

**A SYNOPSIS OF THE SASKATCHEWAN
TREATY LAND ENTITLEMENT
FRAMEWORK AGREEMENT**

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NOTE TO READER: THE PROVISIONS OF THIS SUMMARY ARE FOR INFORMATIONAL PURPOSES ONLY. WHILE EVERY EFFORT HAS BEEN MADE TO VERIFY THE ACCURACY OF THIS SUMMARY, REFERENCE MUST ALWAYS BE MADE TO THE FRAMEWORK AGREEMENT PROVISIONS, ESPECIALLY WHERE LEGAL RIGHTS OR OBLIGATIONS ARE CONCERNED. A COMPLETE COPY OF THE FRAMEWORK AGREEMENT MAY BE OBTAINED BY CONTACTING THE REGIONAL OFFICE OF THE FEDERAL DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT IN REGINA, SASKATCHEWAN.

BACKGROUND

Historical

September 22, 1992 marked the execution of the Treaty Land Entitlement Framework Agreement (the "Framework Agreement") by Her Majesty the Queen in Right of Canada ("Canada"), Her Majesty the Queen in Right of Saskatchewan ("Saskatchewan") and twenty-two (22) of the twenty-six (26) Indian Bands in Saskatchewan which had established their claims to receive additional land under an existing Treaty. This right to receive additional land is generally referred to as "outstanding Treaty land entitlement". The four remaining Indian Bands have until March 1, 1993 to adhere to the Framework Agreement. For the purposes of this summary, all Indian Bands which are now, or hereafter become, parties to the Framework Agreement shall be referred to as the "Entitlement Bands".

The claims of some of the Entitlement Bands have been outstanding for a very significant period of time, some dating back to 1874 when Treaty Number Four was signed. Seven of the twenty-six Entitlement Bands are adherents to Treaty Number Four, seventeen are signatories to Treaty Number Six (signed in 1876), while the remaining two Entitlement Bands are adherents to Treaty Number Ten (signed in 1906).

**Saskatchewan's
Legal
Obligation
NRTA**

Canada's obligation to the Entitlement Bands is derived from the Treaties referred to above. Saskatchewan has legal obligations to Canada to provide "unoccupied Crown lands" for creation of Indian reserves, these legal obligations were created under an agreement between Canada and Saskatchewan called the *Natural Resources Transfer Agreement* (the "NRTA").

The NRTA was entered into in 1930 when Canada transferred virtually all federal Crown land and mineral resources in the Province to Saskatchewan. However, Saskatchewan agreed that the two governments would continue to set aside land for Indian reserves and that "unoccupied Crown lands" (previously held by Canada but now held by Saskatchewan) would be made available to honour Canada's treaty obligations.

**1976
Saskatchewan
Formula**

Previous efforts to settle the outstanding Treaty land entitlement for Saskatchewan Indian Bands have been unsuccessful for a variety of reasons. What is commonly referred to as the "Saskatchewan Formula" or the "1976 Agreement" was a "formula" negotiated in 1976 among the Federation of Saskatchewan Indian Nations (the "FSIN"), Saskatchewan and Canada. Unfortunately, the terms of the "Saskatchewan Formula" were never formalized in enough detail to allow for proper implementation. The "Saskatchewan Formula", if implemented, would have provided 946,532 acres for fifteen (15) Bands. This Formula used the Bands December 31, 1976 population statistics to arrive at the settlement acreage. The implementation of the "Saskatchewan Formula" was, however, plagued with many practical problems, not the least of which was a shortage of "unoccupied Crown land" of sufficient quality (and in the right geographical locations) to satisfy the affected Bands. As a result, the business of settling outstanding Treaty land entitlement had effectively ground to a halt by 1987, and eventually became embroiled in litigation.

Office Of The Treaty Commissioner (OTC)

**OTC
Report and
Recommendations**

Pursuant to a Memorandum of Agreement on June 8, 1989, the FSIN and the Minister of Indian Affairs and Northern Development (the "Minister") established the "Office of the Treaty Commissioner", an independent office with a mutually agreed to mandate and terms of reference. The Treaty Commissioner was to immediately consider two areas: Treaty land entitlement and education.

In May 1990, Treaty Commissioner Cliff Wright presented Chief Roland Crowe of the FSIN and the Minister with a "Report and Recommendations on Treaty Land Entitlement". The Report recommended a method to address and, hopefully, rectify the difficulties which prevented the settlement of outstanding Treaty land entitlement in Saskatchewan.

The Report proposed that the outstanding Treaty land entitlement obligations of Canada to the Entitlement Bands (and the related outstanding NRTA obligations of Saskatchewan to Canada) be settled on the basis of certain recommendations, including the "equity formula" set out in the Report.

The Report recognized the problems with implementing the "Saskatchewan Formula" (including the problems associated with inadequate amounts of "unoccupied Crown land"). The "equity formula" was designed to determine an outstanding acreage amount and a monetary payment based on this acreage for each Entitlement Band. The Band would be in a position to acquire land on the open market to fulfil its outstanding Treaty land entitlement. The existing case law, as it applies to treaty interpretation, clearly guided the Treaty Commissioner in his examination and the resulting Report.

**Negotiations
Begin**

By late 1990 Canada, Saskatchewan, the FSIN and the Assembly of Entitlement Chiefs (the "AEC") agreed to negotiate the settlement of outstanding Treaty land entitlement in Saskatchewan based on the Treaty Commissioner's Report. In January 1991 the parties signed a Protocol Agreement governing certain aspects of their negotiations, and negotiations on the Framework Agreement formally commenced in earnest thereafter.

**Framework
Agreement**

Negotiations were successfully concluded and, on September 22, 1992, culminated with the signing of the Framework Agreement by the Prime Minister of Canada, the Premier of Saskatchewan, the Chief of the FSIN and 22 of the 26 Chiefs of the Entitlement Bands.

It should always be remembered that the Framework Agreement is a **negotiated** settlement. It clearly acknowledges that, notwithstanding that the Entitlement Bands, Canada and Saskatchewan have differing opinions concerning the legal basis for settling outstanding Treaty land entitlement obligations, each of the parties has agreed that Canada's outstanding Treaty land entitlement obligations to Entitlement Bands (and Saskatchewan's related NRTA obligations to Canada) shall be fulfilled in accordance with the Framework Agreement.

The Framework Agreement is a "fair and liberal" resolution arrived at among the parties to fulfil outstanding Treaty land entitlement obligations. Treaty rights, other than land, are not dealt with in this Framework Agreement.

THE TLE FRAMEWORK AGREEMENT

**Entitlement
Funds**

The Framework Agreement is the result of an intensive and co-operative effort by Canada, Saskatchewan and the FSIN/AEC to resolve the outstanding Treaty land entitlement of 26 Bands in Saskatchewan. The total amount of settlement funds available to Entitlement Bands under the Framework Agreement is approximately \$446 million.

Payment Period

Entitlement Bands will receive their respective portion of the Entitlement Monies over a twelve (12) year period. The amount available varies from

Band to Band. These monies will enable the Entitlement Bands to purchase (assuming an average price per acre of approximately \$262.00) almost 1.6 million acres of land (the "Entitlement Land") in fulfilment of the Treaty obligation. All purchases are strictly on a "willing seller/willing buyer" basis.

**Cost Sharing
the Settlement**

Canada and Saskatchewan have agreed to cost share payment of the settlement on an initial 70130 basis. Saskatchewan is obligated to reimburse Canada for amounts up to an additional 19 %. Saskatchewan's reimbursement obligations to Canada will be based upon the savings realized by the Province following the transfer of certain northern communities to reserve status. The transfer of these communities will transfer the financial responsibility for such communities from the province to the federal government. The details of the 19% reimbursement procedure are found in the Amended Cost Sharing Agreement.

