

RECONCILIATION FRAMEWORK AGREEMENT FOR BIOREGIONAL OCEANS MANAGEMENT AND PROTECTION

BETWEEN

Haida Nation, as represented by the Council of the Haida Nation

Gitxaala Nation, Metlakatla First Nation, Gitga'at First Nation

Kitasoo/Xaixais First Nation, Heiltsuk Nation, Nuxalk First Nation, Wuikinuxv First Nation

Mamalilikulla Nation, Tlowitsis Nation, Da'naxda'xw Awaetlala First Nation, Wei Wai Kum First Nation, and K'ómoks First Nation, as represented by the Nanwakolas Council Society

(each a "Nation" and collectively, the "Pacific North Coast Nations")

and

Her Majesty the Queen in right of Canada as represented by the Minister of Fisheries, Oceans and the Canadian Coast Guard, the Minister of Transport, the Minister of Environment and Climate Change and the Minister of Crown-Indigenous Relations and Northern Affairs ("Canada")

WHEREAS:

- A. Canada is committed to a renewed, nation-to-nation and government-to-government relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation, and partnership and to implementing the United Nations Declaration on the Rights of Indigenous Peoples in accordance with the *Constitution Act, 1982*.
- B. Canada is also committed to various international agreements and conventions that will inform Canada's participation in this Framework Agreement including but not limited to the United Nations Convention on the Law of the Sea, the International Convention on the Safety of Life at Sea, and the United Nations Convention on Biological Diversity.
- C. In the spirit of reconciliation between the Pacific North Coast Nations and Canada, the Parties wish to advance a collaborative, coordinated and efficient approach to the governance, management, restoration and protection of oceans in the Pacific North Coast, including marine ecosystems, marine resources and marine use activities.
- D. Processes and agreements, such as the Tripartite Shipping Dialogues and PNCIMA planning process, have contributed to a foundation for constructive discussion on oceans protection and management issues. This Framework Agreement builds on the relationships and commitments established through those and other processes and agreements.
- E. The Parties acknowledge that Canada, and each of the Pacific North Coast Nations bring their respective authorities and mandates to this Framework Agreement and that each make decisions in accordance with their respective laws, customs, traditions and existing agreements.
- F. Existing Aboriginal and treaty rights are recognized and affirmed in section 35(1) of the *Constitution Act, 1982*.

1. DEFINITIONS

1.1. For the purposes of this Framework Agreement the following definitions apply:

Collaborative Governance and Management means nation-to-nation, government-to-government arrangements that support decision-making, authorities, responsibilities, laws and jurisdictions being exercised collaboratively, including working together on planning, decision making, decision implementation processes and management;

Ecosystem-Based Management (EBM) means an adaptive approach to managing human activities that seeks to ensure the coexistence of healthy, fully functioning ecosystems and human communities. The intent is to maintain those spatial and temporal characteristics of ecosystems such that component species and ecological processes can be sustained and human well-being supported and improved;

Framework Agreement means this agreement, the attached Appendices and the Schedules;

Governance Structure means the Executive Committee, Steering Committees and Working Groups or Technical Teams as described in section 5.0;

Marine Plan Partnership for the North Pacific Coast (MaPP) means the collaborative planning process in which 17 participating First Nations and the Government of the Province of British Columbia developed and are currently implementing marine use plans for the Pacific North Coast. The geographic region of the planning area is also known as the Northern Shelf Bio-region;

Northern Shelf Bio-region (NSB) means the coastal and marine area identified in Appendix 1. For the purposes of this Framework Agreement the NSB is comprised of four sub-regions: Haida Gwaii, North Coast, Central Coast and North Vancouver Island (see Map in Appendix 1);

Pacific North Coast Integrated Management Area ("PNCIMA") means the collaborative marine planning process for the NSB initiated and carried out by 11 participating First Nations, the Province of British Columbia and the Government of Canada. The PNCIMA Plan provides an EBM framework for managing activities within the NSB;

Parties means the Council of the Haida Nation, Gitxaala Nation, Metlakatla First Nation, Gitga'at First Nation, Kitasoo/Xaixais First Nation, Heiltsuk Nation, Nuxalk First Nation, Wuikinuxv First Nation, Nanwakolas Council Society and Canada, with each a Party and collectively the Parties;

Precautionary Approach means an approach to decision making that involves being cautious when scientific information is uncertain, unreliable or inadequate and not using the absence of adequate scientific information as a reason to postpone or fail to take action to avoid serious harm to the environment;

Schedules means Schedule A and Schedule B as described in section 4.1 and any that may be added by the Parties from time to time; and

Subject Areas means the scope of topics and activities described in section 4.0.

2. PURPOSE

- 2.1. This Framework Agreement is intended to facilitate reconciliation by advancing Collaborative Governance and Management on the Subject Areas. Through the Governance Structure, the Parties will explore and advance existing commitments including agreements, and new arrangements or agreements. This purpose includes seeking to achieve:
- a) integrated, coordinated, effective and efficient governance, planning, management and decision-making on matters related to sustainable oceans management and protection at regional, sub regional, and local scales as appropriate in the NSB;
 - b) resilience of marine ecosystems and increased predictability and stability in the governance and management of marine ecosystems and activities within the NSB;
 - c) reduced conflict in relation to marine use activities and a more stable environment for investment and development of regional and local marine-based economic opportunities including shipping;
 - d) economic opportunities for the Pacific North Coast Nations, in relation to oceans management and protection in the NSB; and
 - e) opportunities to build capacity of the Pacific North Coast Nations in the governance, management and stewardship of marine ecosystems, marine resources and marine activities.

