

A close-up photograph of tree bark, showing a complex, layered, and fibrous texture in shades of brown, tan, and grey. The bark is the background for the entire page.

A CALL TO ACTION LONG OVERDUE

A Call to Action:

Shared Decision Making,
A New Model of Reconciliation
of First Nations Natural
Resource Jurisdiction

Hul'qumi'num Treaty Group

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We agree to establish processes and institutions for shared decision-making about the land and resources and for revenue and benefit sharing, recognizing, as has been determined in court decisions, that the right to Aboriginal title “in its full form,” including the inherent right for the community to make decisions as to the use of the land and therefore the right to have a political structure for making those decisions, is constitutionally guaranteed by Section 35. These inherent rights flow from First Nations’ historical and sacred relationship with their territories.

— The New Relationship
Government of British Columbia

Our strategic goal is to provide for the implementation of governance provisions that we will negotiate at the treaty table in our Final Agreement. In this way we will achieve jurisdictional reconciliation, ensure the sustainable management of the cultural and natural resources for future generations, and, above all, provide for the stewardship of our traditional territory by the Hul’qumi’num Mustimuhw.

— Robert Morales
Hul’qumi’num Treaty Group

Aboriginal Territorial Governance

Aboriginal governance of traditional territories — the traditions and laws respecting issues relating to the harvesting and management of resources for food, social and ceremonial purposes, and to maintain a moderate livelihood — has been operating on a parallel but separate track from that of Crown governance of the lands and resources in British Columbia. The lack of recognition by the Crown of First Nations territorial jurisdictions has exacerbated the differences of the parallel approaches. In many cases, the struggles and conflicts between First Nations and Crown governments have been rooted in this key issue.

In the environment of the Crown's non-recognition of First Nations rights to territorial governance, there have rarely been common decision-making processes, few opportunities for substantive dialogue, and consultation processes have seldom met the expectations of the parties. The successes in government-to-government relationships over resource management in British Columbia have generally been based on the approach of putting aside differences to reach primarily short-term solutions. Treaty negotiations, as we discuss below, have done little to provide long-term solutions to the creation of government-to-government approaches to decision-making over territorial governance decisions. Indeed what has sometimes been termed 'First Nations role off-TSL' is one of the key gaps at many tables across British Columbia.

This divergence of visions between First Nations and the Crown with respect to territories and resource management is a familiar, longstanding issue. In 1991 the British Columbia Claims Task

Force directed the government and First Nations to work through treaty negotiations to address these issues through:¹

1. Identification of territories and resources over which First Nations have ownership, and those over which they exercise jurisdiction.
2. Coordination of management regimes to ensure efficient and effective resource development, as well as sustaining the land, sea, and resource base for future generations.
3. Implications of changes to ownership and jurisdiction.

In our view, these elusive objectives still need to be met.

This book is a call to action. The time is long overdue for the provincial and federal governments to join First Nations at the treaty tables to formally and substantively address this legacy of colonization. We have sketched an outline for a comprehensive new vision for treaties to act as a vehicle to implement shared decision-making throughout First Nations territories in British Columbia.

¹The Report of the British Columbia Claims Task Force, June 28, 1991

The Crossroads of Reconciliation

First Nations have the inalienable right of governance over their territories. Many First Nations have argued that the Crown has not yet provided adequate *recognition* of this right, the extent of its authority, or a clear mechanism for its interaction with federal and provincial jurisdictions. This lack of recognition prevents many First Nations from engaging in the treaty negotiation process and serves as a major stumbling block for those who do sit at the negotiation table. If Aboriginal title, rights and self-government are to be successfully reconciled with the Crown assertion of sovereignty, which is the very purpose of s.35 of the *Constitution Act*, then this situation must change.

First Nations and the two Crown governments have been engaged in constitutional treaty negotiations for over a decade. Though important progress has been made in certain areas, the formula which provides for the mutual recognition of our jurisdictions has been elusive. A mutually satisfying direction on how First Nations and the Crown will exercise territorial governance rights has not yet been found. First Nations have not been able to negotiate governance rights over resource management decisions which could be exercised across traditional territories. The current certainty model proffered by the Crown governments is unacceptable to most First Nations. Rather than a mere modification of a few subsistence-related Aboriginal rights, the certainty model effectively extinguishes the inherent territorial governance rights of First Nations.