**Tax Loss
Funds**

Two separate tax loss compensation funds, totalling a maximum of \$50 million, were also established under the Framework Agreement. The purpose of the funds is to help offset the loss of tax revenues that will be experienced by Rural Municipalities and Rural School Divisions when taxable land is purchased by Entitlement Bands and thereafter set apart as nontaxable reserve land under the Framework Agreement.

**Content of
Agreement**

The Framework Agreement consists of twenty-two (22) articles, seven (7) schedules and three (3) appendices. As stated above, the Framework Agreement outlines in considerable detail the manner in which the parties have agreed to fulfil outstanding Treaty land entitlement obligations to the Entitlement Bands in Saskatchewan. It is a lengthy and technical legal document.

This summary, on the other hand, is an attempt to give a general overview of the major principles of the Framework Agreement and, where appropriate, some of the intentions of the parties that lead up to the final draft. **This summary should not, however, be relied upon as a legal interpretation of the Framework Agreement.**

ARTICLE I - Definitions and Interpretation

There are one hundred (100) specifically defined terms set out in Article I of the Framework Agreement. These are identified throughout the Framework Agreement, the Schedules and Appendices as capitalized words or phrases. Frequently, a great deal turns on the definition attributed to a particular word or phrase, and it is not always safe or accurate to attribute a commonly understood meaning to a defined term. Reference should always be made to the definitions when legal rights or obligations are under consideration.

Seven (7) Schedules are annexed to and incorporated in the Framework Agreement and they are deemed to be a part of the agreement. A very brief summary of these Schedules is found at the end of this document. The seven (7) Schedules are as follows:

Schedule 1 - T.L.E. Settlement Data Sheet;

Schedule 2 - Mineral Revenue Sources;

Schedule 3 - Ratification Vote Guidelines and Procedures;

Schedule 4 - Agreed Form of Amendments to the *Natural Resources Transfer Agreement*

Schedule 5 - Model Trust Agreement;

Schedule 6 - Terms and Conditions of Entitlement Reserve Creation; and

Schedule 7 - Schedule of Anticipated Payments to Treaty Land Entitlement (Saskatchewan) Fund.

Three (3) Appendices are annexed to and incorporated in the Framework Agreement. The Appendices represent documents which are intended to be executed and delivered at some future date by the parties referred to therein. A very brief summary of the Appendices is also found at the end of this document. The three (3) Appendices are as follows:

Appendix 1 - Form of Band Specific Agreement;

Appendix 2 - Adherence Agreement; and

Appendix 3 - Replacement Public Utility Easements.

ARTICLE 2 - Land Quantum

Determining Land Quantum

The various components used in the calculation of the "equity formula" are set forth in Article 2 of the Framework Agreement. Schedule 1 to the Framework Agreement sets out, on a Band by Band basis, various population and acreage figures as researched, negotiated and agreed to among the parties with the assistance of the Treaty Commissioner's Office. These figures are used in the "equity formula" to determine each Entitlement Band's "Equity Quantum", "Shortfall Acres", "Equity Payment" and the other listed figures and amounts.

For example, an Entitlement Band's "Equity Quantum" is the amount of land, expressed in acres, that the equity formula determines is outstanding. The equity formula takes into account both the Entitlement Band's population today and the population of the Entitlement Band when the Band's reserve land was first surveyed.

Each of the governing treaties (Numbers Four, Six and Ten) had promised that the Bands would receive Reserve acreage based on 128 acres per person. In determining the current entitlement, however, some of the factors include the amount of Reserve land already set apart for the Band, its population at the time its first Reserve land was surveyed, and its "current" population were considered.

For example:

Band "A" had a reserve surveyed for it in 1890. The survey allotted 10,000 acres. However, the population of the Band at the time was 100, therefore the treaty land entitlement should have been 12,800 acres (100 people x 128 acres).

The per capita reserve allotment was, therefore, only 100 acres (10,000 acres divided by 100 people) instead of the 128 acres per capita as required by the provisions of Treaty ("Shortfall Acres"). The percentage of shortfall in relation to the total amount of land received by Band A would likewise be approximately 22 %.

The population in Band A on March 31, 1991 is 500. To calculate the treaty land entitlement due now, the following formula would apply:

$500 \text{ people} \times 128 \text{ acres} = 64,000 \text{ acres} \times 22\% \text{ (percentage of shortfall expressed on either an individual or Band basis)} = 14,080 \text{ acres (\"Equity Quantum\")}$.

The quantum of entitlement would, therefore, be 14,080 acres in 1992.

This calculation for all of the twenty-six (26) Entitlement Bands totals 1,576,851.63 acres. The attached Schedule is helpful in determining the criteria agreed to for each Entitlement Band and its respective settlement amount.

Another component, referred to above, is the "Shortfall Acres" for each Entitlement Band. In the previous example, the "Shortfall Acres" for Band "A" were 2,800. This was determined for Band "A" by multiplying the Band's population at the time of the first survey of their reserve by 128 acres per

person (12,800 acres) and subtracting the amount of reserve land now held by Band A (10,000 acres).

**Acquisition
Up To
Shortfall
Acres**

A great deal of significance is placed upon the requirement for the Bands to use their "Entitlement Monies" to acquire "Entitlement Land" with acreage at least equal to the Band's "Shortfall Acres". **This is the minimum amount of land required to be purchased and set apart as reserve land (defined in the Framework Agreement as "Entitlement Reserve") and this Entitlement Reserve land must contain all minerals and be cleared of encumbrances as set forth in the Framework Agreement.**

After shortfall acres have been achieved the Entitlement Band has much more flexibility with respect to its Entitlement Monies and can, for example, elect to purchase more land or use the settlement money for economic development purposes. **An understanding of this concept is vital to understanding the workings of the Framework Agreement**

For ease of reference, the date upon which the Entitlement Band's Shortfall Acres have been acquired and set apart as Entitlement Reserve is referred to in the Framework Agreement as the "Shortfall Acres Acquisition Date".

ARTICLE 3 - Entitlement Monies

**Composition
Of Entitlement
Monies**

The amount of "Entitlement Monies" payable to each Entitlement Band are calculated using the "equity formula" and are listed in the attached Schedule. Reference should be made, in particular, to columns 12 through 16 inclusive. The total amount of an Entitlement Band's "Entitlement Monies" is composed of its "Equity Payment", "Minerals Payment" and, where applicable, its "Honour Payment".

1. **Equity Payment** - This amount is determined by taking the respective "Equity Quantum" of an Entitlement Band and multiplying the same by \$262.19 per acre. (The sum of \$262.19 represents the average price per acre of unimproved farm land in Saskatchewan in 1989, as determined by the Treaty Commissioner's Report.)
2. **Minerals Payment** - This amount equals the Shortfall Acres of an Entitlement Band multiplied by \$45.00 per acre. (The sum of \$45.00 represents the average price per acre of Minerals throughout the Province as determined by the Province of Saskatchewan.)
3. **Honour Payment** - Four (4) of the Entitlement Bands would have received a greater amount of land using the "Saskatchewan Formula" than the amount calculated using the "equity formula" under the Framework

Agreement. As such, it was recommended by the Treaty Commissioner that an amount should be paid to these Entitlement Bands to compensate for the shortfall. The compensation was based on the average value of unimproved **Crown** land, and is calculated using the figure of \$141.81 per acre multiplied by the excess of the Entitlement Band's Saskatchewan Formula Quantum acreage minus its Equity Quantum acreage.

