

# COMMON TABLE REPORT

PREPARED BY THE  
BRITISH COLUMBIA TREATY COMMISSION

based upon discussions among  
Canada, British Columbia, and the First Nations participating at the Common Table\*

August 1<sup>st</sup>, 2008

*\*The “opportunities” listed in this report were arrived at by consensus of the parties. The “principles” and the rest of the report, while based on the discussions, did not receive consensus and do not necessarily reflect the views of any one party. The Common Table discussions, and all related documents, are without prejudice to the parties.*

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## 1. Background

The BC Treaty Process was established in the early 1990s as a means to settle the outstanding 'Indian land question' in British Columbia. Progress in negotiations has been slow. To date two treaty tables have concluded final agreements while several others are close to final agreements. However, many treaty tables have not been able to reach agreement for a variety of reasons. The lack of progress at these treaty tables is of concern to the BC Treaty Commission<sup>1</sup>. It is, of course, of great concern to the parties to the negotiations.

To address this lack of progress, First Nations have been exploring ways to try to advance their negotiations. Over the past year, BC First Nations have called for the establishment of a Common Table to collectively negotiate aspects of treaties that the First Nations have not been able to reach agreement on at their individual tables. The recent call for a Common Table came from those First Nations that signed onto a 'Unity Protocol' in the fall of 2007. The idea of the Common Table was developed and supported through the First Nations' Summit and the First Nations' Summit Chief Negotiators' forum. The Common Table has also been supported by resolutions from the Union of British Columbia Indian Chiefs and the Assembly of First Nations.

At the December 2007 Principals' meeting, Canada, British Columbia and the First Nations' Summit agreed to formally establish the Common Table. With the assistance of the Treaty Commission terms of reference were developed (see appendices). It was agreed that the outcome of the Common Table would lead to the development of options which could expedite the conclusion of treaties in the BC treaty process. Canada and BC would recommend to their Principals the options developed and for their part First Nations would take these options back through their decision making processes.

As a result of the Common Table being established more than 60 First Nation communities, through their chief negotiators, came together to engage with Canada and BC on key issues in the treaty process, to identify obstacles, address barriers and promote the speedy conclusion of fair and viable agreements based on recognition and reconciliation of aboriginal rights and title.

Six key topics were identified for discussion at the Common Table. The topics identified were: recognition/certainty, including overlapping claims/shared territories (hereinafter 'recognition/certainty'); constitutional status of lands; governance; co-management throughout traditional territories, including structures for shared decision-making (hereinafter 'shared decision-making'); fiscal relations, including own source revenue and taxation (hereinafter 'fiscal relations'); and fisheries. Lead representatives were named by Canada, BC and the First Nations' Chief Negotiators (the "Parties") to address each topic identified.

The Parties met for 12 days between April to June, 2008, on the six topics (April 29, 30, May 1; May 13, 14, 15; June 3, 4, 5; June 17, 18, 19), and a final wrap-up session was held on July 18, 2008. In this ambitious agenda, two days were set aside for each of the six topics.

At the request of the Parties and in accordance with the terms of reference, the Treaty Commission has prepared this report of the Common Table discussions as well as provided some concluding comments and next steps. This report is not intended to be a comprehensive record of the discussions that took place at the Common Table but rather to identify what the Treaty Commission believes was common ground reached by the Parties as well as the opportunities confirmed by the Parties for moving forward.

## 2. Common Table Process

The Common Table adopted an aggressive and ambitious timetable and the Parties came prepared to meet these timelines. The discussions were conducted on a 'without prejudice' basis and each party committed to recommend the options that were developed to their principals for decision-making, while respecting the decision-making processes of the others.

