



**NEGOTIATIONS SECTORAL  
FOLLOW-UP SESSION  
FLIP CHART NOTES  
MÉTIS BREAKOUT GROUP**

The following reflects a transcription of the comments posted on flipcharts in response to the questions indicated below in boldfaced text, during the breakout group discussions.



## **MÉTIS BREAKOUT GROUP NEGOTIATIONS SECTORAL FOLLOW-UP SESSION FLIP CHART NOTES**

### **MÉTIS BREAKOUT GROUP**

This report is an overview of the discussions held at the Métis Negotiations Sectoral Breakout Session on January 12-13 in Calgary. Output from the session was captured on flip charts by the facilitators as well as the participants. All flip charts were transcribed for this report.

Participants were asked to introduce themselves and provided with an opportunity to present any key message they would like to share with the group.

#### **Introductory Key Messages**

The Métis Settlements are:

- Unique;
- One of a kind;
- Have a governance system; and,
- Are looking to work with everyone to improve opportunities.

#### **The Current State – Issue Identification**

Participants were asked to provide the critical issues related to negotiation for the Métis. The facilitators informed the group that the issues would be the basis for the discussion in the breakout groups. Facilitators asked the person providing the issue to assist in grouping the issues to be discussed. After some debate on the lead off question it was decided that the question would be:

#### **On the subject of negotiations, what are the critical issues for the Métis?**

Issues - Flip Chart A

- What is the starting point of a mandate or negotiations?
- Negotiate, what, how, when and Who are the parties?
- Negotiations vs. Claims
- Who are the rights holders?
- What are the aspirations of people?
- Federal government's accountability for results.

Issues - Flip Chart B

- Recognition that there is a Métis Nation made up of national, provincial and community based Governments with full Nation to Nation capacity.



- Métis communities and the relationship between the Métis Nation and Métis Settlements of Alberta General Council.
- Recognize that there are other Métis eg. the Labrador Métis.
- Recognition of Métis Rights, other groups, a process to balance Rights, there are issues that overlap.
- Respect of the collective that holds the Rights and respect the nation to nation relationship.
- Interim measures be undertaken as other processes are being designed.
- Treaty Land Entitlement – Federal institution that harms Métis.
- Métis land claims.
- Powley Rights (harvesting).
- Right to Self-government.
- Looking to establish a relation with federal government through a mandated joint task force as a means of establishing new processes for Self-Government.
- The Federal government has to be accountable for results in meeting stated objectives.
- Addressing unique situations where Métis possess treaty rights.
- Recognition of Métis Governments constitutionalized.
- Address current policy issues: Métis are seen a but program clients now.
- Lack of understanding of Métis Nation institutions, roles, programs, nature of institutions, how governing institutions are established and governed. This leads to duplicate investments and lack of respect for institutions.
- Build capacity around existing Métis institutions.
- Ensure other Métis realities are recognized as well as all Métis Nation issues.

#### Issues – Flip Chart C

- The 91(24) question.
- Métis Claim recognition.
- What is the Promise of S.35?
- Federal government needs to be accountability for results based on their commitments.
- The fiscal relationship.
- NRTA – outstanding questions.
- Treaty 3 and the Half Breed adhesion.
- Role of provinces/municipalities.
- Strategic investments in Métis institutions – value for the money.

#### Issues – Flip Chart D

- Government implementation of RCAP.
- Alternate Vision.
- Lack of Political Leadership.
- Federal Government needs to be accountable for results based on its commitments.
- Credibility – Follow Through.



- Legal Instruments to guarantee follow through (Framework agreement Canada/Métis Nation Recognition Act).
- Nature of Instrument.
- Federal Fiscal responsibility.
- Respect and recognition by other governments and Métis Nation institutions.
- Tri-Partite and Bi-lateral processes haven't worked.
- Federal government needs to show leadership.
- Identify those parts of government whose actions or inactions cause harm to Métis people, e.g. Fisheries. Their role is often actively causing harm.
- Resource processes to engage Métis.
- Need a Minister responsible for Métis relations.
- What Federal mechanisms or processes need to change?
- How do we engage the federal government to do more?
- What can Métis do to increase awareness of issues and support current efforts to go ahead?
- All the involved departments need to work together to make processes more streamlined and effective.
- Federal unilateralism – lack of respect for those at the table.
- Stronger bilateral agreement with government to address all the issues eg. Métis Nation Framework Agreement.
- Find the solutions for the Issues – there is a concrete way to do this.
- Concern – will the government play ball?
- Danger of government will use legislation/policies to the detriment of the Métis.

#### Issues - Flip Chart E

- Need a process to deal with Rights and socio economic issues.
- Federal Government has to be accountable for results from its commitments;
- Government follow through;
- Can we identify those things that can be dealt with – something more narrow and specific;
- Need for a communication strategy: Discourse between government / Métis and public to get broad support and inform public opinion.