3. PRINCIPLES

- 3.1. Canada's participation in the Governance Structure will be guided by the principles attached as Appendix 2.
- 3.2. The work of the Governance Structure will be guided by the following principles:
- a) Cultural Significance and Reliance: Acknowledge the importance of the past, present and future cultural significance, spiritual affiliation, and reliance on the marine ecosystems and resources in the NSB to the Pacific North Coast Nations;
 - b) Solution Oriented: Seek solutions which respect the rights, responsibilities and authorities of each of the Parties;
 - c) Flexibility: Acknowledge that issues and needs with respect to ocean governance and management vary across local, sub-regional and regional scales;
 - d) Ecosystem Approach: Respect conservation and sustainability of marine ecosystems and resources using EBM and the Precautionary Approach in management and governance; and
 - e) Transparency and Information Sharing: Support an effective, inclusive, transparent, and collaborative process for information-sharing and document development, which recognizes that some information must be kept confidential.

4. SUBJECT AREAS

The Parties agree to use the Governance Structure to explore and advance existing commitments including agreements, and new arrangements or agreements on the following:

- a) Schedule A for matters related to Marine Planning and Oceans Management;
- b) Schedule B for matters related to Shipping, Marine Safety, and Ocean Protection; and
- c) Matters identified in additional schedules that may be added from time to time by the Parties.

5. GOVERNANCE STRUCTURE

5.1. To implement this Framework Agreement, the Parties hereby establish the following Governance Structure intended to further Collaborative Governance and Management:

- a) **Executive Committee** consisting of senior leadership representatives appointed by the Nations and by Department of Fisheries, Oceans and the Canadian Coast Guard, Transport Canada, Environment and Climate Change Canada and Crown-Indigenous Relations and Northern Affairs (Assistant Deputy Ministers or Regional Directors General). The Executive Committee provides overall leadership, direction, and high-level problem-solving and dispute resolution.
- d) **Steering Committees** consisting of senior policy or management representatives appointed by the Nations in each sub-region as defined in the NSB, and Regional Directors of relevant federal departments or their designates. The Sub-regional Steering Committees will work on Subject Areas specific to a sub-region and:
 - provide ongoing oversight, program and project coordination and policy integration across Subject Areas set out in the Schedules and work plans; and
 - prepare terms of reference, work plans and budgets, and other tools for Executive Committee approval.

Members of the Sub-regional Steering Committees will come together in a Regional Steering Committee to address regional scale coordination, administrative support to the Governance Structure, and policy issues.

- c) **Working Groups or Technical Teams** established by the Sub-regional Steering Committees or Regional Steering Committee on an as needed basis. Working Groups and Technical Teams may include subject matter experts and external advisors, on agreement of the relevant Steering Committee, and will conduct research, analysis, and problem-solving, and develop proposed plans, policies and program recommendations for consideration by the Steering and Executive Committees.

5.2. The Executive Committee will approve its own terms of reference and the terms of reference for the Steering Committees.

6. APPROACH

- 6.1. The following approach will guide the Parties in fulfilling the purpose of this Framework Agreement:
- a) The Executive Committee will set priorities through the review and approval of work plans and budgets, annually or as required;
 - b) Agreed-to work plans and budgets will be implemented through the Steering Committees and Working Groups or Technical Teams under the oversight of the Executive Committee;
 - c) Work products and recommendations developed by Working Groups and Technical Teams will be reviewed by the relevant Steering Committee, and, as required, brought to the Executive Committee for information, discussion, and decision processing, under each Party's respective laws, customs and authorities, as required;
 - d) The Executive Committee, Steering Committees and Working Groups will seek solutions within existing authorities, policies and mandates;
 - e) The Executive Committee will make efforts to obtain new authorities, mandates, or policy directives, where required; and
 - f) The Parties may in writing authorize the Executive Committee to fulfill any of their responsibilities under this Framework Agreement, including amending a Schedule.
- 6.2. It is understood that implementation of this Framework Agreement for some matters within the Subject Areas may raise issues that are specific to the interests of one or more Nations. In that event, the interested Nation or Nations and relevant senior federal officials may engage directly with each other to address such matters, including the potential for building upon existing agreements or reaching new agreements or arrangements specific only to Canada and those Nations. These engagements may include the participation of one or more First Nation who is not a party to this Framework Agreement.
- 6.3. A Pacific North Coast Nation may choose not to participate on specific Subject Areas.
- 6.4. Any of the Governance Structure may seek to engage the Province of British Columbia's participation to advance specific elements of the work plans, where appropriate.
- 6.5. Any of the Governance Structure may seek to engage stakeholders and First Nations who are not a party to this Framework Agreement to advance specific elements of the work plans, where appropriate.
- 6.6. The Parties' representatives participating in the Governance Structure will be mandated and resourced by their respective Parties to carry out their mandates.
- 6.7. When implementing the Governance Structure, the Parties' representatives will make all reasonable efforts to achieve consensus in their recommendations and decisions.
- 6.8. The Governance Structure will be used by the Parties to seek opportunities to reduce duplication and seek alignment on the Subject Areas within the NSB.