Treaty Land Entitlement (Saskatchewan) Fund

TLE (Sask.) Fund The Framework Agreement contemplates a 12 year payment arrangement. However, pending the finalization of an Entitlement Band's Band Specific Agreement (being the agreement to be finalized between the Entitlement Band and Canada to commence the release of Entitlement Monies by Canada to the Entitlement Band), all of its Entitlement Monies will be maintained on deposit in the Treaty Land Entitlement (Saskatchewan) Fund (hereinafter referred to as the "Fund"). This Fund will be administered by Canada in Canada's consolidated revenue fund. The schedule of payments is referenced in columns 19 through 23 inclusive of Schedule 1 to the Framework Agreement.

Cost Sharing of Contributions Saskatchewan and Canada will pay their respective share of the settlement funds (70% Canada /30% Saskatchewan) into this Fund. Saskatchewan will make its payments to Canada after which Canada will make its payment (and deliver Saskatchewan's payment) to the Entitlement Bands.

Initial Payment Saskatchewan will begin making its payments to this Fund within thirty (30) days of September 22, 1992, (being the date that Canada and Saskatchewan executed the Framework Agreement). For the four (4) Entitlement Bands that did not sign the Framework Agreement on September 22, 1992, but "adhere" to the Framework Agreement not later than March 1, 1993, Saskatchewan shall start to make payments to the Fund within sixty (60) days of the date that the Entitlement Band adheres to the Framework -Agreement in accordance with the provisions of Article 10. Saskatchewan's monies on deposit in this Fund will earn interest from the date of their deposit to the Fund.

Interim Payment Arrangements Until such time as Canada passes legislation enabling it to hold its own money in the consolidated revenue fund on an interest-bearing basis (in the Framework Agreement this is referred to as establishment of the "Special Purpose Account"), Canada shall continue to appropriate funds through Parliament annually to fund the settlement. If an Entitlement Band signs a Band Specific Agreement before the legislation establishing the Special Purpose Account is in place, Canada will make a direct payment to the Entitlement Band, within thirty (30) days of executing its Band Specific

Agreement. Canada will also pay over those monies (plus accrued interest) on deposit in the Fund which were paid by Saskatchewan for the Entitlement Band.

**Special
Purpose
Account**

Upon enactment of legislation establishing the Special Purpose Account, Canada shall pay any undistributed portion of appropriated funds which have not yet been paid to an Entitlement Band to the Special Purpose Account. All funds received from Saskatchewan which are still on deposit in the Fund for an Entitlement Band will be paid to the Special Purpose Account. Thereafter, all payments by both governments during the remainder of the term of the Framework Agreement will be administered through the Special Purpose Account (still to be known as the Treaty Land Entitlement (Saskatchewan) Fund").

Canada and Saskatchewan's payments will be due to this Fund on or before June 30th of each year. Entitlement Bands that have executed a Band Specific Agreement will, subsequent to their first payment of funds, continue to be paid their scheduled annual instalment from the Fund on or before August 31st of each year. Provisions are also included in the Framework Agreement for interest on late payment of funds by either government.

Band Specific Agreements, Trust Agreements and Trust Accounts

**Entitlement
Fund
Spending
Requirements**

In order for any funds to be paid to an Entitlement Band, there must be both a Band Specific Agreement and a Trust Agreement. Among other things, the Trust Agreement will govern the manner in which Entitlement Monies are invested and spent by the Band and its Trustees. A model trust agreement is set forth in Schedule 5 of the Framework Agreement, but section 3.14 contains **mandatory** principles that must be contained in such an Agreement. Each Entitlement Band must establish a Trust Account to which Canada shall pay the Entitlement Monies from the Fund. Prior to the date when an Entitlement Band has acquired Entitlement Reserve land equal to the amount of its particular "Shortfall Acres" (the Entitlement Band's "Shortfall Acres Acquisition Date"), the **capital** portion of the money deposited to the Entitlement Band's Trust Account may only be used for the purchase of land or the associated minerals and improvements.

There is one exception to this rule. An Entitlement Band may withdraw up to a maximum of \$300,000.00 for Band Development purposes. Otherwise, the funds are only to be used to purchase an amount of land equal to the Shortfall Acres for that Band. The Shortfall Acres for each Entitlement Band are listed in column 4 of Schedule 1 to the Framework Agreement.

After an Entitlement Band has attained its Shortfall Acres (and the land has been granted Entitlement Reserve status) the capital portion of the Entitlement Monies in the Trust Account may be used for "Band Development" purposes, some of which may be stipulated in the Band's Trust Agreement.

For those Entitlement Bands that fail to execute a Band Specific Agreement within three (3) years of the date Canada and Saskatchewan signed the Framework Agreement, Canada and Saskatchewan shall cease to make further payments to the Fund and any monies paid by them into the Fund shall be reimbursed to them.

NRTA Amendment

Required NRTA Amendments

The Framework Agreement also requires the passage of certain statutory amendments to the *Natural Resources Transfer Agreement*, the terms of which amendment were agreed to. The Framework Agreement permits Saskatchewan to elect to cease making its payments to the Fund should Canada fail to pass the agreed upon amendment by July 1, 1993. In the event that Saskatchewan is in a position to and does exercise this right, Canada is required to make Saskatchewan's payments to the Fund on Saskatchewan's behalf until such time as the NRTA amendment is actually passed. Saskatchewan will then be required to pay back to Canada those monies paid on its behalf to the Fund, plus accrued interest at an agreed upon rate.

ARTICLE 4 - Land Acquisition

Purchase of Land, Minerals Improvements

It is a requirement of the Framework Agreement that, pending the "Shortfall Acres Acquisition Date" (being the date when land with acreage at least **And** equivalent to the Entitlement Band's "Shortfall Acres" has been set apart as a "Entitlement Reserve" the capital portion of all Entitlement Monies paid to an Entitlement Band under the Framework Agreement is to be used only for the purchase of "Land", "Minerals" and "Improvements". The one exception to this rule is found in subsection 4.01(b), to a maximum of \$300,000.

Upper Limit Spending

One of the concerns during the negotiations was arriving at a method that would ensure that Entitlement Bands did not spend too much of their Entitlement Monies purchasing any particular parcel of land, thereby diminishing their capital resources so that they were unable to acquire the minimum amount of land required (i.e., the Band's Shortfall Acres).

As a result, section 4.03 sets out a formula for determining the "upper limit that an Entitlement Band can spend per acre. This limitation is only in effect

until the Shortfall Acres Acquisition Date. The amount will vary on a Band by Band basis and alternate arrangements can be negotiated at the time the Band Specific Agreement is being entered into.

In conjunction with the above, section 4.04 deems certain expenditures to have been made for the purpose of acquiring Land, Minerals or Improvements and excludes others.

Crown Land, Minerals, or Improvements

Willing Seller/ Willing Buyer

The Framework Agreement attempts to describe the different legal interests that can be held in land. These are divided into three (3) categories, being "Land", "Minerals" and "Improvements". All three are defined terms in the Framework Agreement.

The acquisition of Land, Minerals, or Improvements of all types (that is privately held property or property owned by the governments) is governed by the fundamental principle of "willing seller/willing buyer". In other words, even in respect of Crown Lands, Minerals or Improvements, while the governments have agreed to give "favourable consideration" to offers by an Entitlement Band to purchase such assets, there is no obligation to sell.

In the case of Crown assets (Land, Minerals or Improvements owned by the federal or provincial governments) an Entitlement Band will notify Canada or Saskatchewan, as the case may be, of its intent to purchase the assets. Canada or Saskatchewan must then advise the Entitlement Band, within ninety (90) days of receipt of such written notice from the Band, whether or not they are prepared to sell the identified asset. In addition, Canada or Saskatchewan are to identify any conditions that must be satisfied by the Entitlement Band prior to the sale being finalized. If Canada or Saskatchewan agree to sell the identified Crown Lands, Improvements or Minerals shall be available for sale to the Entitlement Band for a period of eighteen (18) months. The sale will be subject to an agreement (or appraisal) determining the purchase price and satisfaction of any stipulated conditions precedent.