#### Issues - Flip Chart F

- A consultation policy based on legal duty and good business practice.
- Create the negotiation model eg. joint task force to create the model and to create the institutions.
- Federal government be accountable for results from their commitments;
- Métis Nation and other Métis community consultation and accommodation policy based on Section 35 and other rights.
- Requirement to consult with Métis on new initiatives.



### Issues – Flip Chart G

- Métis Identification registries – enumerate, identity.
- Métis control of Registry
- Federal government accountability for results from commitments.
- Registry is NOT an Indian Act list.

### Issues – Flip Chart H

- Research.
- Funding of research.
- Clearinghouse.
- National Centre – Institution.
- Policy.
- Litigation.
- Need for institutional / Human / Financial capacity for consultation with Métis.
- Expertise.
- Independent expert body available to Métis.
- Métis specific – not Pan Aboriginal.

### Issues - Flip Chart I

- Resource litigation
- Awareness of Métis litigation
- Due notice to national Aboriginal organizations about litigation
- Change in Federal Court Rules on notification

### Day Two - January 13, 2005

Working from the issues identified on day one, participants were broken into small working groups. The process for the working groups was to first group similar issues together and to then allow for each group to:

- Identify the issues that would be discussed;
- Provide recommendations for action on the issue;
- Apply the lenses; and then ask,
- How we would know progress is being made on the issue?

Two different participant groups were given the opportunity to work on specific issues the outcomes of the discussions were then presented to the entire Métis breakout group.



## **Table Addressing Critical Issues on Charts E and F**

### **First Group**

#### Interim

- Cabinet mandate obtained;
- Framework agreement to enable negotiations;
- Establishing a Métis court challenges program (e.g. Litigation support) or phrased as Métis Nation Rights a defense fund - Test case for south of 60;
- Interim Measures Agreement (involvement in planning, regulation development, consultation process, land freezes, capacity);
- Establish Partnerships;

#### Starting Point

- Bilateral Framework between Canada and the Métis Nation on defined subject matter;
- Beginning a New Relationship (Framework agreement);
  - Harvesting
  - Fiscal relationship (transfer payments)
  - Governance capacity (supporting development of Métis governance at Province, community)
  - Membership/Registry
  - Social Issues
  - Recognition (Nation-to-Nation)-MNC & governing members are legitimate representatives of Métis Nation
  - Inclusion Issues (Women, youth, elders, etc.) Gender analysis Section 35(4)
  - Research by Métis
- Moving to Comprehensive Claims Process;
- Joint Initiative;
- Province needs to conclude it is better to negotiate than alternative;
- Addressing provincial fears of unknown;
- Dialogue;
- Let them see value in dealing with Métis through engagement;

#### Subject Matters:

Land base;  
Taxation;  
Métis control over jurisdiction;  
Governance;  
Resource co-management; and,  
Access to benefits (ABS).

- A Joint Initiative(Métis/Federal & Provincial);
- Different than RCAP;



- Joint special legislative committee with Province legislators as participants;
- Appointments to a task force;
- Work with Métis governments;
- Recognition of history, culture and language;
- Arrive at an interest based process to resolve Métis Claims;

#### Consultation and Accommodation

- Consultation for Métis of their rights
- Capacity for Métis Nation and other Métis government or institutions to be consulted and the accommodation of Métis rights;
- A policy for consultation and accommodation with the provincial and federal Crowns;
- A federal-system wide policy that applies to all departments;
- Developing internal capacity;
- Establishing a place where communities can go

#### Communications

- Public at large;
- Métis Nation research strategy;
- Dissemination of research funding – Indian and Inuit, NWAC;
- Education and history-K12 Métis specific culture and history- historic Métis Nation, past and present;
- Articulating that we want into Canada. We want to find a healthy space – coexistence;
- Support for publishing;
- Addressing immigration issues;
- Communications capacity.

#### Mass Communications Strategy

- Heritage minutes on TV;
- Métis Nation and its role in confederation, etc.

### ***Second Group***

#### Interim Measures

- Agreements to address immediate needs eg. capacity, consultation, research, address urban strategy, enumeration and citizenship.
  - Clarification of urban Métis issues -address urban Métis issues through existing Métis governance structures
  - Financial resources (dollars \$ needed to address interim measures)
  - Consultation e.g. DFO consultations as a part of EA's (environmental assessments) consultation to be initiated with existing Métis governance structures



- Accommodation – Métis membership on co-operative management regimes
- \* Fundamental concern- equality of representation, pan Aboriginal approaches do not work for Métis people.