- 6.9. Where appropriate, some or all of the Parties may agree to build upon existing agreements and/or implement new arrangements or agreements, with the assistance of the Governance Structure.
- 6.10. From time to time, or on the request of any Party, the Parties will review the Governance Structure and Subject Areas assisted by a report finalized by the Executive Committee.

7. RESOURCING

- 7.1. Canada acknowledges that implementation of this Framework Agreement will require capacity funding to enable:
- a) Pacific North Coast Nations' meaningful and effective participation in the Governance Structure;
 - b) Pacific North Coast Nations' internal processes and engagement in aggregate organizations in support of the Governance Structure; and
 - c) Pacific North Coast Nations' participation in the range of projects identified in approved work plans, budgets and Schedules.
- 7.2. Subject to section 7.7 and reaching funding agreements, Canada has identified funding for the fiscal year 2018-19 to enable section 7.1 (a) through (c).
- 7.3. Subject to sections 7.6 and 7.7, Canada will work with Pacific North Coast Nations through the Regional Steering Committee to explore funding opportunities to enable section 7.1 (a) through (c), including annual and multi-year arrangements and agreements, and activities developed through work plans and budgets approved by the Executive Committee.
- 7.4. Canada is currently reviewing and will, as required from time to time, review its programs to seek to improve funding mechanisms to support the implementation of this Framework Agreement.
- 7.5. The Parties acknowledge that new fiscal relationships and new sources of funds, including non-governmental sources of funding, will facilitate the implementation of this Framework Agreement. The Parties will explore such opportunities through appropriate mechanisms, including through the Executive Committee.
- 7.6. The Pacific North Coast Nations will remain eligible to access program and other funding that is generally available to support activities which may be related to the Subject Areas but are not otherwise funded.
- 7.7. Canada's funding to support participation in these discussions and the implementation of this Framework Agreement is subject to yearly appropriation of funds by Parliament and Canada's funding policies, programs, and directives.

8. INFORMATION SHARING

- 8.1. Each Party will support the work of the Governance Structure under this Framework Agreement by sharing relevant information and knowledge and will at the time of disclosure:

- a) assist the other Parties in understanding the information;
 - b) confirm any restrictions on the current and future use of the information;
 - c) confirm whether the information is confidential; and
 - d) confirm whether it may be reproduced or shared, in whole or in part, including with others that are not a party to this Framework Agreement.
- 8.2. Subject only to applicable law, the Parties will maintain the confidentiality of information identified as confidential pursuant to section 8.1(c), and refuse its disclosure.
- 8.3. Section 8.2 does not apply to information that is already in the public domain.
- 8.4. No Party will use information obtained under this Agreement other than to further the purpose of this Agreement, except with the prior approval of the Party who has provided the information.

9. DISPUTE RESOLUTION

- 9.1. If a dispute arises:
- a) relating to the interpretation or intent of this Framework Agreement, the Executive Committee will meet as soon as practicable and will attempt to resolve the dispute;
 - b) relating to the work undertaken by a Steering Committee, that Committee will refer the matter to the Executive Committee, who will meet as soon as practicable and attempt to resolve the dispute;
 - c) relating to the work undertaken by a Working Group or Technical Team, that Group or Team will refer the matter to the Steering Committee overseeing such work, who will meet as soon as practicable and attempt to resolve the dispute.
- 9.2. A reference to the Executive Committee or Steering Committee pursuant to section 9.1, will include detailed reports setting out a full description of the dispute, together with their respective concerns and proposed specific actions that could be taken to address the dispute.
- 9.3. Where agreed, the Executive Committee or Steering Committee will use an independent chair to provide independent facilitation or mediation to assist in reaching a resolution.

10. GENERAL

- 10.1. This Framework Agreement is not legally binding and is not intended to define, create, recognize, deny or amend any of the rights of the Parties including Aboriginal title or rights, or treaty rights, within the meaning of sections 25 and 35 of the Constitution Act, 1982. For greater certainty, this Framework Agreement is not intended to be a treaty or a land claims agreement within the meaning of sections 25 and 35 of the Constitution Act, 1982 or to alter or affect the legal status of lands and

resources or the existing authorities of the Parties with respect to lands, resources and governance.