Fair Market Value

The purchase price of Crown Land, Improvements or Minerals shall be equal to the fair market value as determined by an independent appraiser. If the parties fail to select an independent appraiser within thirty (30) days, such appraiser shall be appointed by the Chairperson of the Arbitration Board upon application by one (or both) of the parties. The cost of the appraiser is to be borne equally by the parties.

Appraisal Price

In the event that the purchase price has been determined by an appraiser, it shall be binding on the parties. Unless otherwise agreed in writing between

Binding the parties, the sale shall be concluded based on such appraised value within sixty (60) days of the date the appraisal is completed. An Entitlement Band may, however, elect not to complete the purchase. If that occurs, the Entitlement Band shall bear the cost of appraisal by itself.

Crown Land Occupants Another important factor to consider when an Entitlement Band is attempting to deal with Crown land is the question of the "Occupants" of the land, if any.

The term " Occupants " is defined in a fairly wide manner in the Framework Agreement, and the existence of such persons may be an outright bar to acquisition of the Crown land unless their interests in the land are dealt with. Sections 4.06 and 4.08 contain provisions dealing with the manner in which the rights of such persons are protected and dealt with. Section 4.07 also lists a number of classifications of land which will only be sold by Saskatchewan to the Entitlement Bands in exceptional circumstances.

Northern Crown Land

Land Prices The price for "northern" provincial and federal Crown Land (which excludes the price for Minerals and Improvements) are listed in section 4.09 of the Framework Agreement. These prices shall, unless otherwise agreed to in writing among Canada, Saskatchewan and the Entitlement Bands, be in effect for a period of at least twelve (12) years commencing September 22, 1992.

The base price attributed to northern Crown Land is \$30/acre. This price applies in the area of northern Saskatchewan known as the "Northern Administration District". The base price may be "topped up" depending on the distance from a Northern Municipality and/or certain waterbodies, and the value of productive forest located on the particular parcel of Crown Land. Prices for northern lands with these added features are also set out in section 4.09.

Northern Land and Improvements

Transfer of Northern Communities to Reserves The parties to the Framework Agreement recognized the aspirations of both levels of government and certain Entitlement Bands that all or a significant portion of some communities in northern Saskatchewan would be granted Entitlement Reserve status as part of the implementation of the Framework Agreement. In accomplishing this objective, however, one of the many factors to consider was the purchase and/or transfer of Land and Improvements located in such communities. These may be assets owned by Saskatchewan, Canada, the local school division or the community itself.

**Northern
Community
Valuation of
Assets**

As such, it was agreed that a specific system be established to value these assets in northern communities. Northern community assets are to be valued at a price which takes into account a number of factors including the asset's depreciated value, the remaining debt associated therewith, contributions by Canada and/or the Entitlement Band, the need for replacement by the current owner after the sale, and the provision of continuing services by the Entitlement Band to non-Reserve residents after sale.

**Dispute
Resolution**

In the event of a dispute between the parties as to value of these assets, the matter may be referred to the Arbitration Board which has been established under the Framework Agreement and will determine the value utilizing the criteria in section 4. 10 of the Framework Agreement.

Continuation of the Provincial "Freeze Policy"

**Saskatchewan
Formula Land
Selection**

The Framework Agreement recognized the policy that had been adopted by Saskatchewan in relation to certain parcels of provincial Crown land that had been "selected" by Entitlement Bands after the negotiations that lead up to the "Saskatchewan Formula".

The disposition of these lands by Saskatchewan had, for the most part, been "frozen" in an effort to retain these parcels of provincial Crown land for the Entitlement Bands. However, with the demise of the "Saskatchewan Formula" and the negotiation of the Framework Agreement, Saskatchewan did not wish to continue holding such land indefinitely. Section 4.12 sets out a method by which the Entitlement Bands can confirm their continuing interest in acquiring these selections of land, and the time frames during which the province will continue to maintain the "freeze policy" on their behalf.

Assistance with Certain Financial Arrangements

**Special
Financial
Arrangements**

The parties recognized that it was in the best interests of everyone concerned to expedite, wherever possible, the creation of the Entitlement Reserves, especially each Entitlement Band's Shortfall Acres. The parties also recognized that because payments were being made to the Entitlement Bands over a 12 year period, there may be circumstances where Canada, as administrator of the Treaty Land Entitlement (Saskatchewan) Fund, could assist the Bands in making financial arrangements within certain criteria. As a result, section 4.13 of the Framework Agreement sets out the circumstances in which Canada may consider financial arrangements designed to assist an Entitlement Band to acquire immediate and unencumbered title to land.

ARTICLE 5 - Minerals

The provisions of the Framework Agreement dealing with "Minerals" are lengthy and quite technical. While it is not possible to summarize all of these provisions in the same manner as other less technical aspects of the Framework Agreement, it is possible to highlight some of the more important concepts.

Minerals to be Acquired up to Shortfall

To begin with, all of the Entitlement Bands "Shortfall Acres" must include all the associated Minerals. Those Minerals must be free and clear of any "Mineral Dispositions" (i.e., interests granted for the development, production or exploration of those minerals). Article 5 sets out the methods for the valuation and transfers of Crown minerals. In the Framework Agreement, Saskatchewan and Canada have each agreed to transfer to the Entitlement Bands all Crown owned Minerals underlying land purchased by the Bands under this agreement, without compensation, providing that such Minerals are "undisposed".

Guaranteed Surface Access

The Framework Agreement also deals with the question of guaranteeing continuing surface access to Entitlement Reserve land for those persons who hold interests in subsurface Minerals. Section 5.08 of the Framework Agreement marked a significant breakthrough for purposes of rapid Entitlement Reserve creation, by dealing with a situation where Saskatchewan would assist Canada and the Entitlement Bands in promptly obtaining clear title to land in return for an agreement on the part of Canada to collect "Provincial Mineral Revenues" on behalf of the Province and remit the same in the manner described in the agreement.

Departure From Legislation Requires Negotiation

Finally, the parties agreed that any departure from the existing Federal legislative scheme for production of oil and gas or other Minerals would result in the parties entering into good faith negotiations to deal with the changes. Agreement was also reached that where the production of Minerals was the subject of a joint production agreement, arrangements would be made to honour the joint production agreement before creation of the Entitlement Reserve by Canada.

ARTICLE 6 - Water

The Framework Agreement provides for recognition of certain rights where Entitlement Bands acquire land which is adjacent to a "Waterbody".

Transfer of Wholly Enclosed Water Bodies

Where an Entitlement Band has acquired land that has a Waterbody entirely within its boundaries, Saskatchewan, as the owner of the beds and shores of Waterbodies, will transfer the beds and shores to Canada (without compensation) at the time the Entitlement Reserve is created. Where the Waterbody is not wholly enclosed, Saskatchewan will give favourable consideration to the sale of the beds and shores, but is not obligated to sell.

Adjacent Water Bodies

The Framework Agreement also clarifies that when an Entitlement Reserve is created adjacent to a Waterbody the boundary of the Entitlement Reserve is the "ordinary high water mark" for the Waterbody. As well, subject to compliance with federal law, the Entitlement Band may erect docks, wharfs and piers along the boundary where the Waterbody is adjacent to the Entitlement Reserve without payment of fees or the need to obtain a licence.

Riparian Rights

Riparian Rights on Entitlement Reserves

The question of confirming common law riparian rights was the subject of much negotiation among the parties. Riparian rights are legal rights concerning, among other things, the quality, quantity, rate of flow and use of water adjacent to land. Such rights had been statutorily removed by provincial legislation. Upon the creation of an Entitlement Reserve under the Framework Agreement, the Entitlement Bands will have full common law riparian rights with respect to the use and occupation of Entitlement Reserve land adjacent to a Waterbody. The one exception to this is the inapplicability of the principle of *ad medium filium aquae*, (to the centre of the water body) unless the Band has also acquired the beds and shores.