## **Table Addressing Critical Issues on Chart C**

### **First Group**

#### Framework

1. Recognition of Rights:
    - Sec.35 (Aboriginal & Treaty);
    - International and other;
    - Sec.35(4) – Gender equality;
    - Relationship of Métis Sec.35 rights to other rights e.g. overlaps, historic rights, charter rights, etc.;
    - Self-government powers and jurisdiction.
  2. Relationship:
    - With whom (Métis with Crown (Federal 91.24/Provincial), Crown with Métis / Métis Nation / Other Métis Nation);
    - Nature of relationship;
    - Government to Government / Nation to Nation;
    - Fiduciary;
    - Fiscal;
    - Accountability;
- \* Métis identification (e.g. Registration systems) is a crosscutting issue that must be factored into recognition of rights and relationship.

#### Recommendations

1. Accord(s) with Métis people:
  - Métis Nation Accord;
  - Other Métis Accords;
  - Bilateral; and,
  - Multilateral.
2. Métis Specific Policy:
  - Bilateral;
  - Multilateral;
  - To deal with unique and distinctive Métis peoples e.g. Métis Nation, Other Métis people; and,
  - Consistent with accords.



3. Mechanisms for the resolution of Métis Aboriginal and treaty rights claims:
    - Existing processes CLC, SPEC, IHRP; and,
    - New processes, e.g. Métis claims commission.
  4. Legislation: recognition, implementation, ratification, giving effect, e.g. Métis Relations Act.
- \* Gender/Urban considerations need to be factored into: decision-making, negotiations and design.

### **Second Group**

- 91(24)-need clarification of the jurisdiction issue (eg. a reference to the SCC);
- Could send context for negotiations but the issue of avoiding litigation in favour of negotiation;
- Federal government needs to secure a mandate to negotiate with Métis;
- Need federal leadership in establishing a mandated bilateral relationship with the Métis Nation and other Métis people;
- Fed government needs to establish a legislated mandate – the specifics of which are negotiated with the Métis;

Progress would be indicated by:

- The creation of a negotiations table with a mandate to negotiate with the Métis;
- Increased, positive outcomes at the individual community level eg. Métis people can hunt/fish, gather and grow without being charged, access to a full range of health care programs;
- Increased resources for the Métis – flexible and appropriate and multi-year;
- Increased capacity for all Métis for institutional development, governance, organizations and Métis governments.
- Recognition of Métis governments that represent all Métis, inclusive of all lenses.
- End to federal unilateralism
- Recognition of rights;
- Some are already recognized and exist;
- Legislation for RCAP implementation;

### **Table Addressing Critical Issues in A, G and H**

#### **Group One**

- Different communities at different stages of development – any process must respond to different developmental needs.



- Processes must reflect that Métis communities have the generic right to self-government under section 35.
- The implementation of the inherent right to self-government must respect the right to equality under s.15 of the Charter and s.35(4) for those most vulnerable in Métis communities (women, people with disabilities and two-spirited people) must be addressed and protected in s.35 developments.
- Central overarching principle for Métis Peoples is implementation of Inherent Right to Self-Government for all Métis communities.
- Implementation requires: respect, parity, equality, inclusion, and pragmatism.
- Métis peoples are entitled to design, deliver and evaluate programs and services that reflect the unique circumstances of their communities. Government must devolve an equitable allocation of tax revenues to do so.

### Recommended Actions

- A new policy framework backed by Cabinet must be jointly developed by the Métis communities.
- Federal program activity architecture needs to be changed to enable Métis self-governing institutions, people and social / economic developments by the following:
  - Devolution of existing programs / services to MNC, CAP, NWAC, Alberta Métis Settlement, etc.;
  - Reconfiguring Cabinet responsibilities to make this happen;
  - Engagement strategy to address program and services gaps for Métis;
  - Funding to support Métis self-governing institutions – MNC, CAP, NWAC, Alberta Métis Settlements, etc.;
  - Changes to fiscal relationship.
  - Long term strategy to build Métis self-governing institutions across Canada e.g. Task Force.

### Second Group

- Restructure INAC to include Métis – make it the Department of Indian, Inuit and Métis Affairs.
- Simply put, get a process for negotiations with Métis.
- Get Federal mandate to negotiate with Métis.
- Live up to Government responsibility.
- Mandate the Inherent Right policy to apply to the Métis.
- Initiate Inherent Right Policy process for Métis.
- Federal Government must have a mandate to negotiate with Métis rights bearing peoples.
- Federal Government to negotiate Aboriginal and treaty rights including land, resources, etc... with Métis people.
- Devolution of evolved programs respecting Métis institutions of governance.



## Recommendations

- Métis want a table.
- To set up process by which Federal Government will negotiate with Métis rights bearing peoples.
- Support Métis identification registry process for Métis organizations accept jurisdiction for Métis.
- Accept jurisdiction for Métis within s. 91(24) or refer to Supreme Court to clarify.

