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The Framework Agreement on First Nation Land Management

FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE

What is the *Framework Agreement on First Nation Land Management*?

In the late 1980s, a group of First Nations Chiefs concluded that the *Indian Act* did not provide an adequate statutory basis for First Nations to govern their lands, and there needed to be recognition and legal capacity for First Nations to exercise their inherent rights to govern their reserve lands and natural resources. For years, these Chiefs focused on developing a government-to-government arrangement with Canada to recognize these inherent rights. Their efforts culminated in the creation of the ***Framework Agreement on First Nation Land Management*** (Framework Agreement).

The Framework Agreement was signed by 13 First Nations and Canada, in a historic ceremony, on February 12, 1996. It is the only time in Canada's history that a group of First Nations joined together to design, negotiate and sign a government-to-government arrangement with the Federal Government to recognize and resume their inherent right to be self-governing. Currently, 213 First Nations are signatories to the Framework Agreement.

The Purpose of the Framework Agreement

The Framework Agreement was developed to enable First Nations to resume control over their reserve lands, natural resources and environment for the use and benefit of their members without Government interference by replacing the land provisions of the *Indian Act* with First Nation-made laws.

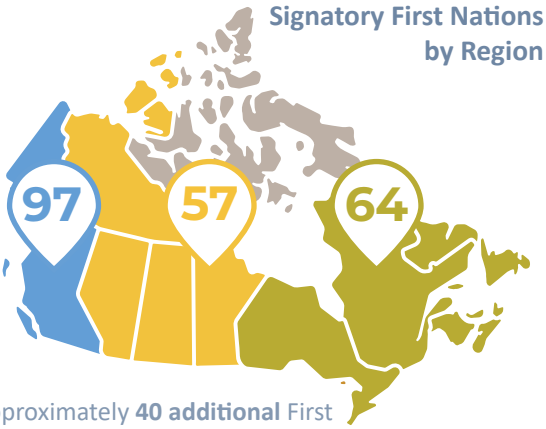
The Framework Agreement - A Viable Option

The *Framework Agreement* has a proven track record. To date, 124 First Nations (nearly 20% of all First Nation communities) have opted out of the colonial *Indian Act* lands system for the Framework Agreement. Signatory First Nations have utilized the Framework Agreement to strengthen environmental protection and facilitate increased economic opportunities through modern governance systems, lawmaking, policies, and timely decision-making.

The Framework Agreement replaces 44 lands-related sections of the *Indian Act* with First Nations laws through a community-developed and approved land code.

Once the First Nation land code is enacted, the First Nation governs its reserve lands, natural resources and environment according to its cultural values and priorities.

Framework Agreement Signatory First Nations by Region



Approximately **40 additional** First Nations have expressed interest in joining the Framework Agreement.

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The Individual Agreement

FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE

What is the Individual Agreement?

Signatory First Nations to the *Framework Agreement on First Nation Land Management* regain governance control of their lands by approving two key documents: the Land Code and the Individual Agreement. This approval is obtained through a community vote. The Land Code is the land law the First Nation develops to replace the lands management sections of the *Indian Act*. The Individual Agreement is finalized between the First Nation and Canada. It includes the "specifics of transfer" of the jurisdiction and administration of reserve land from Canada to a First Nation.

Upon the approval of both the Individual Agreement and the Land Code, the First Nation resumes land governance control of its First Nation lands.

NOTE: Canada retains liability for any land management decisions and environmental issues occurring before the land code took effect.

The individual Agreement contains 12 main sections. These often include:

Section 1: Interpretation (of the Terminology of the Agreement)
Section 2: Information Provided by Canada (to the First Nation)
Section 3: Transfer of Land Administration (from Canada to the First Nation)
Section 4: Acceptance of Transfer of Land Administration (by the First Nation)
Section 5: Operational Funding (Provided to the First Nation)
Section 6: Transfer of Moneys (from Canada to the First Nation)
Section 7: Notice to Third Parties of Transfer of Administration
Section 8: Interim Environmental Assessment Process
Section 9: Amendments
Section 10: Notices Between the Parties
Section 11: Dispute Resolution
Section 12: Date of Coming into Force

First Nation and ISC Develop Individual Agreement

First Nation Chief and ISC Initial the Individual Agreement

Each First Nation's Individual Agreement contains annexes of information unique to the community which can include:

- Funding provided by Canada
- Details on the transfer of revenue and capital moneys
- List of interests and licences granted by Canada
- Any existing environmental issues
- List of other information relevant to interests and licenses on reserve
- The interim environmental assessment process
- Description of First Nation lands

ISC = Indigenous Services Canada

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The Land Code

FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE

What is a Land Code?