- 10.2. Neither this Agreement, nor any acts performed in connection with it, are to be used, construed or relied on by anyone as evidence, acceptance or admission of the existence, nature, scope or content of any treaty or Aboriginal rights or title and Crown rights or title. Crown and First Nations' involvement in planning does not replace the Crown duty to consult and accommodate individual Nations on specific issues.
- 10.3. For greater certainty, and without limiting the generality of section 10.1, this Framework Agreement does not prevent, change, add or derogate from any current or future negotiations, discussions, arrangements or agreements between Canada and one or more of the Pacific North Coast Nations.
- 10.4. Any boundaries used for planning purposes under this Framework Agreement are not legally binding and are not intended to define, create, recognize, deny or amend any of the rights of the Parties including Aboriginal title or rights, or treaty rights, within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 10.5. For greater certainty, nothing in this Framework Agreement obliges the Parties to act in a manner inconsistent with their legislative or regulatory jurisdictions or authorities; or their laws, customs, and traditions. For greater certainty, this Framework Agreement shall not be interpreted or implemented in a manner that fetters the decision-making authorities of any of the Parties.
- 10.6. This Framework Agreement, including the negotiations leading up to its creation and its implementation, shall not be construed as an admission of fact or liability and is without prejudice to any legal positions which have been or may be taken by any Party in any court proceeding or any other forum, or the negotiation of a treaty among some or all of the Parties.
- 10.7. Prior to any written notice of intent to terminate its participation in this Framework Agreement, a Party will make reasonable efforts to engage in the dispute resolution mechanisms identified in section 9.0.
- 10.8. Any Nation may, at any time, by notice in writing to the other Parties, terminate its participation in this Framework Agreement. Upon receipt of such notice, the remaining Parties will discuss the implications of that termination, and the continued implementation of this Framework Agreement.
- 10.9. Canada or a majority of Pacific North Coast Nations may terminate this Framework Agreement by giving the other Parties 45 days advance written notice of their intent to terminate this Framework Agreement and reasons for the termination.
- 10.10. Other First Nations may become a Party to this Framework Agreement:
 - a) upon prior written agreement of the Parties to this Framework Agreement; and,
 - b) by signing an addendum to this Framework Agreement.
- 10.11. The Parties to this Framework Agreement who have entered into a framework agreement under the British Columbia Treaty Commission process and who are committed to treaty negotiations, intend that this Framework Agreement will not derogate from, but contribute to their treaty negotiations.

- 10.12. Where any Nation to this Framework Agreement concludes a treaty or reconciliation agreement with Canada and British Columbia, the provisions of any pilot project, interim measure, or other initiative arising from this Framework Agreement may be incorporated into the treaty or reconciliation agreement in a fashion agreed to by that Nation, Canada and British Columbia.
- 10.13. The Parties to this Framework Agreement who are in active negotiations with Canada under processes other than the British Columbia treaty process and who are committed to those negotiations, intend that this Framework Agreement will not derogate from, but contribute to, those negotiations.
- 10.14. This Framework Agreement may be amended by written agreement of the Parties.

RATIFICATION

The Parties have signed this Framework Agreement as of: _____, 2018.

On behalf of Canada:

Minister of Fisheries, Oceans and the
Canadian Coast Guard

Minister of Transport

Minister of Environment and Climate
Change

Minister of Crown-Indigenous Relations and
Northern Affairs

On behalf of each Nation:

