



CANADA-MÉTIS NATION OF ALBERTA

MEMORANDUM OF UNDERSTANDING ON ADVANCING RECONCILIATION

BACKGROUND AND FREQUENTLY ASKED QUESTIONS

JANUARY 30, 2017

What is the MOU?

- Since the summer of 2016, the Métis Nation of Alberta (“MNA”) and the Ministry of Indigenous and Northern Affairs Canada (“INAC”), on behalf of the Government of Canada (“Canada”) have engaged in bilateral dialogue on how to best develop a process to advance reconciliation between the Crown and Alberta Métis.
- This dialogue led to the MNA-Canada Memorandum of Understanding on Advancing Reconciliation (the “MOU”), which was signed by MNA President Audrey Poitras and the Honourable Carolyn Bennett, Minister of INAC at a signing ceremony in Ottawa held on January 30, 2017. A copy of the MOU is available at www.albertametis.com.
- The MOU establishes a time-limited exploratory discussions table between the MNA and Canada with the goal of arriving at a mutually-agreeable framework agreement by September 2017. This framework agreement would establish a formal negotiations process between the parties to advance reconciliation based on mutually agreeable subject matters. (MOU, Articles 1 & 2)
- Importantly, the MOU, and the exploratory discussions table it creates, allows the MNA and Canada to have frank, confidential and without prejudice discussions on their respective positions with a view to arriving at a mutually agreeable process for formal negotiations. (MOU, Articles 11 & 13)

What led to the MOU?

- For over 80 years, the MNA has advocated for and represented the rights, interests and ambitions of Métis within Alberta—as a part of the larger Métis Nation—through its democratically-elected governance structures at the local, regional and provincial levels.
- Section 35 of the *Constitution Act, 1982* recognizes the Métis as one of the “Aboriginal peoples of Canada” and constitutionally entrenches Métis rights and other claims against the Crown. The Supreme Court has held that reconciliation requires that these protected rights and claims be determined, recognized and respected through negotiations between the Crown and the Métis.
- Since 1982, despite Section 35’s promise, governments have largely refused to formally negotiate with the Métis. This led to the Métis turning to the courts to seek justice. In a series of cases over the last 15 years—*Powley-2003*, *Cunningham-2011*, *MMF-2013*, *Daniels-2016*—the Supreme Court has recognized Métis rights and claims and has urged that negotiations with Métis begin. These court decisions, along with Métis political action, have created increased pressure on governments.



- In April 2015, Doug Eyford, Canada’s Ministerial Special Representative (“MSR”) on the renewal of its comprehensive land claim policy recommended that negotiation processes to address Métis rights and claims be established.¹ This led to the appointment of Tom Isaac as a MSR appointed to specifically look at Métis Section 35 rights. In July 2016, Mr. Isaac’s report was released and included recommendations on the need for negotiation processes with Métis on rights and claims.²
- In the last federal election, the Liberal Party made a series of policy commitments to the Métis Nation in its platform. In November 2016, consistent with those commitments, the Prime Minister mandated the Minister of Indigenous Affairs to “work, on a nation-to-nation basis, with the Métis Nation to advance reconciliation and renew the relationship, based on cooperation, respect for rights, our international obligations, and a commitment to end the status quo.”³

Why is the MOU important?

- As recognized in the above-noted MSR reports, Métis living south of the 60th parallel have been excluded from Canada’s claims negotiation processes for almost 50 years. Despite Métis inclusion in Section 35 and successive court victories, Canada has not amended its policies to include Métis. As a result, there have been no substantive negotiations on Métis rights, lands and self-government.
- The MOU provides the opportunity for the MNA and Canada to craft a regionally-tailored negotiations mandate that meets the unique rights, needs and aspirations of Alberta Métis, rather than being limited by existing federal claims policies that were designed for other Indigenous peoples and that other Indigenous groups often criticize as being frustrating and inflexible.
- Unlike previous federal policy approaches to dealing with Métis—which solely focused on programs and service delivery or the development of Métis institutions—these exploratory discussions will look at how substantive issues such as Métis rights, lands, self-government and outstanding claims against the Crown can be negotiated.
- From the MNA’s perspective, this is a significant breakthrough because Canada has historically denied Métis self-government, rights and claims. These denials led to long and expensive litigation such as *Powley*, *MMF* and *Daniels*. The MNA hopes that further litigation can be avoided through negotiations.

What are exploratory discussions?