## **Table Addressing Critical Issues in B and D**

### **Group One**

- Recognition of Métis;
- presumptive framework should be that Métis are rights bearing peoples and must be recognized and respected as such and dealt with on a nation to nation, government to government basis – for all purposes – including self-government, land claims and programs and services.
- Métis rights bearing peoples' duly elected representative bodies be respected
- The Métis rights bearing peoples are:
  - The Métis Nation
  - Métis Nation Labrador

## Negotiations

The federal government must enter into good faith negotiations with the Métis rights bearing peoples. Federal government must have a mandate to negotiate.

## Establishing the Métis Negotiations Process

- Establish a joint task force to set out the negotiation process and what is to be negotiated (should not be unilateral by Feds.)
- Federal government must enter the task force with a commitment (mandate) to negotiate.
- Métis Nation has proposed a framework agreement – government should commit to that.
- Métis Nation Labrador has a land claim – government should accept and negotiate that claim.
- Federal government commitment to the process must include:
  - Ongoing funding;
  - Interim measures; and,
  - Consultation and accommodation
- Federal government must recognize that the negotiations with Métis engages all of the Federal Government – cannot be isolated to line departments.



## Accountability for Process

Prime Minister and Federal Interlocutor Minister must work to ensure all federal departments get on the Métis train.

## Consultation and Accommodation

Federal government must consult with Métis governing institutions when considering taking actions that may affect Métis rights bearing peoples.

The BIG Issues:

- Recognition
- Negotiations process
- Commitment

## **Group Two**

- Process must be inclusive.
- Other rights bearing Métis People are:
  - MNC, CAP, NWAC, Métis Settlements of Alberta, etc...
- Task force composition:
  - MNC, CAP, NWAC, Métis Settlements of Alberta
  - Community of Interest
  - Concurrent task force when appropriate
  - Concurrent task forces (e.g. Métis Nation – specific)
- Mandate for Task Force;
- Implementation;
- Self-Government;
- Provincial Involvement – need to be involved;
- How to get Province involved?
  - S. 35;
  - Build on pre-existing involvement or, talk bi-laterally with Canada first then bring in Provinces.
- Require policy change re: Consultation
  - Use existing tripartite to effect policy change;
  - But require Cabinet approval to accomplish.
- Long-term strategy:
  - Task force;
  - Regular Negotiation Table (eg. Nova Scotia);
  - Fold Interlocutor into Department of Aboriginal Affairs
    - Enable Aboriginal organizations to enhance their communication capabilities.
    - Support for historical research.
    - Support for Métis-controlled registries.
    - Free standing duty to negotiate.
    - Process for reconciliation of rights.



## PLENARY DISCUSSION

The plenary discussion sought to identify priority issues and messages for the federal government.

### Self-government

- Rights based argument
- Approach?
  - Peoples have ability to form governments
  - Métis Nation belief all Métis peoples have right – may vary between various peoples.
- Organizations eg. NWAC, MNC, CAP, (Settlements) – may be different - are entities do not have rights.
- The Nation has the right.
- Points provided may be valid but wrong.
- Nation to nation.
- 91(24)
- Registry(ies)
- Process to move forward is through task force
- Immediate/interim agreements
- Framework may be exclusionary
  - Leave it to the respective governments
- RCAP has the process details:
  - Government needs to provide an alternative vision (shameful)
- Political recognition:
  - Aboriginal rights and treaty tribunal;
  - Remedy to current process flaws;
- Federal Government reorganization is needed – institutional changes;
- Current claims policies do not work – need to be reviewed;
- Task force role? What? Need to develop the process to determine the what;
- There are elections and representative governments;
- MNC represents the citizens of the Métis Nation

### Section 91(24)

- Want feds to acknowledge that it has jurisdiction for Métis;
- If not – federal government should say why and refer it to the Supreme Court;
- As a matter of the honour of the Crown;
- RCAP has process for resolution.



## **Nation to Nation**

- Aboriginal Rights and Treaty Tribunal that has legislative authority;
  - Put meaning into a Nation to Nation approach;
  - Includes all Métis Peoples;
- Full and equal participation of Métis women
- Recognition and respect of existing Métis organizations and/or governments
- RCAP review – H Flip Chart;
- RCAP has a suggested process;
- Equitable process and the application of a gender based analysis;
- Not all agree consensus has been achieved since not everyone has been asked if they do;
- Do not have consensus on the Aboriginal and treaty rights Tribunal;

## **Negotiations Process**

- Constitutional obligation to negotiate;
- Bi-lateral e.g. A framework agreement, claims, legislative piece for Métis / Canada. May include other Métis group processes;
- Moving towards a multi-lateral participation in possible comprehensive claims process with Provinces;
- Process to move forward identified is through a task force (what, why, how)

## **Registries**

- Registry is important for good governance structures;
- Support for Métis controlled registries.