It is this impediment in particular, that has stymied the resolution of negotiations at treaty negotiation tables across British Columbia. It is imperative that we find a way for these jurisdictions to be expressed together to get beyond this impasse and move on towards recognition.

The solution, we believe, is shared decision-making over the management of natural resources. Shared decision-making offers the promise of a new relationship built through mutual recognition and the development of natural resource management, planning structures and institutions at local, regional and provincial scales.

The Alignment of Common Goals over Aboriginal Governance

1 THE NEW RELATIONSHIP

The single most important Aboriginal policy to ever have been issued by the provincial government is that of the New Relationship. We do not take a naive view of this new policy. We understand the challenges that must be overcome in order for such a policy to be broadly accepted and expressed at both the corporate and operational levels of the provincial government. We do not expect the New Relationship to be the law of the land tomorrow. We do, however, earnestly encourage the provincial government to work towards the fullest implementation of this high level policy, for we see much in common with First Nation governance aspirations and the direction of the New Relationship. We share the policy goals expressed by the New Relationship that reinforce Aboriginal governance:

“We agree to establish processes and institutions for shared decision-making about the land and resources and for revenue and benefit sharing, recognizing, as has been determined in court decisions, that the right to Aboriginal title “in its full form,” including the inherent right for the community to make decisions as to the use of the land and therefore the right to have a political structure for making those decisions, is

constitutionally guaranteed by Section 35. These inherent rights flow from First Nations' historical and sacred relationship with their territories.”

“...ensure that lands and resources are managed in accordance with First Nations laws, knowledge and values and that resource development is carried out in a sustainable manner including the primary responsibility of preserving healthy lands, resources and ecosystems for present and future generations...” and

“...integrated intergovernmental structures and policies to promote co-operation, including practical and workable arrangements for land and resource decision-making and sustainable development.”

This is policy that we can work with. We look forward with great interest to the integration of the New Relationship policy with the treaty negotiation process. We are confident that a satisfactory *Framework Agreement for Shared Decision-Making over the Traditional Territory* can be concluded.

2 LAND USE PLANNING IN BRITISH COLUMBIA

Within the Provincial Government, we have observed that the Integrated Land Management Bureau (ILMB) has assumed a leadership role in the recognition and coordination of Aboriginal land use planning and Provincial land use planning. We monitor the land use planning practices and outcomes in such areas as Haida Gwaii and the North-Central Coast with considerable interest. The ILMB has managed to deliver the goals of its own Service Plan while taking major steps towards the reconciliation of Aboriginal and Provincial land use planning. The ILMB has called for the development of a strategic planning ‘Statement of Intent’ with the

First Nations Leadership Council and advocates the development of planning protocols that provide for jointly developed planning processes between the ILMB and the First Nation.²

The design and implementation of treaty negotiation mandates is a complex and lengthy business. It is not at all surprising that a policy initiative, even one as complex as land use planning, can adapt to compelling realities at a speed that leaves the treaty negotiation process behind. We argue that the time has come for the treaty negotiation mandates to advance to the current policy realities that provincial leaders like the ILMB have been able to demonstrate.

3 JURISPRUDENCE

We have all expended considerable resources in the pursuit of reconciliation over Aboriginal title and Aboriginal governance. A great portion of this work has been undertaken in the legal arena and reflected in decisions handed down from the Supreme Court of Canada. Aboriginal rights, including the right to Aboriginal governance, have been consistently upheld by the Supreme Court of Canada in *Sparrow*, *Van der Peet*, *Gladstone*, *Delgamuukw*, *Campbell*, *Taku*, and *Haida*. The BC Supreme Court in the *Xeni Gwet'in* case has moved further to suggest that to accommodate the decision-making that goes with aboriginal title, that Provincial forestry laws do not apply to Aboriginal title lands. The opinions expressed in the ruling will almost certainly be disputed in future appeals; however they serve as a strong indicator of the importance of the issue of Aboriginal governance.