The spokespeople selected by the First Nations' Chief Negotiators to lead the discussions were, Mr. Robert Morales, Chief Negotiator, Hul'qumi'num Treaty Group [Recognition/Certainty & Fisheries], Chief Robert Louie, Westbank First Nation [Constitutional Status of Lands & Fiscal Relations] and Gwaans (Ms. Bev Clifton-Percival), Negotiator, Gitxsan Hereditary Chiefs [Shared Decision-Making & Governance]. The First Nations' spokespeople were supported by the participating First Nations' Chief Negotiators and their technical and legal teams who were also in attendance at the Common Table. For Canada, Mr. Barry Dewar was appointed as Minister Strahl's special representative and was supported by senior INAC representatives and the Department of Justice, as well as senior representatives from other departments for the discussions on fish (Mr. David Balfour, Director General, Aboriginal Policy & Governance, Fisheries & Oceans) and tax (Ms. Annie Carrier, Principal Manager, Aboriginal Tax Policy, Finance Canada). BC appointed Mr. Jack Ebbels as their lead spokesperson, who was supported by senior members of government from the Ministry of Aboriginal Relations and Reconciliation, the Ministry of Attorney General and the Ministry of Environment.

The lead spokespeople and their senior representatives under the terms of reference were free to explore options for reaching treaty unconstrained by the Parties' current policies or mandates for each of the six topics under discussion. As noted earlier, Canada and BC would recommend to their Principals the options developed and for their part First Nations would take these options back through their decision-making processes.

The Parties provided overviews of their interests and issues with respect to each of the six topics. The First Nations, from their perspective, provided examples of where they felt progress was not being made at individual tables because of restrictive federal and provincial policies and mandates. Canada and BC provided their perspectives on their current policies and mandates and, in particular, areas where there may be greater flexibility than what is being expressed at individual tables. This exchange among the Parties was by way of written submissions and oral presentations. As the discussions advanced, the Parties began to identify common ground and principles to guide policy and mandate development for negotiations. In the areas of shared decision-making, constitutional status of lands and governance, in the opinion of the Treaty Commission, there was considerable common ground and a number of principles were identified. For others, the Parties at times struggled.

This report sets out for each topic the key areas of common ground identified by the Treaty Commission during the sessions which we have referred to as 'principles'. From the Treaty Commission's perspective, it was these principles that provided the framework for the development of the opportunities or 'openings' that were eventually identified by the Parties and agreed to by consensus in the last session. These principles should inform the interpretation of the opportunities. Along with the identified opportunities, these principles also provide a framework for the Parties to take into their respective decision-making processes with a view to identifying policy and mandate options that will facilitate the conclusion of fair and viable treaties that are based on recognition and reconciliation.

Appended to this report are all the documents tabled by the Parties at the Common Table as well as the Treaty Commission's 'Principles and Openings' documents that were prepared and distributed during the course of the discussions to assist the Parties. Readers are encouraged to review the appended documents to better understand the different views expressed at the Common Table, the nature of the dialogue and the responses by each of the Parties on these complex topics.

### 3. Topics

The six topics identified by the Parties are extremely complex and in many instances interrelated. Since treaty negotiations began in the early 1990s, there has been progress made in addressing these six issues as well as important direction provided by the courts. This report is not intended to be a comprehensive analysis of these complex topics and should be read having regard to the perspective of individual treaty tables and the broader debate around these topics which is ongoing. For each topic, however, the report attempts to summarize the issue in an opening paragraph in order to provide some context to the identified principles and agreed to opportunities.

#### *A. Recognition/Certainty*

From the Federal and Provincial Crowns' perspective, certainty is the term that has been given to the legal technique used in modern treaties to ensure that the land question is settled and aboriginal claims are full and final. From the First Nations' perspective, recognition is about acknowledging the source of aboriginal title and ensuring the survival of First Nations' distinct cultures and societies, including their continued attachment to the land. All Parties agree that all persons should be able to rely on the terms and conditions of the treaty. Over the years, much effort has been put into attempting to find acceptable legal techniques to meet the divergent interests of the Parties. The work of the Common Table continues this central discussion to the resolution of the land question. It is generally understood by the Parties that practically there can only be a few options for achieving certainty (recognition) and a degree of uniformity on this matter from treaty to treaty.