Although common law riparian rights are recognized, they may not be used to delay or prevent any "Water Project" provided that the affected Entitlement Bands have:

- (1) been given at least six (6) months advance notice of any decision relating to the approval of any Water Project; and
- (2) been afforded active and meaningful participation in any decision by a decision-making authority concerned with the approval or operation of any Water Project.

Notwithstanding the above, nothing in the Framework Agreement limits an Entitlement Band's right to receive monetary compensation for damages.

Other Provisions

Water Projects may be the subject of joint review. During these reviews due consideration is to be given to the Entitlement Band's riparian rights and the use of any affected Waterbody by the Entitlement Band or its Members for hunting, fishing, trapping, gathering or other traditional uses.

Co-Management Agreements

Entitlement Bands have the option to enter into Co-Management Agreements with Saskatchewan concerning the management and use of all or any portion of a particular Waterbody which is adjacent to an Entitlement Reserve. In such an event, a Co-Management Board will be established to oversee the implementation of the Co-Management Agreement.

No Change To Treaty

Finally, should any of the provisions found in Article 6 of the Framework Agreement be found by a court to conflict with or detract from Treaty rights of any Entitlement Band such provisions shall, to the extent of such conflict or derogation, be of no further force or effect whatsoever.

ARTICLE 7 - Provincial Roads

Transfer of Provincial Road

"Provincial Roads" (as defined in the Framework Agreement) will not transfer to Entitlement Reserve status unless there is an agreement between Canada, Saskatchewan, the Entitlement Band and the municipality. If an agreement is reached, the principles set out in section 7.02 of the Framework Agreement will apply.

Transfer of Undeveloped Road Allowances

Where an "Undeveloped Road Allowance" is bounded on both sides by an Entitlement Reserve and is primarily used to provide access to that Entitlement Reserve, it shall be transferred to Canada for Entitlement Reserve status. However, Saskatchewan can, upon request, have the road allowance returned to it for use by the general public or for installation of a transmission or distribution line. Alternate lands may be provided when a retransfer to Saskatchewan is requested if improvements are in place. If there has been development of the Undeveloped Road Allowance, then Saskatchewan shall pay fair market value compensation before the re-transfer from Canada to Saskatchewan.

Where a Provincial Road ceases to be used as a Provincial Road then it shall be dealt with as an Undeveloped Road Allowance.

The area of Undeveloped Road Allowances and Provincial Roads transferred to Entitlement Reserve status is not included in the "Shortfall Acres" or "Equity Quantum" calculations.

Regular program funding shall be made available to the Entitlement Bands for operation and maintenance of roads transferred pursuant to the Framework Agreement.

**Tax Loss
Compensation**

The Amended Cost Sharing Agreement provides tax loss compensation for Rural Municipalities and Rural School Divisions which experience a reduction in "Taxable Land as a result of the creation of Entitlement Reserves (see Article 12 commentary). Section 7.06 recognizes the obligation of Rural Municipalities to ensure continued maintenance of roads within, adjacent to or providing access to Entitlement Reserves at their regular standard.

Finally, the Entitlement Bands agree, in section 7.07, to give favourable consideration to the transfer of Reserve land to the province to assist with constructing, maintaining and upgrading Provincial Roads and Provincial Highways.

ARTICLE 8 - Third Party Interests

**Clearance
Of Third Party
Interests**

Entitlement Reserves must be free and clear of all "Third Party Interests" in accordance with the Framework Agreement before their creation.

Certain "Third Party Interests" may be acceptable after the Band has attained its "Shortfall Acres Acquisition Date", and these are set forth in section 8.04.

A significant number of these legal interests affecting land are normally dealt with upon completion of routine legal procedures involved with the purchase and sale of real property. Some other legal interests may be more complicated and may involve the "surrender" of the interest *and the subsequent replacement of the interest under applicable federal legislation. For those interests that are to be replaced, surrender principles and replacement procedures are outlined.

**Public
Utility
Easements**

Public Utility Easements are the most common form of encumbrances affecting land in the Province. A system for dealing with these interests was negotiated and a stream-lined process for replacing these is outlined in the Framework Agreement. The system provides for the use of standardized agreements with the four (4) public utilities operating in the Province related to their existing distribution lines, transmission lines and other similar works.

ARTICLE 9 - Urban Reserves

The existence of reserves in urban areas of the Province is already a reality. Given the desire on the part of many Entitlement Bands to utilize a portion of their Entitlement Monies for economic development purposes, the potential

for continued and accelerated acquisition of urban properties by Entitlement Bands was recognized by all parties.

**Agreements
Prior to
Reserve
Creation**

However, the parties also recognized that, due to the differing legal environments which apply to Reserve and non Reserve property in urban areas, certain agreements would be necessary to ensure compatibility between the Entitlement Bands, the municipalities and the residents on both sides of the line.

As a result, the Framework Agreement provides that before Canada will establish an Entitlement Reserve, an agreement is required between the Entitlement Band and the affected Urban Municipality or Northern Municipality (and any affected school division therein) respecting compensation for loss of taxes, levies or grants-in-lieu, bylaw application and enforcement, and an appropriate dispute resolution mechanism for resolving matters of mutual concern.

**No Municipal
Veto**

It was never intended that municipalities could, by simply refusing to negotiate such agreements with an Entitlement Band, effectively veto reserve creation. Therefore, the Framework Agreement also provides that should an agreement or agreements not be concluded within five (5) months following a request to negotiate by the Entitlement Bands, Canada may set apart Entitlement Land as an Entitlement Reserve where it has been determined (by arbitration) that the Entitlement Band is prepared to enter into a reasonable and adequate agreement with the Urban Municipality, Northern Municipality or school division, but the other party has been unwilling to respond to the request reasonably and in good faith.

In addition to these requirements, provisions of the federal "Additions To Reserve Policy" continue to apply to the creation of urban reserves, as special consideration is given to the creation of reserves in these areas.

The provisions regarding urban reserves may be in effect for up to eighteen (18) years, unless the parties otherwise agree, after which-point the current federal policy on reserve creation will be in effect.

ARTICLE 10 - Subsequent Adherence and Ratification of Band Specific Agreements

**Adherence to
Framework**

As stated earlier, the four (4) Entitlement Bands that did not execute the Framework Agreement on September 22, 1992, have until March 1, 1993 to

**Agreement
Deadline**

adhere to the Framework Agreement. To do so, the Entitlement Band must have its Chief execute and deliver an adherence agreement in the form set forth in Appendix 2. The Entitlement Band must also authorize such execution by the Chief pursuant to a Band Council Resolution which complies with the requirements set forth in section 10.02 of the Framework Agreement. By completing these steps a Band will be eligible to finalize a Band Specific Agreement with Canada and they will become a party to the Framework Agreement.

**Conditions
For Receiving
Payments**

No payments to an Entitlement Band will take place until the Band has finalized with Canada the terms of its Band Specific Agreement and Trust Agreement. These agreements must have been approved by the Band members in a ratification vote and then executed and delivered to Canada.

Article 10 sets out the basic requirements to be fulfilled. The form of the Band Specific Agreement is as set out in Appendix 1 to the Framework Agreement. The procedures to be followed in completing the ratification vote are as set out in Schedule 3 of the Framework Agreement. The mandatory trust principles are set out in section 3.14 and a model trust agreement is attached as Schedule 5 to the Framework Agreement.

Canada has agreed that, subject to compliance with the above, it will execute and deliver Band Specific Agreements and Trust Agreements within thirty (30) days of their receipt from the Entitlement Bands. Entitlement Bands will have three (3) years from the execution date of the Framework Agreement (September 22, 1992) to ratify, execute and deliver their Band Specific Agreements and Trust Agreements to Canada. Before these agreements can be executed by Canada, Canada must be assured that the Band has received independent legal and financial advice and has taken reasonable steps to ensure that its membership has been fully informed.