²A New Direction for Strategic Land Use in B.C. ILMB, Min. of Agriculture and Lands. Dec. 2006.

Taken together, the steadfast determination of First Nations who are unwavering in their commitment to find a resolution to the land question in British Columbia, the policy advances undertaken by the provincial government through the New Relationship, the practical on-the-ground measures undertaken by agencies such as the ILMB, and a consistent tradition of jurisprudence that continues to recognize the Aboriginal presence, provide much of the foundation upon which we may undertake the formal step towards the reconciliation of Aboriginal governance and Crown governance.

Many First Nations remain committed to achieving a Final Agreement with the federal and provincial governments. Most have concluded that a key component of the current negotiations in the BC Treaty Process — Aboriginal territorial governance — cannot be fulfilled under current mandates. In spite of these mandates, many First Nations believe that agreements which reflect First Nations rights to govern their territories can be achieved.³ The principles of these agreements must be imported back to the treaty negotiation table.

One hundred and fifty years after colonization, over a decade of treaty negotiations, and several years after the New Relationship, the fundamental question remains — how do we reconcile Aboriginal and Crown jurisdiction? Recognition is the necessary beginning, but that recognition has to extend to all Crown-First Nation forums, including treaty negotiations, if there is ever to be final agreement over the land question.

The Current State of Shared Decision-Making in Final Agreements

Recently ratified Final Agreements serve as an indicator of the level of territorial governance that is available to First Nations through tripartite negotiations under current government mandates. As we detail below, these treaties have largely failed to recognize First Nations ongoing territorial jurisdictions.

These agreements contain clauses which modify the attributes and geographic extent of the signatory Nation's aboriginal rights and title.⁴ Once ratified, a First Nation's territorial title and rights are significantly modified into the diminished jurisdiction of their bounded Treaty Settlement Lands (TSL).

The Crown argues that they require the certainty of bounded treaty land-bases in order to create a stable investment climate. The Provincial government asserts that although a First Nation's land-base is diminished, the treaty modification model affords rights outside of their settlement lands. These rights are set out in the relevant resource chapters and include such things as harvesting rights, access to traditional resources and the right to participate in planning processes. These enumerated rights, however, do not address the issue of First Nation decision-making authority with respect to land and natural resources in traditional territories.

Recent Final Agreements do contain some exceptions in the form of small scale, operational, process-based opportunities for First Nations views to be expressed within existing and future government decision-making forums.

³<http://www.ubcic.bc.ca/files/PDF/UnityProtocol.pdf>

⁴1.11.3 and 1.13, in the Maa-nulth Final Agreement and Tsawwassen Final Agreement respectively

The Tsawwassen Final Agreement provides for the possible advisory management of migratory birds,⁵ an agreement for the development of a cooperative working relationship with respect to planning in the Fraser Estuary,⁶ and for the negotiation of cooperative management of heritage resources.⁷

Similarly, the Maa-nulth Final Agreement provides for the negotiation of Maa-nulth First Nation participation in management planning for new protected areas,⁸ and for the delegation of municipal-type law making authority over the crown foreshore.⁹

Although these are positive elements, the Final Agreements are conspicuously silent on the New Relationship's promise of shared decision-making. And with neither the recognition for the foundation of an evolving relationship to support shared decision-making, nor explicit clauses to enable it; there is no basis from which First Nations are able to exert decision-making powers alongside the Province. As a result, upon ratification, governance rights to areas outside treaty settlement lands ("off-TSL") are extinguished, consultation is limited to processes and triggers in treaty, and in no instance do the Nations have off-TSL decision-making power. Though these treaties say that nothing in them preclude a First Nation from participating in processes or institutions for shared decision-making, such clauses provide little comfort in the context of this limited view of territorial governance rights. Effectively, signatory First Nations will have extinguished their ability to benefit from further shared decision-making discussions and resulting processes and institutions.

It is our strongly held view that the current Crown certainty model does not deliver the requisite certainty for Aboriginal participants who carry the responsibility to steward their resources. The model does not provide First Nations with the necessary decision-making authority to protect, manage, or benefit from the natural resources within their territories. A treaty certainty model should provide certainty for all parties, not solely the dominant power.