#### **Principles:**

1. The treaty will recognize, within the context of reconciliation, the pre-existing Aboriginal rights and title of a First Nation and establish a framework for the exercise of those rights and other modern treaty rights.
2. Recognition can be achieved at several levels and through different approaches and tools in the treaty, such as: an acknowledgement within the treaty; shared decision-making mechanisms; provisions that recognize the inherent right of self-government; and provisions that describe the source of title in the treaty.
3. The treaty should clearly and comprehensively define rights, responsibilities, authorities, jurisdictions and obligations in a way that does not extinguish Aboriginal rights and title.
4. All persons will be able to rely on the treaty.
5. First Nations agree to exercise rights, including title, in accordance with the treaty.

6. The scope of certainty extends beyond the legal technique to the totality of a comprehensive treaty. There may be differing certainty requirements for different aspects of the treaty and different approaches and tools to meet these requirements.
7. The treaty chapters will provide the way, including scope, in which the rights will be exercised.
8. The treaty establishes certainty as regards the ownership and use of the lands and resources within the traditional territory and as regards the relationship between Canada, British Columbia and First Nations' laws.
9. The certainty provisions in the treaty will provide for the evolution of the treaty and allow for the government-to-government relationship to evolve over time.

**Opportunities:**

1. The Parties agree to explore the concept of reflecting the recognition of pre-existing Aboriginal rights and title within the body of the treaty.
2. The Parties agree to consider alternative legal certainty techniques.
3. The Parties agree to explore options to amend or add new treaty rights over time through an orderly process.

***B. Constitutional Status of Lands***

How treaty settlement lands will be held has raised a number of questions and considerable debate. Existing Indian Reserves in Canada are held in trust and are governed under s. 91(24) of the Constitution as federal lands. In the recent treaties achieved in BC, treaty settlement lands are held by First Nations as a special form of fee simple title and are constitutionally protected. First Nations have asked that other options for holding treaty settlement lands be considered in treaty.

**Principles:**

The following principles were developed to frame the discussion around the constitutional status of lands. The principles were divided into categories of property rights and jurisdictional aspects, but it was recognized that these are intertwined and both sets of principles must be addressed to develop options on this topic.

**Common Principles for Property Rights**

1. Title rests with the First Nation.
2. The source of title must not appear to be a Crown grant, must take into account the pre-existing nature and source of Aboriginal title, and must respect First Nation cultural aspects and ties to the land.
3. A First Nation must be able to create and dispose of interests in land.

4. The form of the interest should be recognizable and conducive to economic development.
5. The form of title should provide for the protection of existing interest holders.
6. There must be limits on expropriation.

#### Common Principles on Jurisdiction

7. Lands will not be administered under the *Indian Act*.
8. A First Nation would have clearly recognized authority to manage, use and control the land.
9. There must be clarity regarding the application of laws and relationship of laws (how to resolve conflicts).
10. Avoid creating jurisdictional gaps and capacity gaps - links to transition challenges.
11. Avoid unnecessary fragmentation/duplication of regimes and creating barriers to economic development.

#### **Opportunities:**

1. The Parties are prepared to explore different options for the Constitutional status of treaty settlement lands, such as a portion of treaty settlement lands as s. 91(24) lands.
2. The Parties agree to explore options for the source and description of title to treaty settlement lands that will not be described as a Crown grant and will acknowledge the pre-existing nature and source of Aboriginal title and acknowledge First Nations' cultural aspects and ties to the land.

#### ***C. Shared Decision-Making***

Shared decision-making refers to the arrangements reached among the Parties with respect to how the Parties will exercise and share in decision-making over a variety of matters within their respective jurisdictions; for example, in areas such as land and resource management. For First Nations there is a strong interest that they be involved in shared decision-making throughout the entire footprint of their traditional territories. This topic has been informed by the considerable work involving the Province and First Nations that is on-going both inside and outside of the treaty process.

