

# Made-in-Nova Scotia Process Update

January 2008

The Made-in-Nova Scotia Process is the forum for the Mi'kmaq and governments to resolve issues related to Mi'kmaq treaty rights, Aboriginal rights, including Aboriginal title, and Mi'kmaq governance. The process involves the Mi'kmaq of Nova Scotia as represented by the Assembly of Nova Scotia Mi'kmaq Chiefs, the provincial and federal governments.

## What's New?

On February 23, 2007 the parties signed the Mi'kmaq of Nova Scotia Framework Agreement for the Made-in-Nova Scotia Process. The Framework Agreement is an important milestone because it confirms each party's commitment to try to resolve Mi'kmaq rights issues through negotiation in a spirit of reconciliation. It also sets out important procedures and a list of negotiation topics that will guide the parties as they proceed.

The Chief Federal Negotiator for the federal team is Stewart McInnes, a long-time Halifax lawyer and former federal cabinet minister. The Nova Scotia negotiation team continues to be led by Danny Graham. The Mi'kmaq are represented by Lead Negotiator Bruce Wildsmith and their core team of Eric Zscheile, Viola Robinson, Joe B. Marshall and Janice Maloney.

## The Framework Agreement has been signed— Now What?

The Negotiation Table meets monthly for two to three days in different communities.

Since the signing of the Framework Agreement, the teams have been examining various negotiation topics to review the background and current situation and to get a sense

of the more specific issues that will require further discussion. The Table has also established a number of working groups to begin progress on some priority issues. These are described below.

## Moose Working Group

Moose management in the Cape Breton Highlands was one of the early topics raised in the Made-in-Nova Scotia Process. Moose became locally extinct in Cape Breton in the late 1800s, and were re-introduced in 1948-49 to the newly established Cape Breton Highlands National Park with 18 animals from Elk Island National Park, Alberta. This new moose population grew to the point that by the mid 1980's they could be sustainably hunted in areas outside the park. The Government of Nova Scotia has permitted an annual licensed limited entry hunt since 1986.



**Framework Agreement Signing Ceremony in Membertou First Nation, February 23, 2007.**

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Mi'kmaq have also been hunting moose in the Cape Breton Highlands and the number of animals taken in recent years has increased. The Mi'kmaq harvest is mostly unmanaged. Mi'kmaq leaders recognized this as a problem. They are

Some of the other efforts:

- The provincial Department of Natural Resources has improved communication with Mi'kmaq hunters by creating three Aboriginal Liaison Officer positions with full conservation officer status.
- Dialogue between Mi'kmaq and non-Aboriginal hunters through presentations to the Nova Scotia Federation of Anglers and Hunters; and a social gathering on Hunters Mountain during the hunting season, organized for two successive years.
- Collaboration on moose population studies between the Mi'kmaq, the Department of Natural Resources and Parks Canada.



***“Cook-out” on Hunter’s Mountain in Cape Breton Highlands National Park, attended by native and non-native hunters.***

concerned about sustainability of the herd, and the potential for over-exploitation as a result of some activities that are inconsistent with Mi'kmaq culture and views about how collective

hunting rights should be exercised. The purpose of the Moose Working Group is to resolve the current unmanaged moose harvest while moving toward an increased level of Mi'kmaq self-government and self-management. This will include looking at ways the Mi'kmaq can play a more active role in management of natural resources and examining the sharing of responsibilities presently held by the provincial and federal governments.

The Mi'kmaq have hired a coordinator to conduct discussions in Mi'kmaq communities to get additional information and input from community members and Mi'kmaq harvesters about their issues and concerns.

### **Forestry Working Group**

In December 2006, the Supreme Court of Canada released decisions confirming that the Mi'kmaq have Aboriginal rights to harvest wood for domestic purposes like firewood and housing. The court also said that these rights need to be exercised in a responsible manner and are subject to certain rules. The Negotiation Table established a Forestry Working Group to look at management approaches for Mi'kmaq domestic harvesting as a priority, recognizing that in the longer term management /co-management issues and Mi'kmaq interests in forest economic opportunities will also be reviewed.

### **Fisheries Working Group**

The Donald Marshall fishing case brought Mi'kmaq fishing rights into the national spotlight. In the case, the Supreme Court of Canada confirmed that the Mi'kmaq have a treaty right to fish for a moderate livelihood. Other court cases have also confirmed Aboriginal rights to fish for food, social and ceremonial purposes.

Since the Marshall decision in 1999, the federal government has made efforts to increase Mi'kmaq involvement in commercial fisheries through the Marshall Response Initiative. This resulted in the establishment of communal commercial fishing licences for Mi'kmaq communities (through voluntary licence buy-backs and new licences) as well as funding for equipment and training. In addition, since the early 1990s, Fisheries and Oceans Canada has issued licenses to Mi'kmaq communities for food, social and ceremonial fisheries and undertaken initiatives with various communities on conservation, enforcement, enhanced self-management and research.