⁵Tsawwassen First Nation Final Agreement, Ch.11, s.35

⁶*Ibid.* Ch.13, s.30.

⁷*Ibid.* Ch.14, s.19.

⁸Maa-nulth First Nations Final Agreement, Ch.24, s.24.1.6

⁹*Ibid.* Ch.14, s.14.5.1

A New Approach to Certainty

An alternative certainty model is needed to address the recognition of the territorial jurisdictions of First Nations. A new approach to certainty would contain the following elements:

1. Recognition of both Crown and Aboriginal jurisdiction across the traditional territory, affirming that Aboriginal jurisdictions outside of treaty settlement lands are neither modified out of existence nor extinguished;
2. Treaty language in the Final Agreement that provides for the establishment of a management structure with representation from all parties for the purposes of shared decision-making on resource management matters across the traditional territory; and
3. Treaty commitments to a *Side Agreement* that will determine the structure, process and scope of the implementation of shared decision-making within the traditional territory.

This version of certainty diverges from the prevailing model by asserting in the Final Agreement that the governance rights of all the parties remain in effect throughout First Nations traditional territory. This will result in a certainty model that responds to the Crown's desire to create a predictable environment for continued development and growth in the province without requesting First Nations to compromise their fundamental territorial governance rights.

Similar to recent Final Agreements, this certainty model will provide for certain Section 35 rights of the First Nation to have their geographic extent and limitations described in the treaty. However unlike

these agreements, First Nation jurisdictions throughout their traditional territories will be recognized. The shared decision-making process will provide a predictable environment for the exercise of these jurisdictions along-side provincial and federal authorities.

Our argument is that the recognition and reconciliation of Aboriginal governance will provide a superior level of certainty for all parties over resource management than does the current unilateral decision-making model. Through the creation of decision-making structures that recognize First Nations' right to govern their traditional lands, a relationship based on the constitutional principle of recognition of aboriginal and treaty rights can forge a way to true reconciliation and create the stable and predictable relationship desired by all Parties.

Once this recognition is achieved in treaty and built upon in other formal agreements, our attention as a society can then focus on capacity building in First Nation communities to build an effective partnership, rather than spending precious resources and energy to fight recognition which has already been constitutionally established.

Negotiating Reconciliation

The process we are recommending for the negotiation of Aboriginal territorial governance consists of three elements:

- a Framework Agreement,
- shared decision-making treaty chapter language, and
- individual shared decision-making Side Agreements.

A Framework Agreement for Shared Decision-Making

We advocate that a *Framework Agreement for Shared Decision-Making over the Traditional Territory* be negotiated between First Nations and the Government of British Columbia. The agreement should be accompanied by agreements between First Nations whose territories and histories are shared, and who agree that Aboriginal governance is vitally important to their own reconciliation in treaty negotiations.

The Framework Agreement will provide all parties with principles upon which Final Agreement negotiations to reconcile Crown resource management and Aboriginal territorial governance can be based. The Framework Agreement will be an opportunity for a consideration of the full range of options at Provincial, regional and local scales. It will provide a framework for neighbouring First Nations to work together in shared resource management decisions with the Province. It will highlight options for the role of third parties in natural resource management and planning decisions. Once the Framework Agreement is concluded, the parties will have a greater understanding of how the actual

arrangements for shared decision-making may best be undertaken and how these arrangements can best be reconciled within the treaty negotiation framework. The principles in the Framework Agreement can allow for specific implementation provisions to be drafted at individual treaty tables.

The core elements of the Framework Agreement are provided in Appendix A. Though this agreement will focus on areas of resource management that primarily fall under provincial jurisdiction, we recognize and encourage other work be done to harmonize these principles with federal and local government jurisdictions.

