

British Columbia's Joint Planning and Policy Development Forum Process

A Historical Review: 1999 – 2005

Prepared for
Naut'sa mawt Resources Group

By

CLEAN COMMUNICATION
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PART I: HISTORICAL REVIEW OF THE JOINT FORUM PROCESS

1.0 The Review Mandate

Since 1999, Indian and Northern Affairs Canada (INAC) in partnership with British Columbia First Nations, has conducted a series of structured dialogue events throughout the province. Those events have been convened through a process known as the Joint Planning and Policy Development Forum (the Joint Forum). According to INAC BC Region,

“[t]his series of events provided an on-going forum where First Nations articulated the issues and concerns vital to them and their communities. The record from these fora has provided a fundamental basis for the work of the department in British Columbia.

In November of 2005, The First Ministers' Meeting in Kelowna, British Columbia, resulted in a political accord between First Ministers and National Aboriginal Leaders. The accord addresses commitments by the parties to strengthen relationships and further states that the relationships will be based on "enhanced collaboration, effective working partnerships and mutual respect". Principles to guide how the parties will work together included; "working collaboratively in the development of culturally relevant policies and programs that affect Aboriginal peoples", "in an inclusive manner", and "respecting existing bilateral, tripartite and multilateral agreements and processes".

In association with the First Minister's Meeting, the Transformative Change Accord was signed between The Leadership Council representing the First Nations of British Columbia, the Government of British Columbia, and the Government of Canada. The parties agreed to establish a 10 year plan to bridge the gap in socio-economic standards between First Nation citizens and other British Columbians.

In the context of the agreement, one of the principles included was that "a new relationship must be based on mutual respect and responsibility". Further, the parties commit to "improve relationships by holding an annual meeting of political leaders to jointly discuss issues of mutual concern, report on progress, and plan ongoing action". To close the gap in economic opportunities the parties propose "holding a summit on economic development".

These developments have heightened the need for a review of the present structure and the overall approach for the Joint Planning and Policy Development Forum.”¹

¹ Email Correspondence, Colin Harivel, Acting Manager Strategic Planning, INAC BC Region, March 17, 2006

Accordingly, I have been asked to undertake an objective review and analysis of the records and history of the Joint Forum from origins to present, to consider these and related recent political and policy developments, and to report on the findings.

2.0 Setting the Review Context with *Gathering Strength*

In 1997 the Government of Canada issued *Gathering Strength: Canada's Aboriginal Action Plan*² as its response to *The Report of the Royal Commission on Aboriginal Peoples*.³ The Foreword makes clear the scope of the commitment made by the government of the day when it launched *Gathering Strength*:

“*Gathering Strength* is an action plan designed to renew the relationship with the Aboriginal people of Canada. This plan builds on the principles of mutual respect, mutual recognition, mutual responsibility and sharing which were identified in the report of the Royal Commission on Aboriginal Peoples. That report has served as a catalyst and an inspiration for the federal government's decision to set a new course in its policies for Aboriginal people.”⁴

A recent paper by Counsel on BC Aboriginal Economic Development highlights the cross-cutting opportunities opened by acting on that commitment to “renew the relationship”:

“In a significant statement, the federal government pledged ... *The Royal Commission on Aboriginal Peoples made number of suggestions for restructuring federal institutions. The Government of Canada of Canada agrees with the underlying view that policy development and implementation, and the delivery of programs and services should reflect the new relationship. We are open to further discussions on the departmental and institutional arrangements that could improve existing systems.*

This statement opens the door to cross departmental strategic conversations with First Nations about changing the way economic development programs and services are delivered. In stating its willingness to engage in these issues, *Gathering Strength* committed the government to: ... *work in partnership with Aboriginal leaders, business people and communities, the National Aboriginal Economic Development Board, the private sector, the provinces and territories, and*

² Government of Canada, under the authority of the Minister of Indian Affairs and Northern Development, *Gathering Strength: Canada's Aboriginal Action Plan*, (Ottawa: Minister of Public Works and Government, 1997) http://www.ainc-inac.gc.ca/gs/chg_e.html