ARTICLE 11 - Procedures For Reserve Creation

**Reserve
Creation**

The first section of this Article confirms the undertaking of the Entitlement Bands to use their best efforts to reach their Shortfall Acres Acquisition Date on or before the twelfth (12th) anniversary of the Framework Agreement.

Sections 11.02 and 11.03 of the Framework Agreement represent the culmination of an intensive effort to stream-line the complicated process of Entitlement Reserve creation and to outline the respective obligations of the parties. The process of Entitlement Reserve creation should be read in conjunction with Schedule 6 of the Framework Agreement, the "Terms and Conditions of Entitlement Reserve Creation."

**Timelines
For Reserve
Creation**

Term of Process

Sections 11.02 to 11.04 inclusive and Schedule 6 shall, unless otherwise agreed to in writing by the parties, be in effect for at least fifteen (15) years. Following the fourteenth (14th) anniversary of the execution of the Framework Agreement, the parties agree to enter into good faith negotiations to determine additional time periods and applicable amendments, if any. If the parties are unable to agree on or before the expiration of the fifteen (15) year period, the Entitlement Reserve creation procedures shall continue for a further period of three (3) years. Thereafter, Canada's then current policy on reserve creation shall be substituted for this procedure unless otherwise agreed in writing between the parties.

The parties have also agreed upon an earlier review of the process, which is to take place within three (3) years of the execution date of the Framework Agreement.

Shortfall Acres Acquisition Date

This is the date on which an Entitlement Band has acquired land:

- (a) which meets the requirements of the Framework Agreement;
- (b) has a surface area equivalent to its Shortfall Acres; and
- (c) the same has been set apart as Entitlement Reserve.

Process

Initial Steps

Upon delivery to Canada by the Entitlement Band of a (Band Council Resolution (the "BCR") and supporting documents identifying the "Entitlement Land" which the Entitlement Band wishes to acquire and have created as an Entitlement Reserve (collectively the "Submission"), Canada shall, within fourteen (14) days:

- (i) register the BCR on a central registry system;
- (ii) assign a Regional Project Manager to assist the Band;
- (iii) forward a copy of the BCR and documents to the Saskatchewan Indian and Metis Affairs Secretariat ("SIMAS") [Note: this changes to thirty (30) days in the event a selection map is required by SIMAS]; and

- (iv) request from SIMAS information respecting the existence and location of both registered and unregistered Public Utility Easements, Waterbodies, and any implications to Saskatchewan of the Submission.

SIMAS Role

SIMAS will deliver such information to Canada within forty-five (45) days in the event that the identified Lands, Minerals or Improvements are provincial Crown assets which Saskatchewan has already agreed to sell to the Entitlement Band, or within ninety (90) days in respect of any other property.

Regional Additions To Reserves Committee

The Entitlement Band representative and the Regional Project Manager shall prepare the Submission for the Regional Additions to Reserves Committee. The Submission may be approved by a further BCR at the request of the Entitlement Band representative or the Regional Project Manager. This shall include the results of the "Environmental Screening" required pursuant to the Framework Agreement.

The finalized Submission will be delivered to both the Regional Additions To Reserves Committee and the Department of Justice, Canada, through the Department's Saskatchewan Regional Director General.

The Regional Additions To Reserves Committee (in consultation where necessary with the Department of Justice) will review and report on the Submission within thirty (30) days of receipt of such Submission.

RDG Consideration

The Regional Additions To Reserves Committee will then either reject the Submission or, alternatively, forward its report and recommendation to the Regional Director General (the "RDG") for consideration (where its recommendation is an unconditional "Approval In Principle" or a conditional "Approval in Principle").

Upon receipt of the report and recommendations from the Regional Additions To Reserves Committee, the RDG shall review and report on the Submission within fifteen (15) days.

Explaining a Rejection

In the event that a Submission is rejected by the Regional Additions To Reserves Committee or the RDG, the affected Entitlement Band may request in writing a meeting with the appropriate officials to further clarify or explain the basis for such rejection.

In the event that a conditional or unconditional "Approval In Principle" by the RDG has been granted:

**Approval
In Principle**

- (i) the Entitlement Band is to conclude the acquisition of Entitlement Land within fifteen (15) months;
- (ii) Canada shall notify SIMAS that a conditional or unconditional "Approval In Principle" has been granted and identify in writing the affected Lands, Minerals and/or Improvements;
- (iii) Saskatchewan shall, within forty-five (45) days of receipt of the notice to SIMAS, ensure the Public Utility Companies direct to the attention of the Department of Justice registerable discharges of any registered Public Utility Easement together with duly executed Replacement Public Utility Easements. Canada shall hold these, in trust, for execution and registration and subsequent distribution of copies.

After the transfer of title of the Entitlement Land to Canada has occurred, Canada shall carry out any required outer boundary surveys or obtain any other alternative legal description satisfactory to Canada.

**Reserve
Creation
By Order-In-
Council**

The Minister shall then recommend to the Governor-In-Council that such Entitlement Land be set apart as an Entitlement Reserve. The Department of Indian Affairs and Northern Development will prepare the necessary submission to the Governor-In-Council to give effect to such recommendation and shall notify Saskatchewan within thirty (30) days of the date that such Entitlement Land was set apart as an Entitlement Reserve.

The Framework Agreement also provides for a system to deal with the unlikely possibility that Entitlement Reserve status is denied by the Governor-In-Council. That system is set forth in section 11.05.

Other Costs

**Outer
Boundary
Survey and
Environmental
Screening
Costs**

Canada has agreed to be responsible for; the payment of outer boundary survey costs required for the establishment of Entitlement Reserves, reasonable costs associated with any Environmental Screening (as defined), and the reasonable costs incurred by the Entitlement Bands for ratification of their Band Specific Agreements (which shall include such reasonable costs relating to independent legal and other expert advice as agreed pursuant to their respective Band Specific Agreements).

**Funding for
Acquisition
Costs**

Canada has also agreed to pay each Entitlement Band, within sixty (60) days of the date of execution of its Band Specific Agreement, the sum of \$100,000.00 for the purpose of assisting the Entitlement Band with Acquisition Costs.

Canada further agrees to pay each Entitlement Band, within sixty (60) days of the Execution Date or the date of its adherence to the Framework Agreement, whichever is later, any sums remaining to be advanced to such Entitlement Band for "planning costs".

Property Taxes

Interim Tax Payment

After the purchase of Entitlement Land by an Entitlement B and, but pending Entitlement Reserve status, the obligation to pay property taxes rests with the Entitlement Band. However, in the event that an Entitlement Reserve is not created within seventy-five (75) days of the latest of the following dates:

- (i) the date that the Entitlement Land is eligible to be transferred to Canada for the creation as an Entitlement Reserve;
- (ii) the date that the Entitlement Band has requested in writing that such Entitlement Land be transferred to and accepted by Canada;
and
- (iii) the date of receipt by Canada of all registerable documents, in registerable form, necessary to effect the transfer of title to the Entitlement Land to Canada;

then Canada agrees to pay to the Entitlement Band's Trustees an amount equivalent to the taxes levied against the Entitlement Land which the Trustees have paid and which relate to any period following such seventy-five (75) day period.

Transfer of Provincial Residual Interests

Transfer of Residual Interests

This provision (section 11.09) is of great significance to the Entitlement Bands and to the process of Entitlement Reserve creation. Under provincial legislation, a number of interests in land (even land in respect of which individuals have "clear title") are reserved unto the provincial Crown. Section 11.09 recognizes that Saskatchewan will, upon creation of an Entitlement Reserve, transfer to Canada for the Entitlement Band all "residual" interests, whether express, implied or under any statute of the Province.