Draft Shared Decision-Making Language for Final Agreements

At individual treaty tables, chapter language that provides for recognition of the Aboriginal territorial jurisdictions will provide mechanisms for certainty and dispute resolution. Treaty chapters will also provide commitments to the establishment of a Side Agreement that establishes the mechanisms for local and regional scale planning and management. An important element of the operation of the treaty language is the relationship of the co-existing territorial jurisdictions of both First Nations and the Crown. Through the implementation of a

recognition model of certainty, treaties would not require all potential First Nations' territorial authorities to be detailed in the text of the treaty. First Nations and government agree to exercise their jurisdictions through the shared decision-making structures enabled through the Framework agreement and Side Agreements. These processes will not fetter the discretion of decision-makers in either jurisdiction. Disputes are first resolved through the Dispute Resolution mechanisms provided by in treaty. Where disputes over natural resource management and planning decisions can not be resolved, each party may rely on the authority of its jurisdiction to enable their decision. In the event of a conflict after all these mechanisms have been exhausted, a court may determine the reconciliation of the two jurisdictions.

An example of the kinds of issues which may appear in a treaty chapter is provided in Appendix B.

The Side Agreement on Shared Decision-Making

Side Agreements with individual First Nations must be established to provide for local or regional shared decision-making structures. These structures, which will involve local and regional bodies, will ensure that the management and planning of lands and resources are done collaboratively and cooperatively between First Nations and governments. We expect that the design and implementation of these shared decision-making structures will be informed by the negotiated Framework Agreement and the treaty language of individual First Nations.

A
Call to
Action

A Framework Agreement
for Shared Decision Making

We are calling on the Provincial Government and all First Nations to join with us in the collaborative design of Aboriginal governance provisions that provide for stewardship and shared decision-making across traditional territories.

The first steps that we see unfolding will be broad consultation within First Nation communities on the path we have taken with respect to Aboriginal governance. This will be followed by senior level meetings between First Nations and Provincial Government representatives. These discussions are intended to provide direction for the scope and timing needed to design a *Framework Agreement for Shared Decision-Making over the Traditional Territory*.

This recognition of Aboriginal governance and reconciliation through shared decision-making over natural resource management and planning will successfully remove one of the fundamental barriers frustrating the treaty negotiation process in British Columbia. We expect that the recognition of Aboriginal jurisdiction and Aboriginal governance will provide impetus for more First Nations to enter the treaty negotiation process as well as facilitate the conclusion of successful Final Agreements for those First Nations now participating in treaty negotiations throughout British Columbia.

The Shared Decision-Making Model

What follows is a vision for our ultimate goal of achieving shared decision-making in Treaty. It is fully acknowledged that Treaty is a negotiated process, and as such this is intended to serve only as a model to spur discussion among the parties. We expect that the *Side Agreement* will be heavily informed by the negotiation of an out-of-treaty *Framework Agreement*. As such, the following *Side Agreement* is intended to serve as a starting point from which to begin discussions about the structure, content and scope of the *Framework Agreement*.

Appendix A: Framework Agreement

Decision-Making Structures

In order to effectively implement shared decision-making across the traditional territory, the parties agree to implement and participate in Provincial, Regional and Local Shared Decision-Making Bodies.

1 PROVINCIAL SHARED DECISION-MAKING OVERSIGHT BODY

- Meets minimum once / year or as requested by the Parties.
- Composed of Provincial First Nation leadership and Provincial Deputy Ministers.
- Responsible for reviewing and introducing legislation and province-wide policy.
- Terms of Reference governed through resolutions from the membership of the First Nation Summit, Union of BC Indian Chiefs, and BC Assembly of First Nations.
- Develops an Information Sharing Protocol.
- Will establish by consensus rules and procedures for its internal operations, so that its recommendations respect principles of procedural fairness and natural justice and appear free from bias.

- Will develop its own dispute resolution mechanism.
- Where requested, technical bodies will be formed containing both scientific and traditional knowledge holders to provide decision-making support.

2 REGIONAL SDM BODY

- Meets monthly or upon request of any Party.
- Composed of First Nations with shared territories that have agreed to work together in areas where they overlap and senior Provincial government decision-makers.
- Responsible for Strategic Level Planning, policy development and implementation.
- Develops own terms of reference.
- Will establish by consensus rules and procedures for its internal operations, so that its recommendations respect principles of procedural fairness and natural justice and appear free from bias.
- Will develop its own dispute resolution mechanism.
- Where requested, technical bodies will be formed containing both scientific and traditional knowledge holders to provide decision-making support.
- May establish management visions, goals and objectives for cultural, economic and ecological components to help aid strategic planning and policy development.

