The Governance Agreement is not a transfer or delegation of authorities under the Indian Act or other federal legislation. It differs in that it is a step out of sections of the Indian Act, as opposed to a taking down of authorities from the Minister of Indian Affairs. It recognizes our laws in leadership selection, citizenship, culture and language, and how we operate and manage our governments.

Further, the Governance Agreement does not interpret, define or alter our existing aboriginal or treaty rights. The Constitution Act, 1982 continues to confirm our “existing Aboriginal and treaty rights.” Aboriginal and treaty rights are protected in the Governance Agreement and in the Constitution of Canada.

- 2) What is the link between this agreement and other policy initiatives, i.e. Recognition and Implementation of Rights Framework, Inherent Right Policy?**

Canada’s policy direction has in the past been based on the Inherent Right Policy. We have heard of Canada’s intention to co-develop a new policy to replace the Comprehensive Claims Policy and Inherent Right Policy. This new policy is not yet finalized but we have and can influenced its direction. We have confirmed that Canada will be taking the time needed to constructively and meaningfully engage and co-develop any new policy with First Nations, Inuit and Métis. This includes consideration of the Recognition and Implementation of Rights Framework.

With respect to the Governance Agreement, it is the product of negotiations between Canada and the Anishinabek Nation. It was designed to be tailored to Anishinabek needs, interests and policy/vision. Because communities have different goals, negotiations will not result in a single model of self-government. Arrangements take many forms based on the different historical, cultural, political and economic circumstances of our First Nation governments, regions and communities involved. The parties agreed to move forward within their respective policies and mandate.

3) Why do we keep concluding incremental agreements? Why not exercise all jurisdictions at once? What is the self-government vision?

When the Restoration of Jurisdiction process began in 1995, the proposal put forward by Grand Council Chief Joe Hare was to enter comprehensive self-government negotiations with Canada. Through discussions, it was agreed that the initial focus should be on advancing education and governance, with a commitment to future negotiations in other “sectors,” and that this would be of benefit, to bring about immediate improvements in the socio-economic outcomes of our members.

These two jurisdictions in particular were recognized as forming the foundation of any sound governance system. Historically, both jurisdictions have been key areas used against us for the colonization of Indigenous peoples in Canada. Federal control in these areas have long been recognized as contributing to a cycle of social, political, and economic problems in many of our communities.

The Education Agreement, now in effect, was the first step in improving the socio-economic outcomes for our citizens. We are now prepared to exercise jurisdiction over the governance of our First Nations, to ensure that we have a solid foundation for the future by rebuilding our traditional governance structures and strengthening the use of our languages.

The importance and timeliness of the Governance Agreement cannot be understated; the COVID-19 pandemic has generated a great deal of concern among First Nations that are currently governing under the Indian Act. In particular, for those First Nations who currently elect their Chief and Councils under the Indian Act, the rigid regulations within the Indian Act election provisions has meant that while many communities are dealing with the serious health and safety risks of the pandemic, they are still being required to hold their elections, despite the pandemic.

With the Governance Agreement we can pass our own election law outside of the Indian Act framework and decide for ourselves when and how to hold elections during any future pandemics. We are taking the necessary steps to gradually move forward and build the capacity in our communities that we will need as we exercise more and more jurisdictions.

4) How do we draft laws in such a way that ensures transparency, accountability etc.?

We have to keep in mind that currently, under the Indian Act, the First Nation Election Act, etc, these are laws that are drafted in Ottawa by non-indigenous people and approved by them. With the Governance Agreement, the drafting of the Constitution and laws is a process led by Anishinaabe E'Dbendaagzijig and defined by E'Dbendaagzijig. Under the Governance Agreement, First Nations are accountable to our E'Dbendaagzijig, to their communities. Accountability is to Anishinaabe citizens, not the Ministers of Indian Affairs or other parliamentarians.

First Nations and any Anishinaabe Institution a First Nation establishes must provide an opportunity for E'dbendaagzijing to participate in decision-making.

A First Nation is accountable to its citizens for how it spends money and provides for citizen participation in establishing priorities. Transparency is built into the financial reporting to citizens.

5) What is the role and distinction between the Anishinabek Nation Government vs the First Nation Governments?

Canada is recognizing the jurisdiction of each First Nation. It is the First Nation's jurisdiction that drives the whole move to Anishinaabe Governance and implements the Anishinabek Nation Government. As a governing body, the Anishinabek Nation Government is comprised of our First Nations and they set the priorities for the direction of the Anishinabek Nation government.