³ Canada, Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, (Ottawa: Minister of Supply and Services Canada, 1996)

⁴ *Ibid*, 1

the voluntary sector to expand opportunities for economic development and to reduce obstacles.”⁵

In the years since its release, *Gathering Strength* has become virtually synonymous with ‘Aboriginal policy reform’.⁶

The following review of the Joint Forum process will be framed by the four objectives for action outlined in *Gathering Strength* (the Gathering Strength Objectives):

- Renewing the Partnerships** speaks to bringing about meaningful and lasting change in our relationships with Aboriginal people;
- Strengthening Aboriginal Governance** is about supporting Aboriginal people in their efforts to create effective and accountable governments, affirming treaty relationships, and negotiating fair solutions to Aboriginal land claims;
- Developing a New Fiscal Relationship** means arriving at financial arrangements with Aboriginal governments and organizations which are stable, predictable, and accountable and will help foster self-reliance; and
- Supporting Strong Communities, People and Economies** focuses on improving health and public safety, investing in people, and strengthening Aboriginal economic development.⁷

⁵ Counsel on BC Aboriginal Economic Development, *A NEW WAY OF DOING BUSINESS: A VISION FOR ABORIGINAL ECONOMIC DEVELOPMENT IN BRITISH COLUMBIA*, (Vancouver: Counsel on BC Aboriginal Economic Development, 2002) 9.

⁶ On April 14, 2006, a Google search under the key words “Gathering Strength - Aboriginal Policy Reform” generated 18,300 responses.

⁷ *Ibid*, 2

3.0 Historical Review of the Joint Forum Process

3.1 Conception of the First Joint Forum

Between January 1998 and May 1999, INAC⁸ conducted a series of visits to British Columbia First Nation communities: seeking feedback to *Gathering Strength*. Through those community visits, First Nation members expressed a range of concerns about INAC's approach to strategic planning and policy, including:

- [INAC] is currently inconsistent in advice
- [INAC] is not organized to have programs and processes working together
- Lack of coordination within [INAC] BC Region Directorates
- Lack of clear detailed knowledge in communities on available programs
- Too many sets of rules governing too many separate pots of money
- Policy makers are out of touch with what is really happening in the communities
- Always told what rules and regulations are with no input from First Nations
- Fragmentation of funding makes it difficult to access, particularly for smaller groups
- Partnership on whose terms?
- All partnerships must be on a level playing field⁹

Three key factors underlying the conception of the Joint Planning and Policy Development Forum process are: (a) pointed recommendations received during the Gathering Strength community sessions; (b) requests from First Nation representatives at an INAC Management session held in Montreal in early 1999 (calling for more joint planning and policy development sessions in the regions of Canada); and (c) willingness of key leaders in INAC BC Region to listen, and then to respond. Following that Montreal Management session, Herb George, Vice Chief of the BC Assembly of First Nations, Grand Chief Ed John of the First Nations Summit Task Group, and Stewart Phillip, President of the Union of BC Indian Chiefs were invited by John Watson and Wendy John, INAC's Regional and Associate Regional Directors General for British Columbia, to join them in planning a joint forum to be held late in 1999.¹⁰

⁸ Then called the Department of Indian Affairs and Northern Development (DIAND)

⁹ DIAND BC Region, *Previous Feedback and Recommendations from First Nations and Others (for use in development of a DIAND BC Region Strategic Planning Approach)*, (Vancouver, DIAND BC Region, April 2001) 4

¹⁰ Strategic Planning and Communications Unit, *Joint Planning and Policy Development Forum, November 23-24, 1999, Forum Report* (Vancouver: INAC BC Region, 1999)1

3.2 The Joint Planning and Policy Development Forum Process 1999-2005

3.2.1 Overview

From November 1999 through March 2005, 10 separate Joint Forum events were held in 10 different locations throughout British Columbia.¹¹ Each event required significant organization and generated extensive reporting – forming a record that runs literally to hundreds of pages, tracking hundreds of recommendations. The Joint Forum Steering Committee (JF Steering Committee) was formed in 1999. Its volunteer membership is provided by Joint Forum participants, with representation from various First Nations and from INAC BC Region.