- Within Canada’s claims resolution processes, exploratory discussions are Stage 2 of a 6-Stage process. These 6 stages include: (1) the filing of a claim by an Indigenous community with Canada; (2) acceptance of that claim for exploratory discussions to see if a formal negotiations mandate can be developed; (3) developing a framework agreement that establishes a formal negotiation mandate; (4) negotiation of an Agreement-Principle (“AIP”) that sets out key terms for an agreement; (5) negotiation and ratification of a final agreement; (6) implementation.

¹ Available at: <https://www.aadnc-aandc.gc.ca/eng/1426169199009/1426169236218>.

² Available at: <http://www.aadnc-aandc.gc.ca/eng/1467641790303/1467641835266>.

³ Available at: <http://pm.gc.ca/eng/minister-indigenous-and-northern-affairs-mandate-letter>.



- In the past, Métis claims south of the 60th parallel never got past Stage 1. For example, in 1981, the Manitoba Metis Federation filed its land claim against Canada, which was summarily rejected by federal lawyers. After 32 years of litigation, the Supreme Court of Canada validated the MMF's claim in 2013. This led to the MMF and Canada signing a MOU in May 2016 and a framework agreement for formal negotiation in November 2016. The MNA seeks to secure its own framework agreement with Canada without having to spend decades and millions of dollars in the courts.

Is the Government of Alberta involved in the exploratory discussions?

- The MOU recognizes the importance of having the Province of Alberta involved in an overall process to advance reconciliation between the Crown and Alberta Métis. As such, the MOU provides for the province to become actively involved in the discussions. (MOU, Article 3)
- The Parties hope that the Province of Alberta will ultimately become a full participant in the process, however, advancing the discussions under the MOU is not dependent on provincial participation, since there are several subject matters that may not implicate provincial jurisdiction.

Are the Alberta Métis Settlements involved in the exploratory discussions?

- The MOU recognizes and respects the unique history of the Alberta Métis Settlements and their jurisdictions as set out in the *Métis Settlements Act* as well as the importance of having the Alberta Métis Settlements being involved in the overall process to advance reconciliation between the Crown and Alberta Métis. (MOU, Article 4)
- The MOU also commits the MNA and Canada to identifying mutually agreeable mechanisms for the Métis Settlements to contribute to or potentially participate in the exploratory discussion table. (MOU, Article 4)

What is reconciliation?

- The Supreme Court of Canada has held that reconciliation is a process guaranteed to Aboriginal peoples by Section 35 of *Constitution Act, 1982*. This process requires that Aboriginal rights and claims protected by Section 35 be determined, recognized and respected by governments through honourable negotiations leading to just and lasting settlements (i.e., modern day treaties or other constructive arrangements).
- While the term “reconciliation” is increasingly used to describe any initiative done with or for the benefit of Indigenous peoples, it is the MNA's perspective that real reconciliation requires that substantive issues such as Métis self-government, lands, rights, jurisdiction and outstanding claims against the Crown be dealt with. The preamble to the MOU sets out this perspective (i.e., that the discussions will address substantive rights and claims related issues).

How long is the exploratory discussions process?

- The MOU sets out an 8 month exploratory discussions process, which can be extended if need be.



Does this MOU affect or limit Métis rights or claims?

- No. The MOU simply commits the MNA and Canada to the exploratory discussions process with the goal of achieving a framework agreement for formal negotiations. No negotiations have begun yet. As outlined further below, the MNA will be engaging in province-wide consultations in the near future to begin a long and ongoing conversation with Alberta Métis on how to best advance Métis rights and claims as well as reconciliation.

What happens next?

- Over the next 8 months, the MNA and Canada will be meeting regularly to advance the discussions and work contemplated under the MOU with the goal of arriving at a framework agreement that would establish a formal negotiations process.
- During this same period, the MNA will also be undertaking province-wide consultations with Alberta Métis through its Locals, Regions and Provincial Council to provide further information on the MOU and the exploratory discussions table as well as to receive guidance and input on the priority subject matters to be included in a framework agreement for future negotiations.
- The MNA will also be developing and implementing a comprehensive communication plan to ensure Alberta Métis are able to be informed and engaged and to provide input into the exploratory discussions processes as well as future negotiations. While this is just the beginning of what will likely be a lengthy and far-reaching process, the MNA wants to ensure everyone has an opportunity to become engaged.

How do I get involved?

- In order to stay updated in developments, we encourage all MNA members to update their Registry files with their up-to-date address, email and phone numbers. Please contact the MNA Head Office at 1-800-252-7553 to update your file.
- As well, please regularly visit www.albertametis.com or join our Facebook page at <https://www.facebook.com/ABMetis/> or Twitter at [@albertametis](https://twitter.com/albertametis) in order to received regular updates on further developments.