



BACKGROUND

November 28, 2006

AUDITOR GENERAL AUDIT OF TREATY NEGOTIATIONS IN BRITISH COLUMBIA: AN ASSESSMENT OF THE EFFECTIVENESS OF BRITISH COLUMBIA'S MANAGEMENT AND ADMINISTRATIVE PROCESSES

Why Treaties are Important

Treaties are important to resolve the longstanding conflict between the province and First Nations with respect to aboriginal governance and land claims, and to improve uncertainty for both the province and First Nation peoples. Uncertainty in the management of the land and resources has reduced economic growth and resulted in periodic flare-ups in tensions between first Nations, and the province, and resource developers.

Compared with other citizens in the province, First Nations people in British Columbia suffer lower economic and health standards, experience more social problems and higher mortality rates, and are less likely to graduate from high school or have post-secondary education. Treaties can help by providing economic and social opportunities associated with land settlement and money transfers.

Status of Treaties

Initially, the federal government expected all claims in B.C. would be resolved by the year 2000. After spending hundreds of millions of dollars over more than 12 years of negotiations, the results achieved are well below the three parties' (B.C., Canada, and First Nations) initial expectations. Although progress is being made at some negotiation tables, with two final agreements seen as imminent, the process has not yet resulted in any treaties.

The Evolving State of Negotiations

Negotiating treaties is a challenging task, both in heavily populated areas where most of the land has already been developed, and on rural lands that have been tenured (for example, through forest licences) or set aside under such designations as provincial park or protected area.

An emerging policy, the New Relationship—an opportunity for all First Nations, whether inside or outside the treaty process, to work with the Province to develop a new government to government relationship—may help to strengthen relationships between the three parties in the negotiation process. However, until the Province clarifies the link between the new relationship and treaty negotiation policies, the “wait-and-see” attitude of some First Nations will contribute to the slow pace of negotiations.

Why We Did This Audit

This audit was carried out because of the importance of treaty negotiations, and the recent changes in the provincial approach to its relationship with First Nations.

What We Looked At

The audit assessed the effectiveness of the Province's administrative and management processes and resources in place to negotiate treaties successfully with B.C. First Nations and Canada.

What We Concluded

The audit concluded that overall, the provincial government only has effective administrative and management processes and resources in place to successfully negotiate treaties for the few First Nations at the “breakthrough tables”—a small number of treaty tables that the government believes are the most likely to be successful.

Key Findings and Recommendations

1) Modern treaty negotiations have been slower than expected. Business has occurred with First Nations outside of the treaty process. This could hamper the continuing interest of First Nations in the treaty process.

- The provincial government, in consultation with First Nations, should review and revise as appropriate, its policy goals and approach to the treaty negotiation process; in particular, harmonization with the New Relationship policy.

2) The administration of the treaty process including providing negotiators, clear guidance and mandates, although sufficient to move a few treaty tables forward, is burdened with challenges.

- The Ministry of Aboriginal Relations and Reconciliation (MARR), in conjunction with the other ministries involved in

treaty negotiations, should improve the administration of the treaty negotiation process by:

- reassessing the negotiation strategy of focusing only on a few lead tables, and
 - expediting the mandating processes at MARR and related ministries to achieve its long-term goals for getting treaties signed and implemented.
- The Ministry of Aboriginal Relations and Reconciliation, in conjunction with the other ministries involved, should ensure there is adequate alignment of resources, roles and responsibilities to support the treaty negotiation process.

3) The Ministry of Aboriginal Relations and Reconciliation is providing relevant but incomplete information about the treaty negotiation program. Although it reports the number of Agreements-in-Principle completed compared with targets set, the ministry does not report fully on the status of other negotiations, the issues and challenges it faces and the effort it has made to overcome these barriers to success.

- The Ministry of Aboriginal Relations and Reconciliation should report annually on the status of negotiations, the barriers to success and the efforts it has made to overcome those barriers.