Despite these efforts many questions remain. The parties would like to achieve clarity on how to address Mi'kmaq self-government aspirations for the fishery. This will involve coming to a long-term understanding of how Mi'kmaq rights to fish for a moderate livelihood and food, social and ceremonial fisheries will be exercised in harmony with commercial and recreational fisheries and be reconciled

with provincial and federal jurisdictions. At the same time, there are more immediate fisheries issues where the parties may seek resolution on an interim or incremental basis. The Fisheries Working Group is examining these questions. An important component of this work will be for each party to work with their respective communities and stakeholders.



*Arctic char at an aquaculture facility in Millbrook First Nation, viewed by the Mi'kmaq, Canada and Nova Scotia negotiation teams, during a site visit in February 2007.*

### **Land Protection Working Group**

At the signing ceremony for the Framework Agreement, a reporter asked Chief Terrance Paul about the priorities for the Mi'kmaq in these negotiations. Here is what he said: "We need access to land and resources. We need to be able to provide a living for our people in a sustainable way." Except for Prince Edward Island, Nova Scotia, at about 25%, has the smallest amount of Crown land of any province. Because Crown land is relatively scarce, the Table agreed to begin looking at interim ways to protect some areas of critical importance to the Mi'kmaq. One location being considered is in the Debert area, which is one of the most culturally significant sites for the Mi'kmaq in Nova Scotia. Debert has some of the oldest archaeological sites in eastern North America and is a potential site for a major cultural centre.

## Public Participation

In May 2007, the Office of Aboriginal Affairs and Indian and Northern Affairs Canada sent out an on-line survey to individuals and organizations interested in the Made-in-Nova Scotia Process. The response indicated a high level of interest in the process, and highlighted the importance of making information available as early as possible.

Overwhelmingly (88%), people indicated a preference to receive information by e-mail. However, a high number (65%) also wanted to receive information by regular mail.

In response, OAA has set up an e-mail list where people who want occasional updates can sign up. OAA will also maintain a mailing list for those who are

interested. Mail outs will not be as frequent, but we will ensure information on significant events is circulated by mail as well.

As the process continues and discussions advance, it will also be important to provide information and get feed-back on more specific issues. Of the people who responded to the survey, a significant number expressed interest in more direct involvement like face-to-face meetings (45%), attending information sessions (58%), and participating on advisory committees (35%).

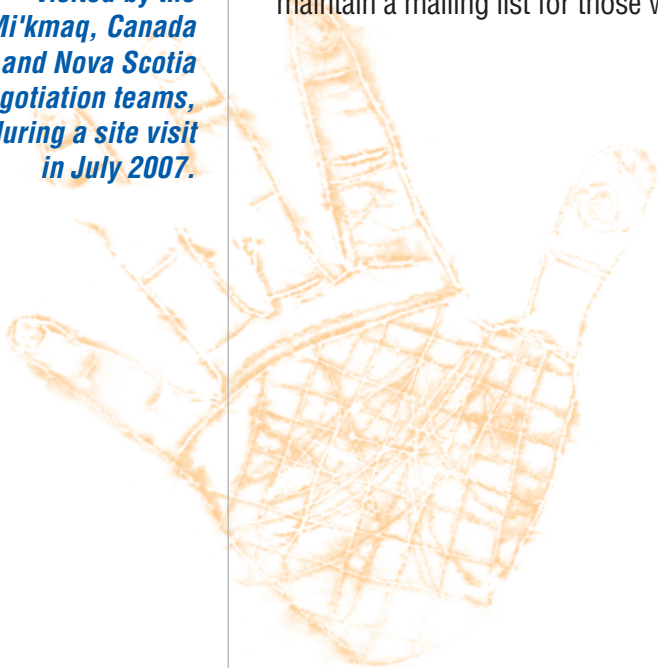
Representatives of the provincial negotiation team have been meeting with groups and organizations interested in the process, particularly in the areas of moose management, fisheries and forestry.

Anyone interested in meeting with the provincial negotiation team, can contact **Beata Dera** at the Office of Aboriginal Affairs.

[derab@gov.ns.ca](mailto:derab@gov.ns.ca)  
902 424-2590



***New Health Center in Pictou Landing First Nation, visited by the Mi'kmaq, Canada and Nova Scotia negotiation teams, during a site visit in July 2007.***



*Mi'kmaq hand petroglyph found in Kejimikujik National Park, History Collection, Nova Scotia Museum.*



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