Council of the Haida Nation

Wuikinuxv First Nation

Gitxaala Nation

Metlakatla First Nation

Gitga'at First nation

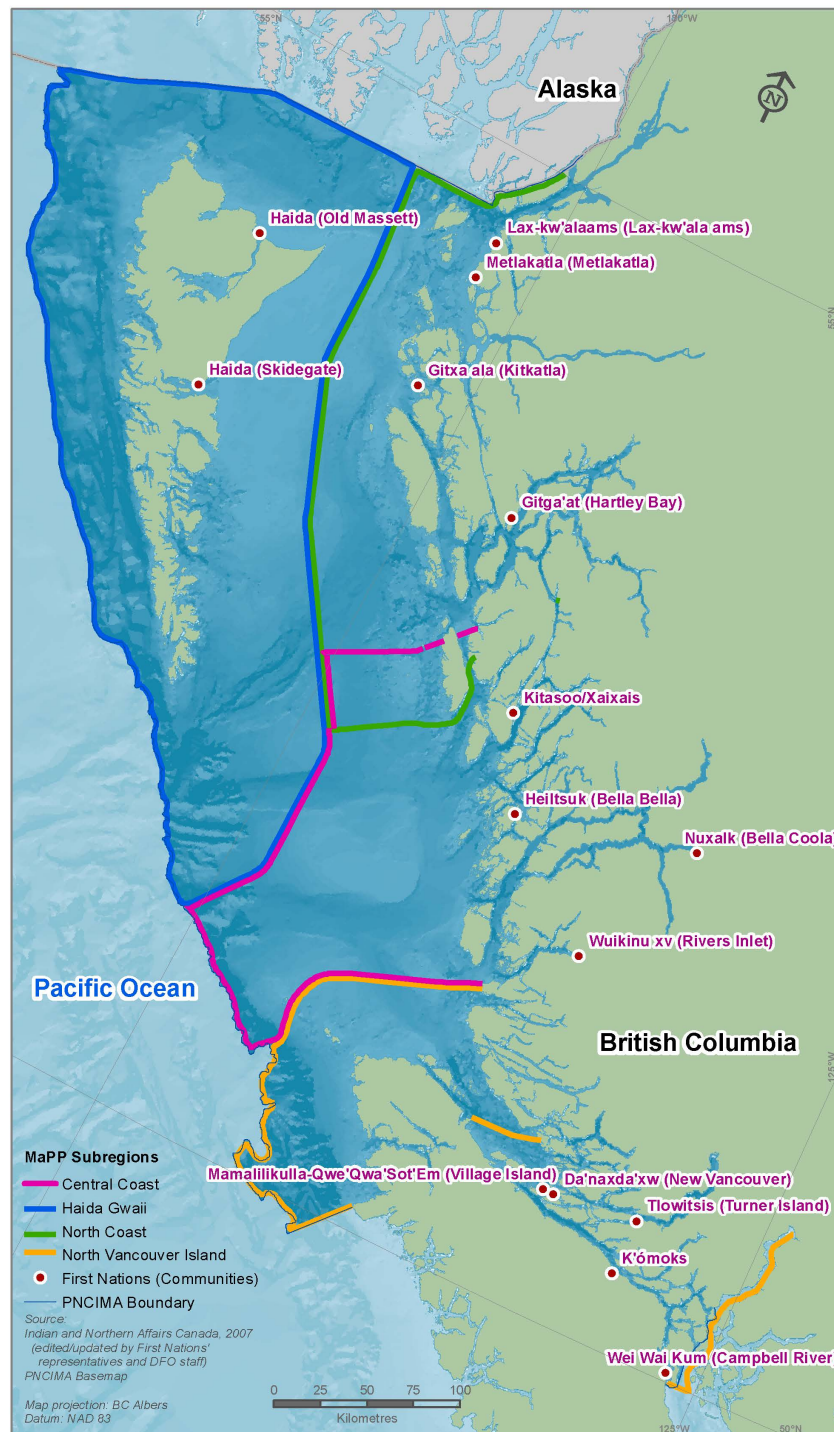
Heiltsuk Nation

Kitasoo/Xaixais First Nation

Nanwakolas Council Society, representing
Mamalilikulla Nation, Tlowitsis Nation,
Da'naxda'xw Awaetlala First Nation, Wei Wai
Kum First Nation, and K'ómoks First Nation

Nuxalk First Nation

Appendix 1: Map of Northern Shelf Bio-Region



Appendix 2: Canada's 2017 Principles

Principles Respecting the Government of Canada's Relationship with Indigenous Peoples



Government
of Canada

Gouvernement
du Canada

Canada

The Government of Canada is committed to achieving reconciliation with Indigenous peoples through a renewed, nation-to-nation, government-to-government, and Inuit-Crown relationship based on recognition of rights, respect, co-operation, and partnership as the foundation for transformative change.

Indigenous peoples have a special constitutional relationship with the Crown. This relationship, including existing Aboriginal and treaty rights, is recognized and affirmed in section 35 of the Constitution Act, 1982. Section 35 contains a full box of rights, and holds the promise that Indigenous nations will become partners in Confederation on the basis of a fair and just reconciliation between Indigenous peoples and the Crown.

The Government recognizes that Indigenous self-government and laws are critical to Canada's future, and that Indigenous perspectives and rights must be incorporated in all aspects of this relationship. In doing so, we will continue the process of decolonization and hasten the end of its legacy wherever it remains in our laws and policies.

The implementation of the United Nations Declaration on the Rights of Indigenous Peoples requires transformative change in the Government's relationship with Indigenous peoples. The UN Declaration is a statement of the collective and individual rights that are necessary for the survival, dignity and well-being of Indigenous peoples around the world, and the Government must take an active role in enabling these rights to be exercised. The Government will fulfil its commitment to implementing the UN Declaration through the review of laws and policies, as well as other collaborative initiatives and actions. This approach aligns with the UN Declaration itself, which contemplates that it may be implemented by States through various measures.

This review of laws and policies will be guided by Principles respecting the Government of Canada's Relationship with Indigenous peoples. These Principles are rooted in section 35, guided by the UN Declaration, and informed by the Report of the Royal Commission on Aboriginal Peoples (RCAP) and the Truth and Reconciliation Commission (TRC)'s Calls to Action. In addition, they reflect a commitment to good faith, the rule of law, democracy, equality, non-discrimination, and respect for human rights. They will guide the work required to fulfill the Government's commitment to renewed nation-to-nation, government-to-government, and Inuit-Crown relationships.

These Principles are a starting point to support efforts to end the denial of Indigenous rights that led to disempowerment and assimilationist policies and practices. They seek to turn the page in an often troubled relationship by advancing fundamental change whereby Indigenous peoples increasingly live in strong and healthy communities with thriving cultures. To achieve this change, it is recognized that Indigenous nations are self-determining, self-governing, increasingly self-sufficient, and rightfully aspire to no longer be marginalized, regulated, and administered under the Indian Act and similar instruments. The Government of Canada acknowledges that strong Indigenous cultural traditions and customs, including languages, are fundamental to rebuilding Indigenous nations. As part of this rebuilding, the diverse needs and experiences of Indigenous women and girls must be considered as part of this work, to ensure a future where non-discrimination, equality and justice are achieved. The rights of Indigenous peoples, wherever they live, shall be upheld.

These Principles are to be read holistically and with their supporting commentary. The Government of Canada acknowledges that the understandings and applications of these Principles in relationships with First Nations, the Métis Nation, and Inuit will be diverse, and their use will necessarily be contextual. These Principles are a necessary starting point for the Crown to engage in partnership, and a significant move away from the status quo to a fundamental change in the relationship with Indigenous peoples. The work of shifting to, and implementing, recognition-based relationships is a process that will take dynamic and innovative action by the federal government and Indigenous peoples. These Principles are a step to building meaning into a renewed relationship.

1. The Government of Canada recognizes that all relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.

This opening Principle affirms the priority of recognition in renewed nation-to-nation, government-to-government, and Inuit-Crown relationships. As set out by the courts, an Indigenous nation or rights-holding group is a group of Indigenous people sharing critical features such as language, customs, traditions, and historical experience at key moments in time like first contact, assertion of Crown sovereignty, or effective control. The Royal Commission on Aboriginal Peoples estimated that there are between 60 and 80 historical nations in Canada.

