

FRAMEWORK AGREEMENT on FIRST NATION LAND MANAGEMENT

FREQUENTLY
ASKED
QUESTIONS



Memberton
WELCOMING THE WORLD!

WHAT IS THE INDIAN ACT?

The Indian Act was created in 1876 by the Parliament of Canada under the provisions of Section 91(24) of the Constitution Act of 1867, which provides Canada's federal government exclusive authority to legislate in relation to "Indians and Lands Reserved for Indians." The Department of Aboriginal Affairs and Northern Development Canada (AANDC), which is responsible for the act, is administered by the Minister of Aboriginal Affairs and Northern Development Canada.

WHAT IS THE FRAMEWORK?

The Framework Agreement on First Nation Land Management is a government-to-government agreement signed on February 12, 1996 by 13 First Nations and Canada. One other First Nation was added as a Party as of December 10, 1996.

The Framework Agreement is an initiative by these 14 First Nations to opt out of the land management sections of the Indian Act and take over responsibility for the management and control of their reserve lands and resources. The Framework Agreement sets out the principal components of the land management process.

In March of 2003 the Framework Agreement was amended to allow for additional signatories or a "rolling 30" (30 First Nations actively developing land codes at any given time) to participate. A total of 163 First Nations have signed on to the Framework Agreement as of April 2019.

The Framework Agreement provides these 163 First Nations with the option to manage their reserve lands under their own Land Codes. Until each of these First Nation communities develops and approves a Land Code to take control of its reserve lands and resources, federal administration of their reserve lands continues under the Indian Act.

WILL THIS AGREEMENT AFFECT OUR TREATIES?

No. The Framework Agreement is not a treaty and does not affect treaty rights or other constitutional rights of the First Nations.

WHAT IS A LAND CODE?

The Membertou Land Code will become the basic land law of Membertou and will replace the 44 land management related sections of the Indian Act.

WHAT IS LAND MANAGEMENT?

Land management involves day-to-day administration of Membertou lands and resources, and the right to make laws in respect of those lands and resources.

IS THIS PART OF ABORIGINAL SELF GOVERNMENT?

Yes, this is one component of self government and deals only with Membertou lands and resources. Matters related to other topics, e.g. elections, governance taxation and education, are still governed by the Indian Act.

WILL THE FIDUCIARY (SPECIAL) RELATIONSHIP BETWEEN THE CROWN AND MEMBERTOU CONTINUE?

Yes, the federal Crown's "special relationship" with Membertou will continue. However, since Membertou will be handling the day-to-day decisions regarding lands, the Minister's responsibility and oversight over Membertou affairs in lands are less than they would have been under the Indian Act.

IS THERE ANY CONTINUING FEDERAL RESPONSIBILITY FOR MEMBERTOU LANDS?

Yes, Canada will continue to hold title to Membertou lands. Membertou reserve lands remain a federal responsibility under section 91(24) of the Constructions Act, 1867.

WHO IS LIABLE FOR DAMAGES RELATED TO MEMBERTOU FIRST NATION LAND?

Canada will remain liable and will compensate for losses suffered as a result of any act or omission BEFORE the Land Code comes into effect.

Membertou is responsible AFTER the Land Code takes effect.

WHAT OTHER FIRST NATIONS ARE INVOLVED?

L'Heidli T'enneh, Sliammon, Nipissing, Tsawout, and Matsqui, to name a few.

ARE OTHER FIRST NATIONS INTERESTED IN JOINING THIS INITIATIVE?

Yes, there is currently a waiting list to become a signatory to the Framework Agreement.

HOW DOES A FIRST NATION TAKE CONTROL OF ITS LAND?

A First Nation takes control of its land by creating a Land Code, entering into an Individual Agreement with Canada, drafting a Community Ratification Process, and conducting a community vote.

WHAT IS AN INDIVIDUAL AGREEMENT?

The Individual Agreement is negotiated to deal with matters such as lands to be managed, specifics of the transfer, and the funding to be provided.

IS THE INDIAN ACT STILL RELEVANT TO MEMBERTOU AFTER WE ADOPT THE LAND CODE?

Yes, approximately 2/3 of the Indian Act will still apply. Only the provisions dealing with land matters will not.

ARE MEMBERTOU MEMBERS INVOLVED IN DEVELOPING LAND CODES?

Yes. The Governance Committee made up of community members will keep the community involved. When the Land Code begins to take shape, drafts are given to members for comments.

DOES THE LAND CODE NEED COMMUNITY APPROVAL?

Yes! In order for Membertou to resume control over its lands, the Land Code & Individual Agreement **MUST** be ratified by Membertou Members.

ARE OFF-RESERVE MEMBERS INVOLVED?

Yes, ALL members 18 years or older, both on and off reserve have the right to vote on the Land Code and Individual Agreement.

CAN MEMBERTOU MAKE LAWS?

Yes. Membertou will have the power to make laws in respect of the development, conservation, protection, management, use and possession of Membertou lands and resources.

WHAT POWERS WILL MEMBERTOU HAVE?

Membertou will have all the powers of an owner in relation to its land, except control over title or the power to sell. Membertou will be able to lease or develop their land & resources, subject to Membertou law.

HOW WILL ACCOUNTABILITY TO MEMBERTOU MEMBERS BE ENSURED?

Under the Land Code, Membertou Chief & Council will be required to report annually to the Members on the land management activities.

CAN MEMBERTOU GENERATE ITS OWN REVENUES?

Yes. Revenues can be generated by leasing & granting rights & licenses in Membertou land. Membertou can also develop its own land directly & generate profit.

IS FUNDING AVAILABLE TO OPERATE UNDER A LAND CODE?

Yes. Canada provides operational funding to manage land, to make, administer & enforce laws, to administer an environmental assessment & management processes.

HOW WILL THE ENVIRONMENT BE PROTECTED?

Membertou will have the power to make environmental laws that will deal with environmental assessment and protection.

WILL MEMBERTOU LANDS BE PROTECTED UNDER THE FRAMEWORK AGREEMENT?

Yes. The land base of Membertou will be protected for future generations.

- If the Land Code is adopted, Memertou lands cannot be sold or surrendered for sale
- Membertou lands will be immune from any Provincial or Municipal expropriation.
- The power of Canada to expropriate Membertou land is restricted to cases where it is “justified and necessary for a federal public purpose that serves the national interest”. If such a case did occur, Membertou must receive an equivalent amount of land as compensation, in addition to financial compensation for other damages.
- Membertou may decide that it is advantageous to exchange some of its reserve land for other lands. There are provision in the Land Code to negotiate and approve such exchanges. However, any exchange of land cannot occur without the consent of the community.

HOW DO WE BENEFIT FROM THE FRAMEWORK AGREEMENT?

For many reasons, including the following:

- Ability for Membertou to protect the environment
- Right to manage reserve land & resources
- Removal of Membertou lands from the land management sections of the Indian Act
- Inclusion of on & off reserve members in important decisions
- Increased accountability to members
- Land law making powers
- No need for Ministerial approval for Membertou laws
- Ability to appoint a Justice of the Peace
- & many more!