#### **Principles:**

1. Shared decision-making is a means of recognizing aboriginal title, rights and Douglas Treaty rights in treaty.

2. Shared decision-making mechanisms reflect a continuum of arrangements, ranging from consultation to joint decision-making and the appropriate arrangement will vary according to the circumstances.
3. Shared decision-making can be embedded in treaty.
4. Aspects of shared decision-making can be implemented outside of treaty.
5. Shared decision-making mechanisms have to be negotiated in a manner that addresses the circumstances of each First Nation, including:
  - a) Governance structures of First Nations;
  - b) Local circumstances of people, lands, resources and other First Nations; and
  - c) The capacity of the First Nation.
6. Shared decision-making mechanisms should be appropriate for the management requirements of the particular lands and resources.
7. Negotiation of shared decision-making mechanisms requires flexibility in respect of:
  - a) Placement in Treaty of essential components of shared decision-making;
  - b) Scope of shared decision-making, including the area of application, types of decisions, and the role of First Nations and governments;
  - c) How shared decision-making should happen at the strategic and operational level (based on a government-to-government relationship); and
  - d) Means of addressing shared First Nations' interests including, where appropriate, joint First Nations' processes or decision-making processes that aggregate First Nations' interests.
8. Shared decision-making mechanisms should be affordable and will require appropriate resources and commitment by all parties to implementation.
9. Shared decision-making mechanisms should:
  - a) Be predictable and transparent;
  - b) Be adaptable;
  - c) Provide clarity in respect of roles and responsibilities;
  - d) Reflect requirements for accountability of decision-makers; and
  - e) Result in timely decisions.
10. Shared decision-making mechanisms should enable governments to meet their respective legal obligations.



**Opportunities:**

1. The Parties will continue to explore options to:
  - a. Develop and implement shared decision-making mechanisms applicable off-treaty settlement land; and
  - b. To place shared decision-making in treaty with implementation being in or out of treaty.

***D. Fisheries***

Fish and fisheries management is extremely complex reflecting the unique and changing nature of the resource and the multiple users of the resource. There are many interests and numerous players, including the First Nations' rights holders. This is an area where the courts have provided early and significant interpretation on the scope and extent of the aboriginal rights and where the Federal government has experience in managing the resource having regard to these rights. The complexity of this issue has resulted in the Parties considering alternatives to how this issue is addressed in modern treaties. All Parties recognized that the ability to move forward on this issue is dependent upon the Parties working collectively to develop options that can work for individual First Nations and within a broader regional and provincial management framework.

**Principles:**

1. The fishing right recognized and described in the treaty is a right to fish and to a meaningful role in the management of the fishery.
2. Conservation is paramount to all other considerations in fisheries management.
3. First Nations' aboriginal and treaty rights to food, social and ceremonial fisheries will be respected and have top priority in allocation decisions after conservation.
4. Treaties and treaty-related arrangements may provide First Nations with increased economic access to fisheries.
5. Transfer of economic fishing opportunity to First Nations may be accomplished through voluntary licence retirement from willing sellers and within existing programs to mitigate impacts on established fishers.
6. Sustainability of fisheries resources should be maintained such that ecological, social and economic factors are considered and balanced.
7. Fishing opportunities for all British Columbians should be maintained when fish stocks allow.
8. Fish resources must be managed by the Minister of Fisheries and Oceans under a consistent legal framework, an integrated management plan and shared decision-making mechanisms that reflect the First Nations' role in fisheries management.