The JF Steering Committee has developed formal Terms of Reference that offer insight into the scope and complexity of the underlying Joint Forum process. On the one hand, “... the authority to affect policy and process changes is confined to regional operational matters.”¹² On the other hand, broad and ambitious commitments are made regarding organization, coordination and communication of Joint Forum proceedings and of related Joint Technical Committees.¹³

-
- ¹¹
1. November 23-24, 1999, Open Space Joint Forum, held in Richmond
 2. February 21-22, 2001, Joint Forum II, held in Squamish
 3. March 13-15, 2002, Kitsumkalum Sub-regional Joint Forum, hosted by Kitsumkalum First Nation
 4. May 7-9, 2002, Adams Lake Sub-regional Joint Forum, hosted by Adams Lake First Nation
 5. May 14-15, 2002, Fort Nelson Sub-regional Joint Forum, hosted by Fort Nelson First Nation
 6. October 1-3, 2002, Campbell River Sub-regional Joint Forum, hosted by Campbell River First Nation
 7. May 14-15, 2003, First Nations Administrators Forum, hosted by Naut’sa Mawt Tribal Council
 8. March 2-3, 2005, Economic Opportunities Forum, hosted by Lheidli First Nation in Prince George
 9. March 15-15, 2005, Accountability for Results Forum, hosted by Snuneymuxw First Nation in Nanaimo
 10. March 30-April 1, 2003, Sustainable Housing Forum, hosted by Kamloops First Nation in Kamloops

¹² Joint Planning and Policy Development Steering Committee, *Terms of Reference*, Updated May 2005, 1
 “We are looking to jointly make changes within the boundaries set out by national policy and legislation in order to better serve First Nations in the areas of program and service delivery and administration.”

¹³Supra, 2-3

“Role of the Steering Committee (May 2003)

- Report regularly to First Nations and INAC on the progress of those policy initiatives identified as priorities
- Develop and maintain communication links between Forum participants and joint First Nation/INAC committees which are undertaking review, change and development of INAC operational policy and planning processes
- Coordinate the efforts of joint First Nations/INAC committees to ensure that overlaps, gaps and complementary issues are identified and addressed;
- Provide direction and guidance to joint First Nation/INAC committees as required
- As identified by Forum participants and joint First Nations/INAC committees, make recommendations to First Nation national organizations and INAC headquarters on issues of a national or legislative nature ...

Action Plan

The Joint Technical Committees are comprised of First Nations' subject matter experts and INAC staff, working in partnership in departmental planning and policy development at an operational level over a range of service areas, including housing, capital, education, and social development. By October 2005, 19 such Joint Technical Committees were in operation.¹⁴

3.3 Reviewing the Records and Communication Products of the Joint Forum Process and the JF Steering Committee

As noted earlier, a large body of records and communication products has been created in the course of the Joint Forum process, and through the work of the JF Steering Committee. I have reviewed those records and communications with care, and have concluded that it is both impractical and unhelpful for me to attempt to summarize or even refer to all of that material here. Instead, I propose to frame my assessment through the four distinct lenses provided by the Gathering Strength Objectives:

- Renewing the Partnerships
- Strengthening Aboriginal Governance
- Developing A New Fiscal Relationship
- Supporting Strong Communities, People, and Economies

Through that assessment, I will try to identify some best practices and opportunities for improvement.

-
- Take policy initiatives identified as priorities during the Forum and ensure that they are directed to the appropriate joint First Nations/INAC working committees and INAC BC Region directorates for action;
 - Monitor action or lack of action on the recommendations made at the Forum and provide direction as needed
 - Undertake the planning and implementation of the annual Forums, which may include regional forums designed to encourage greater participation by First Nation communities in joint policy and planning processes.