Miscellaneous

Under the Framework Agreement, the procedures for Entitlement Reserve creation apply for an Entitlement Band until the sooner of the expiration period set forth in the Framework Agreement or the date when the Entitlement Band has had its "Equity Quantum" (or in the case of four (4) Bands, their "Saskatchewan Formula Quantum") set apart as Entitlement Reserve. After that, additional land can be set apart in accordance with the federal Additions to Reserves Policy.

The Entitlement Bands have also agreed to give favourable consideration to establishing compatible zoning by-laws consistent with those in place in Urban or Northern Municipalities when property is acquired outside the municipality, but adjoining it.

ARTICLE 12 - Tax Loss Compensation

Rural Municipality Compensation

When the Framework Agreement was negotiated, it was recognized that the vast majority of land to be purchased by Entitlement Bands (to be thereafter set apart as an Entitlement Reserve) was likely to be situated in Rural Municipalities. However, since Indian reserve land is not subject to taxation by local governments or the local school divisions, it was agreed that two separate tax loss compensation funds should be established to help offset the anticipated loss of tax revenues. Because the funds have been established, the Entitlement Bands shall not be required to pay tax loss compensation to either Rural Municipalities (or Rural School Divisions operating within such municipalities) when purchasing land or seeking to have such land set apart as an Entitlement Reserve under the Framework Agreement.

Rural Municipal Compensation Fund

Rural Municipal Compensation Fund

Within ninety (90) days of the date upon which "Taxable Land" within a Rural Municipality has been set apart as an Entitlement Reserve under the Framework Agreement, Canada and Saskatchewan shall pay to the Rural Municipal Compensation Fund a sum that is equivalent to ninety percent (90%) of twenty-five (25) times the "Municipal Taxes" which had been levied on the Taxable Land in the previous calendar year. Canada pays 70% of this amount, and Saskatchewan pays 30%. The maximum amount payable (in total) to the fund is \$25 million. This fund is administered by the Saskatchewan Association of Rural Municipalities, which will assist the governments to calculate the tax loss when necessary.

Purpose of Fund The purpose of the fund is to ensure that Rural Municipalities will be in a position to continue to maintain roads within their municipality despite the loss of tax revenues related to property which has become an Entitlement Reserve.

Rural School Division Compensation Fund

School Division Compensation Fund Within ninety (90) days of the date upon which Taxable Land within a Rural Municipality has been set apart as an Entitlement Reserve under the Framework Agreement, Canada and Saskatchewan shall pay to the School Division Compensation Fund a sum that is equivalent to seventy percent (70%) of twenty-five (25) times the "School Taxes" which had been levied on the Taxable Land in the previous calendar year. Again, the maximum obligation of the two governments (in total) to the School Division Compensation Fund is \$25 Million, with Canada bearing 70% and Saskatchewan bearing 30%.

This fund is administered by Saskatchewan. The existence of the fund has no effect on tuition agreements between the School Divisions, Canada and the Entitlement Bands.

ARTICLE 13 - Taxation

This Article deals with three separate taxation issues, being the taxability of the Entitlement Monies when paid to the Entitlement Band, the application of the Goods and Services Tax to the acquisition of land, and taxation by Entitlement Bands and Canada of public utility transmission and distribution lines.

With respect to the taxation of Entitlement Monies, the Framework Agreement does not attempt to answer the legal question, but it specifically recognizes that the Entitlement Monies are being paid in fulfilment of Canada's Treaty land entitlement obligation.

GST Exemption The purchase of land and most related acquisition costs will be exempt from the application of the Goods and Services Tax (GST).

Public Utilities Finally, it was agreed by Canada and the Entitlement Bands that any of the public utility transmission, distribution or other lines which are the subject of a Replacement Public Utility Easement under the terms of the Framework Agreement will not be subject to any new taxation measures except as permitted in the Article.

ARTICLE 14 - Existing and Future Programs

No Effect On Program Funding and Services

It was the intent of the parties that this Framework Agreement not affect the program funding and services otherwise available to the Entitlement Bands. The Entitlement Bands would continue to be treated in the same manner as other Bands in Saskatchewan to which these programs and services were available. Such other funding was to remain separate and apart from the Framework Agreement.

In addition, however, it was important to confirm that neither the execution of the Framework Agreement by an Entitlement Band nor the acquisition of land or improvements in accordance with its terms entitled the Entitlement Band to any additional program funding. In other words, the parties agree that the existence of the Framework Agreement, the payment of Entitlement Monies, and the acquisition of land by the Entitlement Bands, was to be treated as a "revenue neutral event vis-a-vis other programs and services.

This Article also confirms that the Framework Agreement (and in particular the release provisions of Article 15) do not have an affect on those individuals who were entitled to be registered as Indians pursuant to *An Act to Amend the Indian Act*, R.S.C. 1985, c. 32 (1st Supp.), but were not registered as of April 15, 1992.

ARTICLES 15 & 16 - Release and Indemnity

The provision of Articles 15 and 16 deal with the releases granted by the Entitlement Bands to Canada, and by Canada and the Entitlement Bands in favour of Saskatchewan. The provisions are legal and technical in nature and should be read and understood with the assistance of qualified legal counsel.

Timing of Band Release

Briefly, however, the release granted by the Entitlement Bands to Canada takes effect immediately upon execution by the Entitlement Band and Canada of that Band's Band Specific Agreement and releases Canada from its treaty land obligations to the Band. The Band also agrees to indemnify and hold Canada harmless from and against any future claims to treaty land entitlement by the Band, its members or other parties. A system is established to deal with such claims and Canada's right to be indemnified by the Band. In addition, the Entitlement Bands agree to discontinue pursuing any existing legal actions commenced in respect of outstanding treaty land entitlement.

Release Final and Binding

The release in favour of Canada is intended to be final and binding, recognizing that this Agreement is in full and final satisfaction of treaty land entitlement claim. However, the release can be defeated prior to the expiration of the twelfth (12th) anniversary of the Framework Agreement in

circumstances where Canada is failing, in a material way, to honour its obligations under the Framework Agreement.

**Release only
of the Treaty
Right to Land**

The release is only with respect to the Treaty right to land and not with respect to any other Treaty rights or any other type of land claim. Should there be a future variation to the Treaty terms nothing in the Framework Agreement shall be interpreted as preventing the Entitlement Bands from benefiting from those changes.

The release in favour of Saskatchewan is primarily related to its obligations under the Natural Resources Transfer Agreement. The amendments to the Natural Resources Transfer Agreement set out in Schedule 4 of the Framework Agreement address the basis for the release. The release is effective immediately but subject to defeat if Saskatchewan has failed to honour its obligations in any material way prior to the earliest of an Entitlement Band receiving its Shortfall Acres or twelve (12) years from September 22, 1992.

ARTICLE 17 - Other Indian Bands

**No Effect On
Other Bands**

This Article confirms that the Framework Agreement does not affect the rights of, or create any rights for, any Indian Band which is not a party to the agreement.

Canada and Saskatchewan do agree, however, that if other Bands in Saskatchewan establish a right to be compensated for outstanding treaty land entitlement in the future, that the principles of the Framework Agreement and the Amended Cost Sharing Agreement between the two governments will be extended to cover such Bands.

ARTICLE 18 - Settlement Board

Purpose

The parties agreed that it would be helpful to establish an informal, nonbinding forum (a "Settlement Board") to help facilitate the implementation of the Framework Agreement. The idea was to use this vehicle to arrive at innovative and practical solutions to problems before they became disputes requiring binding arbitration or court proceedings.