3 LOCAL SDM MANAGEMENT BODIES

- Meets frequently according to a schedule determined by its members.
- Composed of staff from the appropriate Ministry and First Nation representatives.
- Responsible for operational level implementation and monitoring.
- Terms of Reference and dispute resolution mechanisms negotiated between the Provincial and First Nations governments.

Scope > In the Framework Agreement, the Parties should seek agreement on engaging in shared decision-making on the following kinds of natural resource management and planning issues.

Land use planning	<ul style="list-style-type: none"> • The development, modification or revision of regional or strategic landscape land use plans
Heritage protection	<ul style="list-style-type: none"> • Strategic and operational planning and management for the protection and conservation of cultural landscapes, archaeological sites, Aboriginal human remains and heritage objects
Estuary and foreshore Resources	<ul style="list-style-type: none"> • Develop estuary and harbour management plans • Set harvest objectives and limits and allocate rights to harvest shellfish through licensing systems • Develop estuary and harbour management plans
Water Resources	<ul style="list-style-type: none"> • Allocation and conservation of water resources including watershed planning, licensing, monitoring and watershed restoration activities
Forest resources	<ul style="list-style-type: none"> • Annual Allowable Cut determination • Strategic and landscape level forest planning
Wildlife and migratory birds Fish in freshwater habitat	<ul style="list-style-type: none"> • Strategic wildlife management planning • Conservation, protection, enhancement and use objectives and priorities for species, water bodies, and/or riparian ecosystems • Harvest objectives for provincially managed species • Inputs to decisions on projects and activities with implications to freshwater fish
Sub-surface exploration activities Environmental management	<ul style="list-style-type: none"> • Allocation of exploration permits • BCEAA reviews, CEEA comprehensive assessments and panels • Ambient monitoring, issuing of effluent permits, site remediation
Species of concern	<ul style="list-style-type: none"> • Conservation, protection, enhancement objectives and priorities for species and/or ecosystem of concern
Any other matter as agreed to by all parties	

Though the Framework Agreement sets out these topics as the parameters around which the principles of shared decision-making will be enacted, each party may wish to retain the right to negotiate related issues which may arise following the introduction of new policy and legislation pertaining to natural resource management and planning.

Implementation of the Oversight, Regional and Local Shared Decision-Making Body's Decisions

The Framework Agreement will contain provisions to coordinate the implementation of decisions made by the shared decision-making bodies, such as:

- Upon receipt of the Oversight, Regional or Local Shared Decision-Making Body's Decisions, the appropriate level of Provincial and First Nation Government jointly will, as soon as practicable:
 - a. accept the decision; or
 - b. refer it back to the SDM Body for reconsideration accompanied by written reasons;

- The SDM Body may make the dissenting reasons of the Provincial, First Nation and/or other participating First Nations public.
- The SDM Body will reconsider its decision in light of written reasons and will resubmit its decisions to the appropriate level of government for final consideration.
- If the SDM Body and an individual Party cannot reach agreement over the decision, the Framework or Final Agreements dispute resolution process will be triggered.
- Upon accepting a plan, the appropriate steps for implementation will be sought by each Party.
- Upon approval by the appropriate level of government of each Party, the decision will be implemented on the basis of jurisdictional responsibility.
- The Parties will implement decisions in accordance with their respective laws, policies, customs and traditions

Resourcing

Funding for First Nation participation to be determined by the Oversight Body. Annual budgets and workplans to be negotiated by the Oversight Body in conjunction with the Regional Bodies, however, these will be ratified by each participating First Nation. Though it is expected that with shared responsibility comes a shared obligation to fund these processes, stable, long-term funds will be sought to allow First Nations and Crown jurisdictions to function together.