¹⁴ Patrick Kelly, Director of Strategic Planning and Communications, INAC BC Region, *Joint Planning and Policy Development Forum Presentation to BC Chiefs Regional Assembly, October, 2005, 5*

“The output of the Joint Forums is a series of recommendations reports. These reports are forwarded to the appropriate committee for review. As well, a semi-annual progress report on recommendations is produced [by each committee].”

3.3.1 “Renewing the Partnerships”: mutual respect and recognition, responsibility and sharing

Partnerships are essentially working relationships. While partners may bring different strengths, perspectives and priorities to their relationship, a core element of any successful partnership is **mutuality**. In launching *Gathering Strength* as its Aboriginal action plan, the Government of Canada expressly accepted the conclusion of the Royal Commission on Aboriginal Peoples that:

“... fundamental change is needed in the relationship between Aboriginal and non-Aboriginal people in Canada ... [The Royal Commission] called for a partnership based on the ... principles of **mutual respect and recognition, responsibility and sharing**.”

The Government of Canada agrees with the Commission’s conclusion that Aboriginal and non-Aboriginal people must work together, using a non-adversarial approach, to shape a new vision of their relationship and to make that vision a reality ...”¹⁵ (emphasis added)

How have these principles of mutuality been applied in the work of the Joint Forum and of its Steering Committee? What best practices and opportunities for improvement can be identified?

3.3.1.1 “Renewing the Partnerships”: Joint Forum Participation

The defining of core principles is a good starting point for evaluating an organization and its processes, but examining actual practice over time is the true test of performance. And, two revealing indicators of the sincerity of the various participants’ respect and recognition for a shared process are the extent and quality of their participation in that process over the long run.

3.3.1.1.1 *Joint Forum Participation – By the Numbers*

There has been extensive participation in the Joint Forum process, on the part of representatives of First Nation communities and organizations, INAC, other federal departments, the Government of British Columbia, and business organizations.¹⁶ Over the period of six years, 10 Joint Forum events have been held, with participation by more than

¹⁵ Ibid, 4

¹⁶ While it is true that Canada Mortgage and Housing Corporation, the Department of Fisheries and Oceans, Health Canada, Human Resources and Skills Development Canada, Public Works and Government Services Canada, and the Government of British Columbia have all been participated in Joint Forum events and in Joint Technical Committee meetings, the bulk of attendance and participation has been concentrated within the membership of First Nation organizations and communities, and with the ranks of INAC.

860 representatives of First Nation communities and organizations, and more than 410 on behalf of INAC and other federal departments.¹⁷

- 1999
 - November Joint Forum
 - Attended by 107 First Nation participants: representing 19 Tribal Councils and 42 unaffiliated First Nations, and including members of the First Nations Summit Task Group, a First Nations Committee, and First Nation presenters¹⁸
 - Attended by 48 representatives of INAC and seven other federal government departments
- 2001
 - February Joint Forum
 - Attended by 127 First Nation participants and 130 representing INAC and other levels of Government)
- 2002
 - Kitsumkalum Sub-regional Joint Forum – attended by
 - approximately 70 First Nation members, representing 35 First Nations
 - 25 INAC employees
 - Adams Lake Sub-regional Joint Forum – attended by approximately 120 First Nation members, representing 46 First Nations
 - 25 INAC employees
 - Fort Nelson Sub-regional Joint Forum – attended by
 - approximately 35 First Nation members, representing the Treaty 8 First Nations, Esketemc and Nazko
 - 10 INAC employees
 - Campbell River Sub-regional Joint Forum – attended by
 - approximately 70 First Nation members, representing 45 communities and organizations
 - 30 INAC employees¹⁹
- 2003
 - First Nations Administrators Forum – attended by over 100 First Nations administrators and 80 representatives of INAC and other federal government departments

¹⁷ Numbers do not reflect repeat attendance.