The Government of Canada's recognition of the ongoing presence and inherent rights of Indigenous peoples as a defining feature of Canada is grounded in the promise of section 35 of the Constitution Act, 1982, in addition to reflecting articles 3 and 4 of the UN Declaration. The promise mandates the reconciliation of the prior existence of Indigenous peoples and the assertion of Crown sovereignty, as well as the fulfilment of historic treaty relationships.

This principle reflects the UN Declaration's call to respect and promote the inherent rights of Indigenous peoples. This includes the rights that derive from their political, economic, and social structures and from their cultures, spiritual traditions, histories, laws, and philosophies, especially their rights to their lands, territories and resources.

Canada's constitutional and legal order recognizes the reality that Indigenous peoples' ancestors owned and governed the lands which now constitute Canada prior to the Crown's assertion of sovereignty. All of Canada's relationships with Indigenous peoples are based on recognition of this fact and supported by the recognition of Indigenous title and rights, as well as the negotiation and implementation of pre-Confederation, historic, and modern treaties.

It is the mutual responsibility of all governments to shift their relationships and arrangements with Indigenous peoples so that they are based on recognition and respect for the right to self-determination, including the inherent right of self-government for Indigenous nations. For the federal government, this responsibility includes changes in the operating practices and processes of the federal government. For Indigenous peoples, this responsibility includes how they define and govern themselves as nations and governments and the parameters of their relationships with other orders of government.

2. The Government of Canada recognizes that reconciliation is a fundamental purpose of section 35 of the Constitution Act, 1982.

Reconciliation is an ongoing process through which Indigenous peoples and the Crown work cooperatively to establish and maintain a mutually respectful framework for living together, with a view to fostering strong, healthy, and sustainable Indigenous nations within a strong Canada. As we

build a new future, reconciliation requires recognition of rights and that we all acknowledge the wrongs of the past, know our true history, and work together to implement Indigenous rights.

This transformative process involves reconciling the pre-existence of Indigenous peoples and their rights and the assertion of sovereignty of the Crown, including inherent rights, title, and jurisdiction. Reconciliation, based on recognition, will require hard work, changes in perspectives and actions, and compromise and good faith, by all.

Reconciliation frames the Crown's actions in relation to Aboriginal and treaty rights and informs the Crown's broader relationship with Indigenous peoples. The Government of Canada's approach to reconciliation is guided by the UN Declaration, the TRCs Calls to Action, constitutional values, and collaboration with Indigenous peoples as well as provincial and territorial governments.

3. The Government of Canada recognizes that the honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous peoples.

The Government of Canada recognizes that it must uphold the honour of the Crown, which requires the federal government and its departments, agencies, and officials to act with honour, integrity, good faith, and fairness in all of its dealings with Indigenous peoples. The honour of the Crown gives rise to different legal duties in different circumstances, including fiduciary obligations and diligence. The overarching aim is to ensure that Indigenous peoples are treated with respect and as full partners in Confederation.

4. The Government of Canada recognizes that Indigenous self-government is part of Canada's evolving system of cooperative federalism and distinct orders of government.

This Principle affirms the inherent right of self-government as an existing Aboriginal right within section 35. Recognition of the inherent jurisdiction and legal orders of Indigenous nations is therefore the starting point of discussions aimed at interactions between federal, provincial, territorial, and Indigenous jurisdictions and laws.

As informed by the UN Declaration, Indigenous peoples have a unique connection to and constitutionally protected interest in their lands, including decision-making, governance, jurisdiction, legal traditions, and fiscal relations associated with those lands.

Nation-to-nation, government-to-government, and Inuit-Crown relationships, including treaty relationships, therefore include: (a) developing mechanisms and designing processes which recognize that Indigenous peoples are foundational to Canada's constitutional framework; (b) involving Indigenous peoples in the effective decision-making and governance of our shared home; (c) putting in place effective mechanisms to support the transition away from colonial systems of administration and governance, including, where it currently applies, governance and administration under the Indian Act; and (d) ensuring, based on recognition of rights, the space for the operation of Indigenous jurisdictions and laws.

5. The Government of Canada recognizes that treaties, agreements, and other constructive arrangements between Indigenous peoples and the Crown have been and are intended to be acts of reconciliation based on mutual recognition and respect.

This Principle recognizes that Indigenous peoples have diverse interests and aspirations and that reconciliation can be achieved in different ways with different nations, groups, and communities.

This principle honours historic treaties as frameworks for living together, including the modern expression of these relationships. In accordance with the Royal Proclamation of 1763, many Indigenous nations and the Crown historically relied on treaties for mutual recognition and respect to frame their relationships. Across much of Canada, the treaty relationship between the Indigenous nations and Crown is a foundation for ongoing cooperation and partnership with Indigenous peoples.

The Government of Canada recognizes the role that treaty-making has played in building Canada and the contemporary importance of treaties, both historic and those negotiated after 1973, as foundations for ongoing efforts at reconciliation. The spirit and intent of both Indigenous and Crown parties to treaties, as reflected in oral and written histories, must inform constructive partnerships, based on the recognition of rights, that support full and timely treaty implementation.