9. Any shared decision-making mechanisms should:

- a. Reflect a fisheries management continuum with First Nations, ranging from consultation to joint decision-making;
- b. Be affordable, predictable, transparent and adaptable;
- c. Provide clarity in respect of roles and responsibilities;
- d. Reflect the cultural, spiritual and traditional laws of First Nation people;
- e. Be ecosystem-based and sustainable;
- f. Ensure that acceptable levels of public health and public safety are met;
- g. Provide for sharing of resources among First Nations;
- h. Reflect requirements for accountability of decision-makers;
- i. Result in timely decisions;
- j. Enable governments to meet their respective legal obligations;
- k. Integrate the expertise and knowledge of First Nations and scientific sources; and
- l. Integrate local management regimes within a Province-wide framework.

10. Commercial fisheries management regimes should:

- a. Be integrated, equitable and operate under the same priority of access and common rules;
- b. Enable fleets to self-adjust;
- c. Be designed to optimize economic performance while meeting conservation objectives;
- d. Provide that fleets assume a larger share of the cost of management of their fishery;
- e. Implement catch monitoring and independent validation; and
- f. Adopt measures to provide confidence that adequate compliance is achieved.

11. Acceptable levels of public health and public safety related to fishing should be ensured.

**Opportunities:**

1. The Parties agree to explore shared decision-making mechanisms and collaborative structures in fisheries management recognizing the government-to-government nature of the relationship with First Nations.
2. The Parties agree to explore alternatives to the current fish model that could exclude the resolution of Aboriginal or Douglas Treaty fishing rights from the Treaty (e.g. no fish chapter or a treaty without a defined allocation in the fish chapter).
3. The Parties agree to explore options for additional food, social and ceremonial allocation models, for example a 'Boldt-type' allocation model.
4. The Parties agree to explore options in treaty that better respect and better reflect the priority of the food, social and ceremonial fishery.

***E. Governance***

Self-government is an integral part of modern treaty-making. Legal debates have surrounded what aspects of self-government should be constitutionally protected. From a practical perspective First Nations' governance is a key to making treaties work through implementation. All Parties recognized that First Nations require sufficient tools of governance to assume their responsibilities as decision-makers within their areas of jurisdiction. Self-government is a topic that has been well discussed in many forums and the work at the Common Table built on this dialogue. Since the BC Treaty Process began, progress has been made on implementing self-government across Canada, both comprehensively, usually as part of modern treaty making, but also sectorally, in areas such as lands, oil and gas, education and taxation.

**Principles:**

1. Treaties should recognize that the inherent right of self-government is an existing right under section 35 of the *Constitution Act*.
2. Self-government is an important component of the recognition of Aboriginal rights and title and the pre-existing legal systems of First Nations; is integral to the whole treaty, and; is linked to other important matters such as the ownership of lands and resources, shared decision-making and fiscal relations.
3. Self-government should provide First Nations with the freedom to make decisions regarding their people, lands and resources, while supporting transparent and accountable First Nations' governments.
4. Self-government provisions should set out detailed and clear descriptions of First Nations' jurisdiction and governance powers that are effective and exercisable within the framework of the Canadian Constitution, while providing clear rules for harmonizing federal, provincial and First Nation laws in treaties or in associated agreements. Within this reconciliation framework, the parties share the following objectives:

- a. First Nations need to be able to set their own course and develop and implement their own policy initiatives;
  - b. First Nations have to be able to pass distinct laws; and
  - c. First Nations laws have to be the laws that govern in key areas.
5. Self-government provisions should be negotiated in a manner that balances the need to reflect distinct cultures, values, hereditary systems and governance practices with the need to protect individual rights.

**Opportunities:**

1. The Parties agree to explore options to more clearly define or limit the scope and application of Provincial or Federal laws on treaty settlement lands, considering appropriate mechanisms such as restrictive covenants and statutory exemptions.
2. The Parties are prepared to explore options to limit the need for mandatory criteria, standards and pre-conditions for First Nation law-making in Treaty.
3. The Parties are prepared to explore options to address operational conflicts among laws on treaty settlement lands.
4. The Parties are prepared to explore options to provide for effective transition of existing First Nation laws under federal statutes to First Nation laws under Treaty.
5. The Parties are prepared to explore options to provide for the negotiation of self-government arrangements that implement culturally appropriate approaches to self-government that accommodate hereditary systems while ensuring transparency and clarity for intergovernmental relations.