Shared Territories

We recognize that the regional area for shared decision-making may be contentious, as First Nations have identified territories which are not contiguous with Provincial resource management areas. The map in Appendix D locates a number of “LRMP Regions” — based in part on existing provincial management units, and in part on large groupings of First Nations cultural communities — in order to form regional management areas.¹⁰

Each First Nation who asserts Traditional Territory within a Cultural LRMP Region and who has entered into a Shared Decision-Making Agreement, or who agrees with the terms of reference of the Oversight Body and Regional SDM Body, may participate in the SDM process.

The Oversight and Regional SDM Body will respect individual First Nation’s interests within their respective Traditional Territory and, when dealing with an issue that is related only to a portion(s) of the Territory will request that only the First Nation(s) who has Traditional Territory(ies) that cover(s) that area will participate in the decision-making.

Third Parties

At each level of the shared-decision making structures, considerations will be made to provide third parties (such as local governments, business and industry leaders, and environmental groups) opportunities to provide the technical and business expertise to advance shared decision-making.

¹⁰There is a pre-existing regional inter-ministry governance structure that could be used as a starting point to build regional SDM Body’s. Currently, each major BC Region and sub-region have an Integrated Land Management Bureau-led and managed Inter-Agency Management Committee (IAMC).

The IAMCS and Sub-Regional Managers Committees provide the regional-level forum through which agencies consult, cooperate and integrate their respective functions to deliver government’s resource management programs. The committees also develop regional strategic plans to address the major cross ministry land and resource-use issues.

The map in Appendix D shows how a few changes to the IAMC groupings of Land and Resource Management Planning Units can produce Regional SDM Body’s that are more reflective of First Nation cultural groups, yet also take into consideration pre-existing Provincial management units.

On the map, the Omineca-Peace IAMC is subdivided into two regions; and, the Bulkley, Morice, and Lakes LRMP planning areas are combined with the southern half to form a region that represents most of the area of the Carrier First Nations cultural group. The remainder of the Prince Rupert IAMC is sub-divided into 3 regions. Further refinements to LRMP Units may be required to better match First Nation cultural groups in other areas.

Appendix B: Sample Treaty Language For Shared Decision-Making

Treaty Text

Shared decision-making needs to have a concrete shape in Final Agreements. The following text provides some of the elements we see as being essential to implementing the principles of shared decision-making in a Final Agreement.

Certainty

1. The Parties recognize each others jurisdiction across the territory and agree that the First Nation jurisdiction will be exercised and expressed through shared decision-making processes and structures over the natural resource management and planning issues set out in the *Side Agreement*.

General Provisions

2. Before the Effective Date, the First Nation and BC will negotiate and attempt to reach agreement on a *Side Agreement* to provide for shared decision-making over the strategic planning, management and monitoring of natural resource that are:

- a. of significance to the First Nation
- b. outside Treaty Settlement Lands; and
- c. within the First Nations Territory.