In accordance with section 35, all Indigenous peoples in Canada should have the choice and opportunity to enter into treaties, agreements, and other constructive arrangements with the Crown as acts of reconciliation that form the foundation for ongoing relations. The Government of Canada prefers no one mechanism of reconciliation to another. It is prepared to enter into innovative and flexible arrangements with Indigenous peoples that will ensure that the relationship accords with the aspirations, needs, and circumstances of the Indigenous-Crown relationship. The Government also acknowledges that the existence of Indigenous rights is not dependent on an agreement and, where agreements are formed, they should be based on the recognition and implementation of rights and not their extinguishment, modification, or surrender.

Accordingly, this Principle recognizes and affirms the importance that Indigenous peoples determine and develop their own priorities and strategies for organization and advancement. The Government of Canada recognizes Indigenous peoples' right to self-determination, including the right to freely pursue their economic, political, social, and cultural development.

6. The Government of Canada recognizes that meaningful engagement with Indigenous peoples aims to secure their free, prior and informed consent when Canada proposes to take actions which impact them and their rights, including their lands, territories and resources.

This Principle acknowledges the Government of Canada's commitment to new nation-to-nation, government-to-government, and Inuit-Crown relationships that builds on and goes beyond the legal duty to consult. In delivering on this commitment, the Government recognizes the right of Indigenous peoples to participate in decision-making in matters that affect their rights through their own representative institutions and the need to consult and cooperate in good faith with the aim of securing their free, prior, and informed consent.

The Supreme Court of Canada has clarified that the standard to secure consent of Indigenous peoples is strongest in the case of Aboriginal title lands. The Supreme Court of Canada has confirmed that Aboriginal title gives the holder the right to use, control, and manage the land and the right to the economic benefits of the land and its resources. The Indigenous nation, as proper title holder, decides how to use and manage its lands for both traditional activities and modern purposes, subject to the limit that the land cannot be developed in a way that would deprive future generations of the benefit of the land.

The importance of free, prior, and informed consent, as identified in the UN Declaration, extends beyond title lands. To this end, the Government of Canada will look for opportunities to build processes and approaches aimed at securing consent, as well as creative and innovative mechanisms

that will help build deeper collaboration, consensus, and new ways of working together. It will ensure that Indigenous peoples and their governments have a role in public decision-making as part of Canada's constitutional framework and ensure that Indigenous rights, interests, and aspirations are recognized in decision-making.

7. **The Government of Canada recognizes that respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.**

This Principle reaffirms the central importance of working in partnership to recognize and implement rights and, as such, that any infringement of Aboriginal or treaty rights requires justification in accordance with the highest standards established by the Canadian courts and must be attained in a manner consistent with the honour of the Crown and the objective of reconciliation.

This requirement flows from Canada's constitutional arrangements. Meaningful engagement with Indigenous peoples is therefore mandated whenever the Government may seek to infringe a section 35 right.

8. **The Government of Canada recognizes that reconciliation and self-government require a renewed fiscal relationship, developed in collaboration with Indigenous nations, that promotes a mutually supportive climate for economic partnership and resource development.**

The Government of Canada recognizes that the rights, interests, perspectives, and governance role of Indigenous peoples are central to securing a new fiscal relationship. It also recognizes the importance of strong Indigenous governments in achieving political, social, economic, and cultural development and improved quality of life.

This Principle recognizes that a renewed economic and fiscal relationship must ensure that Indigenous nations have the fiscal capacity, as well as access to land and resources, in order to govern effectively and to provide programs and services to those for whom they are responsible.

The renewed fiscal relationship will also enable Indigenous peoples to have fair and ongoing access to their lands, territories, and resources to support their traditional economies and to share in the wealth generated from those lands and resources as part of the broader Canadian economy.

A fairer fiscal relationship with Indigenous nations can be achieved through a number of mechanisms such as new tax arrangements, new approaches to calculating fiscal transfers, and the negotiation of resource revenue sharing agreements.

9. **The Government of Canada recognizes that reconciliation is an ongoing process that occurs in the context of evolving Indigenous-Crown relationships.**

This Principle recognizes that reconciliation processes, including processes for negotiation and implementation of treaties, agreements and other constructive arrangements, will need to be innovative and flexible and build over time in the context of evolving Indigenous-Crown relationships. These relationships are to be guided by the recognition and implementation of rights.

Treaties, agreements, and other constructive arrangements should be capable of evolution over time. Moreover, they should provide predictability for the future as to how provisions may be

changed or implemented and in what circumstances. Canada is open to flexibility, innovation, and diversity in the nature, form, and content of agreements and arrangements.

The Government of Canada also recognizes that it has an active role and responsibility in ensuring the cultural survival of Indigenous peoples as well as in protecting Aboriginal and treaty rights.

The Government of Canada will continue to collaborate with Indigenous peoples on changes to federal laws, regulations, and policies to realize the unfulfilled constitutional promise of s.35 of the Constitution Act, 1982.

10. **The Government of Canada recognizes that a distinctions-based approach is needed to ensure that the unique rights, interests and circumstances of the First Nations, the Métis Nation and Inuit are acknowledged, affirmed, and implemented.**

The Government of Canada recognizes First Nations, the Métis Nation, and Inuit as the Indigenous peoples of Canada, consisting of distinct, rights-bearing communities with their own histories, including with the Crown. The work of forming renewed relationships based on the recognition of rights, respect, co-operation, and partnership must reflect the unique interests, priorities and circumstances of each People.