***F. Fiscal Relations***

The discussions on the topic of fiscal relations at the Common Table considered, among other things, the ability of First Nations to raise their own revenues and the on-going fiscal relationship with Canada and BC, including the receipt of financial support. The Common Table also discussed the tax treatment of First Nations' governments and their public institutions as well as the tax treatment of individual First Nations' citizens.

The discussions on fiscal relations proved particularly challenging. Opportunities were identified from which options might be developed, but the views were too divergent to allow for the identification of much common ground. The views of each party are set out in the appendices.

By the end of the final session it was clear that a major obstacle remained around the tax exemption. The Treaty Commission notes that at one point in the discussions a possible opportunity was raised, namely that the parties reconsider the transition in respect of the treatment of tax-exemption in the treaty. The Treaty Commission encourages the parties to examine this matter further on a future occasion.

To assist in the future consideration of fiscal relations issues, the Treaty Commission is setting out directions for further exploration from its 'Fiscal Principles and Openings paper' (see appendices) where there appeared to be some common ground.

**Principles:**

1. Fiscal relations are evolving and will need to continue to evolve over time and adapt to changing circumstances, taking into account the concerns of First Nations and governments on the following matters:
  - a. A recognition of the need to enhance the manageability of the fiscal relationship by developing processes to synchronize and harmonize the renewal of fiscal arrangements with self-governing First Nations;
  - b. A recognition of the need to develop objective, transparent formula-based approaches for fiscal arrangements, informed by experience in implementing agreements over time, with a view to providing more predictability and stability for renewal of funding agreements;
  - c. A recognition that fiscal arrangements should be designed to ensure, as much as possible, equitable and consistent treatment of First Nations, recognizing that differentiated approaches may be required depending on the First Nation's circumstances and on whether they are in start-up, transition or ongoing phases of self-government; and
  - d. The self-sufficiency of First Nation communities and socioeconomic levels comparable to other communities.

**Note:** Potential general directions identified above have to be looked at in relation to the structure of the overall treaty package, and the linkage to other issues discussed at the common table, including the status of lands and governance.

**Opportunities:**

1. BC will explore options for additional or expanded types of resource revenue sharing arrangements (e.g. forestry, mining, oil and gas, water, sale of Crown land).
2. BC is prepared to explore options around the duration of resource revenue sharing, including in perpetuity.
3. BC agrees to explore options to support First Nation governments to deliver provincial programs and services to non-members on treaty settlement lands.
4. When developing the fiscal transfer model, the Parties will consider the financial circumstances of First Nations' governments, including establishing and running of governments as well as the programs and services provided by those governments.
5. The Parties will consider options that reduce complexity and ensure viable fiscal arrangements with First Nations, including how own-source revenue is taken into account.

6. The Parties agree to explore options for financial and taxation arrangements that more effectively support First Nation government and promote manageability of fiscal relationships.

## 4. Conclusion

In the Treaty Commission's view, the Common Table proved to be a worthwhile undertaking. In large part, this was due to the commitment and hard work of all of the Parties at the table. However, much work remains to be done

The Common Table served as an invaluable forum for exchanging information and for enhancing understanding of the perspectives of each of the Parties. One of the major frustrations that led First Nations to push for the Common Table, which was clearly articulated during these discussions, was the recognition that approaches developed and taken at lead tables may work for some First Nations, but clearly they will not work for others. Part of this frustration stems from the current approaches taken by governments at treaty tables. The Common Table provides an opportunity to address key issues with a large number of First Nations who are involved in treaty negotiations in a manner not previously possible in British Columbia. Success at the Common Table could lead to breakthroughs and lead to agreements at this critical point in the BC treaty process.