**Establishment
Of Settlement
Board**

As such, the parties agreed to establish a Settlement Board within six (6) months of the execution of the Framework Agreement, the terms of reference for which are still in their formative stages. Any party to the Framework Agreement can submit a question to the Settlement Board. The Settlement Board can issue recommendations which are not binding, and are for

"guidance and direction" only. All proceedings before the Settlement Board are strictly "without prejudice". A review of the Settlement Board and its operations is to be conducted after a six (6) month trial period.

Costs Each party shall be responsible for its own costs incurred in connection with the Settlement Board unless otherwise agreed among the parties.

ARTICLE 19 - Arbitration Board

Purpose The establishment of an Arbitration Board is provided for in Article 19 of the Framework Agreement. Unless an agreement is reached among the parties to refer a given matter to the Arbitration Board, its jurisdiction is limited to those areas specifically identified in Article 19.

Chairperson The Arbitration Board is to have a permanent and independent Chairperson, to be appointed within six months following execution of the Framework Agreement by agreement between Canada, Saskatchewan and a majority of the Entitlement Bands. The term of the Chairperson's appointment will be determined at that time.

Composition The composition of the Arbitration Board will vary depending on the number of parties (i.e., two or three) involved in the dispute. For disputes concerning simple factual matters (primarily the appointment of appraisers) only the Chairperson is required. For disputes involving any two (2) of the parties, the Arbitration Board shall consist of three (3) members, one (1) to be appointed by each of the parties to the dispute, and the third to be the Chairperson. For tripartite disputes, the Board shall consist of five (5) members, one (1) appointed by each of the three parties with the remaining two (2) consisting of the Chairperson and a second independent arbitrator to be chosen by the arbitrators themselves.

Terms of Reference The Chairperson or the Arbitration Board, as the case may be, can rule on the merits of the case and determine compensation and costs. The proceedings of the arbitration are governed by the Commercial Arbitration Code, which is a schedule to the Commercial Arbitration Act (Canada). Unless otherwise agreed, hearings are to be conducted in Saskatoon. Decisions are by a simple majority and are final and binding on the parties.

ARTICLE 20 - General Provisions

This Article is primarily legal in nature, but some of its provisions may be highlighted as follows:

- the Framework Agreement is binding upon the parties, and their legal successors;
- no modification, amendment or waiver of the Framework Agreement is effective unless in writing and signed by the parties
- the parties are not free to assign or transfer any of their rights and obligations under the Framework Agreement without written consent;
- the Framework Agreement is governed by Saskatchewan law, and the laws of Canada applicable in Saskatchewan;
- any statutory references in the Framework Agreement include the statute as amended or replaced from time to time;
- the Framework Agreement constitutes the entire agreement between the parties in respect of the subject matter thereof, and no party has relied upon any other agreement or representation in entering into this Framework Agreement;
- ambiguities in the Framework Agreement are not to be interpreted in favour of any party;
- the Federal Court of Canada has jurisdiction to hear disputes;
- none of the provisions of the Framework Agreement have any effect on the ability of an Entitlement Band to determine its own membership; and
- the agreement is not to be interpreted as creating or acknowledging any treaty obligation in respect of Saskatchewan.

In addition to the foregoing, the Article also sets forth the means by which notices may be given pursuant to the Framework Agreement and outlines the areas where the two governments have agreed to enact legislation in order to implement the terms of the Framework Agreement.

Legislation

Enacting Legislation

In addition to their agreement to amend the *Natural Resources Transfer Agreement*, Canada and Saskatchewan have undertaken to present legislation with respect to those matters set out in section 20.19 of the Framework Agreement. In the event such legislation is not passed on or before July 1,

1993, the parties will further negotiate those aspects of the Framework Agreement requiring legislation and determine alternate means of fulfilling the terms. Compensation may be sought by any party suffering damages as a result of the failure to enact such legislation.

ARTICLE 21 - Best Efforts

True Spirit And Intent

This Article sets forth the general principle that each of the parties will, in good faith, employ their best efforts to fulfil the terms of the Framework Agreement according to its true spirit and intent and that they will negotiate in good faith any further agreements required to do so. Thereafter, a number of the specific undertakings of the parties are outlined. For the most part, the same are directed at ensuring ways of expediting Entitlement Reserve creation under the Agreement.

ARTICLE 22 - Coming into Force

Timing

This Article briefly confirms that the Framework Agreement comes into force as between the two governments on the date of its execution by them (September 22, 1992). The Agreement does not come into force (with minor exceptions as listed in section 22.02) between an Entitlement Band and the two governments, until a Band Specific Agreement has been executed and delivered.

BRIEF REVIEW OF SCHEDULES AND APPENDICES

Schedule 1

DATA SHEET - This Schedule sets out, on a Band by Band basis, each Entitlement Band's settlement amount and also contains the background data used in calculating the Equity Formula. The Schedule has been reproduced as part of this summary.

Schedule 2

MINERALS REVENUES SOURCES - This Schedule describes the revenue sources to be utilized in determining the value of minerals.

Schedule 3

RATIFICATION VOTE GUIDELINES AND PROCEDURES - This Schedule details the voting and other procedures applicable to the ratification vote required to be held by each Entitlement Band to approve its Band Specific Agreement, Trust Agreement and the associated documentation. Approval by 50% plus one of eligible voters is required. Mail-in voting is available to voters who reside off the reserve.

Schedule 4

AGREED FORM OF AMENDMENTS TO THE NATURAL RESOURCES TRANSFER AGREEMENT - This Schedule contains an agreement between Canada and Saskatchewan in which they have agreed to amend paragraphs 10 and 11 of the Natural Resources Transfer Agreement.

Schedule 5

MODEL TREATY LAND ENTITLEMENT TRUST AGREEMENT - At the same time that an Entitlement Band signs its Band Specific Agreement, it must also have in place a Trust Agreement. Section 3.14 of the Framework Agreement sets out certain mandatory principles for the Trust Agreement. This Schedule sets forth a model agreement which incorporates those principles and which is acceptable to Canada.

Schedule 6

TREATY LAND ENTITLEMENT TERMS AND CONDITIONS OF ENTITLEMENT RESERVE CREATION - This Schedule is very important in terms of actual implementation of the Framework Agreement. It outlines the requirements, in conjunction with the provisions of the Framework Agreement and the Band Specific Agreement, by which "Entitlement Reserves" will be created by Canada.

Schedule 7

SCHEDULE OF ANTICIPATED PAYMENTS TO THE TREATY LAND ENTITLEMENT (SASKATCHEWAN) FUND -This Schedule sets out the respective contributions and payment schedules of Canada and Saskatchewan.

Appendix 1

FORM OF BAND SPECIFIC AGREEMENT - This Appendix contains the required form of Band Specific Agreement to be entered into by each Entitlement Band with Canada in order to give effect to the provisions of the Framework Agreement among Canada, Saskatchewan and the Entitlement Band.

Appendix 2

ADHERENCE AGREEMENT - This Appendix contains the form of adherence agreement to be executed and delivered by any of the four (4) Entitlement Bands contemplated by the Framework Agreement that did not execute the Framework Agreement on September 22, 1992. Such Bands have until March 1, 1993 to adhere to the Framework Agreement -in the manner---- contemplated in Article 10.

Appendix 3

REPLACEMENT PUBLIC UTILITY EASEMENTS - In an effort to speed reserve creation under the Framework Agreement, the parties agreed upon the form of Replacement Public Utility Easements that would be registered for all Entitlement Reserve land.

In all, six different permit and easement agreements were negotiated with the relevant public utilities, and the same are set out in Appendix 3.

AMENDED COST SHARING AGREEMENT - This is a separate Agreement (not a Schedule or Appendix to the Framework Agreement) between Canada and Saskatchewan which outlines the respective financial contributions of Saskatchewan and Canada to fund the settlement of outstanding Treaty land entitlement.