A Land Code is the basic land law the First Nation develops and approves to govern its reserve lands. It is drafted in accordance with the *Framework Agreement on First Nation Land Management*.

First Nations often establish a Land Code Development Committee, made up of community members, to develop a land code to address things like:

- Rules and procedures for land possession, exchange, and use
- Financial accountability to members for land revenues (such as leases)
- The process for developing and approving the First Nation's land laws
- A dispute resolution process

Land Code Process - A First Nation-Driven project

First Nations develop their land code to reflect their unique laws, priorities, and traditions. All eligible members, on and off-reserve, can vote on the First Nation's Land Code and Individual Agreement. Nothing is finalized without community approval through formal ratification. The First Nation establishes a committee to develop the Land Code, hold community engagement sessions, create information-sharing tools, locate eligible voters, and develop the community voting process document.

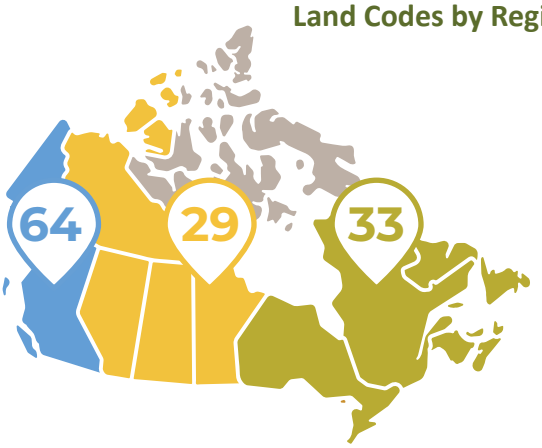
Benefits of a Land Code

- Recognition of a First Nation's right to manage its lands and resources
- Removal of the management of reserve lands from 44 sections of the *Indian Act*
- Community control over First Nation land management and development
- Inclusion of on and off-reserve members in important decisions
- Increased transparency and accountability to members in all land matters
- Enhanced ability of the First Nation to protect its environment
- Ability to create a local dispute resolution process (and more)

A Land Code Will Not:

- Affect additions to reserves or land claims
- Increase provincial or municipal jurisdiction
- Affect taxation or tax exemption
- Affect Treaty/Indigenous rights

of Established First Nation Land Codes by Region



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The Community Ratification Process

FIRST NATIONS LAND MANAGEMENT RESOURCE CENTRE

What is the Community Ratification Process (CRP)?

The CRP sets out the rules and procedures a signatory First Nation to the *Framework Agreement on First Nation Land Management (Framework Agreement)* will follow to present its Land Code and Individual Agreement to its community for approval.

In the CRP, the First Nation identifies how it will meet its obligation to ensure that each Eligible Voter, on and off-reserve, has the opportunity to become informed and vote freely on the land code and individual agreement. The *Framework Agreement* requires that the CRP outlines procedures for:

- Roles and responsibilities of the ratification officer
- Issuing a Notice of Vote
- Vote procedures for mail-in, in-person and/or e-voting, and
- Post-Vote procedures such as the certification of the Land Code

There are many activities included in the Community Ratification Process, such as:

- Appointment of a Ratification Officer to oversee the vote
- Approval of the CRP document, land code text and Individual Agreement,
- Confirmation of the initial list of eligible voters
- Information packages developed and sent to the membership
- Operation of polling stations during the vote
- Procedures for counting ballots (and handling rejected ballots if required), etc.

CRP Community Information Checklist

The CRP identifies a checklist of mandatory information to be sent to voting Members, including copies of the Notice of Vote, Land Code, Individual Agreement, Framework Agreement, and the Framework Agreement's ratifying legislation.

- **List of Eligible Voters** - 18+, On & Off Reserve
- **Duty of Ratification Officer**
- **Notice of Vote/Voter Package**
- **Methods of Vote** - Polls, Mail-In, Electronic
- **Voting Dates**
- **Counting of Ballots**
- **Objections**
- **Verification of Land Code**