The Common Table also provided greater insight into where there is flexibility in current mandates and where this flexibility may not be evident at individual tables. It also identified a number of new openings for resolving the land question in British Columbia. The openings arise both from the opportunities that were identified by the three Parties and from the experience of addressing them at a collective table.

First Nations at the Common Table were able to bring their combined expertise and resources to bear on each topic and had the attention of senior representatives of Canada and BC. Spokespeople from the First Nations made it clear that the type of discussion they were able to engage in at the Common Table with senior government representatives and the amount of progress they were able to make, was different from what was possible at their individual tables. Indeed, the Common Table was sometimes described as a way to bridge a reported 'disconnect' between negotiation teams at individual tables and their Principals.

The Common Table also highlighted the value of negotiating certain issues regionally; for example to address overlaps and the impact of one settlement on another nation. Other issues, such as fisheries and shared decision-making, obviously require a degree of jurisdictional harmonization. Moreover, the Common Table was also useful in addressing overarching issues such as certainty, where it is unrealistic to expect a multiplicity of approaches within the province.

The Treaty Commission believes further 'Common Table-type' initiatives would be helpful in moving forward the resolution of regional and overarching issues, while in other instances the opportunities identified could be further pursued at individual tables.

Finally, the Treaty Commission sees the Common Table as providing a very valuable compendium of the most recent First Nation thinking on the six topics as well as the current approaches taken by BC and Canada in land claims negotiations. If nothing else, this report

and its appendices will be instructive to any person involved in treaty negotiations, including negotiators, policy makers and political representatives wishing to understand the current state of negotiations in BC and the complexity of the issues.

## 5. Next Steps

In the Treaty Commission's view, the work of the Common Table represents a promising and necessary basis for reaching agreements with a significant number of the First Nations involved in treaty negotiations, provided the opportunities are recognized and built upon by all the Parties.

It is the expectation of the First Nations and the understanding of the Treaty Commission that Canada and BC will both be taking the opportunities agreed to at the Common Table, along with appropriate background documentation, to their principals for decision-making on options. These decisions, it is expected, could lead to policy and related mandate changes with respect to the six topics discussed. The Common Table terms of reference established a target date for this work as fall 2008 and the Treaty Commission will facilitate a meeting of the Parties at this time. In the interim, the Treaty Commission will monitor progress by each of the Parties in assessing and pursuing Common Table outcomes within their respective systems.

Following this process the Parties may wish to continue these discussions as on-going negotiations at a Common Table for some or all of the topics areas where there is a clear interest and benefit to all the Parties to do so. In such a case, the Treaty Commission is available to further assist the Parties.

The Treaty Commission is of the opinion that it is in the interests of the process to publicly release this report prior to the end of 2008. The Treaty Commission believes the quality of the work and the commitment of the Parties to the process warrants a public release. In addition to benefitting any person involved in treaty negotiations as discussed above, this report and its appendices will also provide invaluable insight and information to other interested persons on the complex issues which the Parties are attempting to address. Such a release would recognize the important proviso that the process was designed to bring new thinking to the Common Table and potentially to the treaty process and that positions and presentations were made without prejudice.

Finally, the Treaty Commission recognizes that progress as a result of the Common Table can positively affect what can be achieved at individual negotiating tables throughout the province. Time is therefore of the essence to ensure that negotiators for the Parties have all of the tools at their disposal to achieve progress at individual tables.

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<sup>i</sup> The Treaty Commission is the independent body responsible for overseeing treaty negotiations among the governments of Canada, BC and First Nations in BC. It has three roles: facilitation, funding and public information and education.

Established in 1992, the Treaty Commission and six-stage treaty process are designed to advance treaty negotiations. The Treaty Commission comprises a provincial appointee, a federal appointee, two First Nations Summit appointees and a chief commissioner chosen by agreement of all three parties. For more information about the BC Treaty Commission, please visit [www.bctreaty.net](http://www.bctreaty.net).