SCHEDULE A: MARINE PLANNING AND MARINE PROTECTED AREAS

Goal: Collaborative planning and implementation of marine planning initiatives/activities in a way that preserves the ecological health and resilience of the oceans, while supporting coastal communities, economic opportunities and allowing for sustainable use. Ongoing and collaborative implementation of Pacific North Coast Integrated Management Area (PNCIMA) initiative in a way that links to and reduces duplication and overlap with other existing planning processes (e.g., MaPP, Network of Marine Protected Areas (“MPAs”) for the NSB and implementation of the Oceans Protection Plan (“OPP”)), and other agreements concerning marine planning and marine protection in the NSB, including integrating, streamlining, and implementing programs and activities at the appropriate scale. Work on the Subject Areas under this Schedule will be closely coordinated with the implementation of the PNCIMA plan, including the review and development of workplans on the subject areas described in this Schedule.

1. Collaborative Governance and Management

- Detailed options/models for Collaborative Governance and Management at the appropriate scale regarding marine planning, MPAs, EBM as described in and developed under the Schedules of this Framework Agreement, and where appropriate.
- Coordination, integration and/or implementation linkages at the appropriate scale of the Governance Structure used for Collaborative Governance and Management established in this Framework Agreement and by other related agreements (e.g., the Reconciliation Framework Agreement for Fisheries Resources, PNCIMA, MaPP, OPP, MPA Network Planning, Gwaii Haanas Marine Agreement and SGaan Kinghlas – Bowie Seamount Memorandum of Understanding between Canada and the Council of the Haida Nation).
- Linkage with Trilateral governance arrangements and agreements (between the Pacific North Coast Nations, provincial and federal governments) that support the collaborative planning, implementation and integration of existing and proposed marine planning initiatives undertaken in the NSB.
- Robust, integrated stakeholder engagement approach with appropriate linkages to other initiatives (e.g. PNCIMA, MaPP, OPP, and MPA Network Planning, Gwaii Haanas Marine Agreement and SGaan Kinghlas – Bowie Seamount Memorandum of Understanding between Canada and the Council of the Haida Nation).

2. Marine Protection

- Continued implementation of the NSB, MPA Network Planning with the objective of developing a MPA Network Action Plan for the NSB.
- Develop and establish a Network of MPAs for the NSB that provides protection for both ecological and cultural conservation priorities.
- Explore how the Network of MPAs for the NSB can support the federal Marine Conservation Targets.
- Explore existing and advance new collaborative tools and/or designation mechanisms (e.g., Indigenous Protected Areas) to further marine conservation interests of Member Nations.

- Explore policy options and approaches for new tools and/or designations (e.g. Indigenous Protected Areas) to further marine conservation interests of North Pacific Coast Nations.
- Explore policy options and approaches to collaborative designation and management of MPAs including development of management plans.

3. Additional Areas of EBM Collaboration

Additional Subject Areas for EBM collaboration including;

- EBM Framework and Approaches, including policies
- EBM Monitoring and Marine Environmental Quality
- Cumulative effects
- Climate change
- Compliance and Enforcement
- Marine Response Planning
- Habitat restoration
- Science, research, education and communications
- Sustainable coastal economies

SCHEDULE B: SHIPPING, MARINE SAFETY AND OCEANS PROTECTION

Goal: healthy ecosystems; economic prosperity; world-leading marine safety; predictability and stability; and Nation-to-Nation relationships.

Ongoing open and exploratory discussions among the Parties will be an important foundation for establishing a shared understanding of the scope and context of the Subject Areas under discussion; and for articulating shared objectives for work planning purposes.

1. Waterway Management

- Vessel traffic management, through regulatory and other tools to respond to local marine traffic issues, including development of local vessel control areas and their alignment with marine spatial plans and marine protected areas.
- Development and functionality of new information-sharing systems and platforms that provide the Pacific North Coast Nations with access to real-time information on marine shipping activities in local waters.
- Development and functionality of new information-sharing systems and platforms that provide the Pacific North Coast Nations with access to information on historic marine shipping activities in the region.
- Pacific North Coast Nations engagement and involvement in monitoring, compliance and enforcement related to marine shipping activity.

2. Marine Emergency Preparedness And Response

- Roles, responsibilities and authorities in incident management.
- Identification of requirements and gaps of marine emergency preparedness and response capabilities on the west coast, including but not limited to emergency towing capabilities, response infrastructure and transportation of dangerous goods.
- Network of Nations Community Response Teams, including new programs or initiatives for training, capacity-building and participation related to the Pacific North Coast Nations involvement in regional search and rescue, environmental response, and incident management activities.
- Collaborative regional and smaller scale response planning including work to identify and map regions of high ecological sensitivity as well as areas of cultural, social, and economic importance; and work to develop integrated response plans and strategies at multiple scales.
- Places of refuge planning
- Planning and response for emergencies involving dangerous goods.
- Liability and compensation.

3. Environmental Stewardship

- Collaborative development and implementation of measures to address abandoned, derelict and sunken vessels.
- Policies and programs to understand and address the cumulative impact of shipping on marine wildlife and ecosystems (including human communities), including collaborative work to collect and update baseline data to support effective environmental stewardship.
- Measures to identify how climate change affects marine shipping, and plans to reduce related risks.
- Measures to identify, protect and restore coastal marine ecosystems that are vulnerable to marine shipping and associated development activities; and to support the identification of habitat restoration priorities in support of activities conducted under Schedule A Subject Areas.