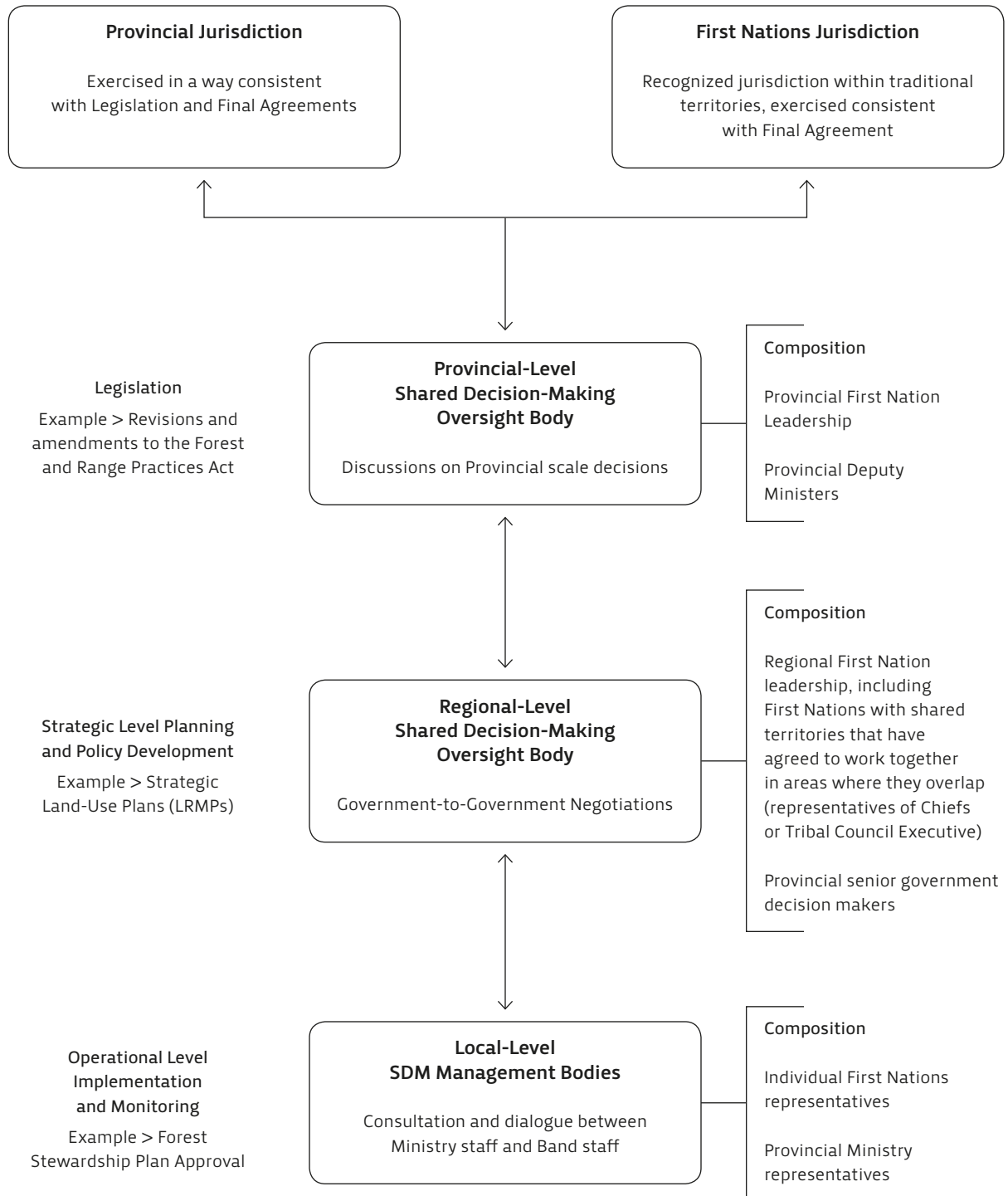
3. The consensus approach to shared decision-making does not fetter the authority or jurisdiction of any Party.

Purpose of the *Side Agreement*

4. The Purposes of the *Side Agreement* will be:

- a. to establish a working relationship between the Parties in order to implement the SDM provisions in the Final Agreement,
- b. to provide for the process and structure for Shared Decision-making amongst the Parties,
- c. to promote and retain the relationship between First Nations people and their traditional territory, and
- d. to guide the planning and sustainable management of cultural and natural resources for future generations.

Appendix C: Schematic of the Shared Decision-Making Model



Appendix D: Suggested Areas for Regional SDM Bodies

Band Location by Cultural Group

- Ⓒ Carrier
- Ⓒ Coast Salish
- Ⓓ Dunne-za
- Ⓗ Haida
- Ⓗ Haisla
- Ⓘ Interior Salish
- Ⓚ Kaska
- Ⓚ Kootenai
- Ⓚ Kwakwaka'wakw
- Ⓝ Nuuchahnulth
- Ⓝ Nuxalk
- Ⓞ Oweekeno/Wuikinuxv
- Ⓢ Sekani
- Ⓢ Slavey
- Ⓣ Tahltan
- Ⓣ Tlingit
- Ⓣ Tsilhqot'in
- Ⓣ Tsimshian



Regional SDM Areas based on LRMP Planning Areas

- Suggested Areas for Regional SDM Bodies
- Interagency Management Committee Regions

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...THE TIME IS