It is the First Nations that control and manage the Anishinabek Nation Government and any Anishinaabe Institutions established under the Anishinabek Nation Governance Agreement. It is the First Nations that make up the Anishinabek Nation Government. And to be even clearer, any laws passed by the Anishinabek Nation Government are trumped by First Nations' laws that deal with the same subject. First Nation jurisdiction is paramount and also trumps federal laws on the same subject.

The Anishinabek Nation Government is premised on the First Nations working together as a collective governing body. The First Nations are in full control of their Anishinabek Nation governing body and can give and can take away any of its authorities. The idea is that the collective governing body can fulfill certain institutional requirements to exercise First Nation inherent jurisdictions

6) Why is the fiscal package so generous? How can we be sure Canada won't claw back any of the funds?

The fiscal package was jointly developed by Canada and representatives of the Anishinabek Nation on behalf of our First Nations. The intention is that we will have sufficient fiscal resources to fulfill our responsibilities under the Agreement and help to ensure that we will provide stable, transparent, accountable and inclusive governance processes for Anishinabek First Nation citizens. The Anishinabek Nation has tailored the fiscal agreement to ensure that our First Nation's governance needs will be met.

Under the Anishinabek Nation Fiscal Agreement, Canada cannot claw back any of the funds. The fiscal relationship as set out in the Agreement will be legislated. We will renew the funding agreement periodically to ensure that it keeps up with inflation and other adjustments as needed. Any changes can only be implemented with our Agreement. The base amounts outlined in each First Nations fiscal offer are guaranteed for First Nations.

7) Why is Canada doing this?

Canada recognizes that Indigenous peoples have an inherent right of self-government guaranteed in section 35 of the *Constitution Act, 1982*. For decades, the Government of Canada has been negotiating self-government agreements to give a practical effect to the inherent right of self-government.

Canada is currently implementing 25 modern treaties, four stand-alone self-government agreements, two sectoral education agreements (of which the ANEA is one), and one governance agreement in partnership with Indigenous and provincial/territorial governments. These agreements span six provinces and all three territories, covering over 40 per cent of Canada's land mass and set out rights and obligations for all signatories.

These various agreements have confirmed that putting the decision-making power into the hands of Indigenous governments produce better outcomes for those who take part in these self-government agreements.

8) What does jurisdiction over _____ really give us?

The Governance Agreement is not a transfer or delegation of authorities under the Indian Act or other federal legislation. It differs in that it is a step out of the Indian Act regime, as opposed to a taking down of authorities from the Minister of Indian Affairs. It is a recognition of some inherent jurisdictions but does not exclude other jurisdictions.

- a. Citizenship or E'dbendaagzijig – deciding who belongs is fundamental to a Nation of People. Deciding who has Indian status is about eligibility for programs and services. Citizenship is about identity. Using Anishinaabe principles for deciding who belongs and conferring citizenship can include knowledge of Anishinaabe history, culture and language, or an application process in which decisions are made by the Grandmothers, as they were in the past. Our Grandmothers know who belongs.
- b. Leadership selection – deciding the criteria for leadership structure and selection through the Dodemaag System are Anishinaabe principles of leadership selection. In the Dodemaag System, every clan and person are represented. Everyone has a voice because every baby is born into a clan. The Dodemaag System promotes unity and equality. Or First Nations may decide to have longer terms of office to increase stability in government. Or First Nations may designate equal seats on council for women and men to achieve balance and designate seats to include Elders and Youth.
- c. Language and Culture – making decisions and taking responsibility for the preservation and promotion of culture and language goes to the heart of Anishinaabe identity. Without Anishinaabe language and culture, the Anishinabek cannot survive or fulfill the obligation to the Seventh Generation.

- d. Management and Operations of Government – the rules and processes for the conduct of government deliberations and decision-making can be changed to be culturally appropriate. Nothing is more culturally inappropriate for First Nations than following Robert’s Rules of Order to conduct government functions and decision-making. On the other hand, the Dodemaag System of Governance includes all clans in the decision-making process and strives to achieve consensus among the clan heads. In this way the Dodemaag System of Governance is inclusive and promotes transparency and accountability. Outside of Anishinaabe governance, that is the clan system of governance, new processes and rules can be instated that increase transparency and accountability of First nation Governments and the Anishinabek Nation Government to its citizens.