¹⁸ JF Steering Committee, *Summary Report: Joint Planning and Policy Development Forum (Joint Forum) November 23-24, 1999*, 1

¹⁹ INAC BC Region, Joint Planning and Policy Development Forum, *Sub-Regional Forums 2002 Summary*, i

- 2005
 - Aboriginal Economic Opportunities Joint Forum (Prince George, March 2-3)
 - Attended by over 100 participants from across British Columbia, including
 - 71 representatives of First Nation communities and organizations
 - 15 representatives of INAC and other federal departments
 - 6 representatives of the Government of British Columbia
 - 15 representatives of businesses and business organizations²⁰
 - Accountability for Results Joint Forum (Nanaimo, March 15-16)
 - Attended by over 60 participants from across British Columbia, including
 - 49 representatives of First Nation communities and organizations
 - 13 representatives of INAC
 - 4 representatives of the JF Steering Committee²¹
 - Sustainable Housing Joint Forum (Kamloops, March 30-31)
 - Attended by over 130 participants from across British Columbia, including
 - 118 representatives of First Nation communities and organizations
 - 12 representatives of INAC
 - 4 representatives of CMHC
 - 2 representatives of other federal government departments²²

I am satisfied that these attendance results demonstrate **mutual respect and recognition**: by the participants, by their communities, and by their organizations – for one another, for the Joint Forum process, and for the spirit of change embodied in that process. I am struck particularly by the quality of representation at the 2005 Sustainable Housing Joint Forum in Kamloops.

That such a deep and broad turnout was experienced at a technical, solution-seeking Forum²³, six years and nine events after the Joint Forum process began, suggests two things to me.

²⁰ INAC BC Region, Joint Planning and Policy Development Forum, *Economic Opportunities Forum, Executive Summary*, 1; *List of Registrants*, 3-5

²¹ INAC BC Region, Joint Planning and Policy Development Forum, *Accountability for Results Forum, Executive Summary*, 1; *List of Registrants*, 3-5

²² INAC BC Region, Joint Planning and Policy Development Forum, *Sustainable Housing Joint Forum, Executive Summary*, 1; *List of Registrants*, 3-6

²³ “The Forum was designed to look at housing from a holistic perspective and offered the opportunity for BC First Nations’ leaders, practitioners and members to share ideas, discuss challenges, and identify recommendations to further develop housing policies, practices and infrastructure for First Nations in BC.”
Supra, 1

First, the depth of attendance indicates that word-of-mouth reviews by attendees of previous Joint Forum events had been positive – i.e. that the Sustainable Housing Joint Forum participants expected that their attendance would be valuable. Second, the breadth of the perspectives and interests represented at this Forum, dedicated to examining Aboriginal housing challenges “from a holistic perspective”, demonstrates true **responsibility and sharing**.²⁴

3.3.1.1.2 Joint Forum Participation: building “mutual respect, recognition, responsibility and sharing” through the Process

Sometimes we can see and use a phrase so often that it simply becomes symbolic of our current usage: we lose our sense of its true meaning. What does “Joint Forum” really mean? The Pocket Oxford Dictionary defines “joint” as “Common, sharing, of or by two or more in common; ... Point at which two things join ...” and “forum” as “Place of assembly for judicial and other business, esp. at Rome; place of public discussion ...”²⁵ So, we are reminded that a ‘Joint Forum’ is a place of assembly for sharing serious discussion.

My review of the records of the Joint Forum process indicates that while no standard model or formula has been followed over the years, two qualities have been shared by all the proceedings. First has been the promotion of public discussion; and second, the collection and circulation of the key commitments and recommendations generated.

3.3.1.1.2.1. Public Discussion

The 1999 Joint Forum featured identification of issues through ‘Open Space’ discussion in Day 1; and the development of recommendations by working groups in Day 2.²⁶ In the 2001 Joint Forum, presentations focused on key issues identified at the 1999 event (i.e. “Joint Capital Policy Development ... Social Development Working Group ... Communications ... First Nations Public Service” were followed by “Questions, Discussion, Direction” sessions.²⁷

First Nation representatives made it clear that while they appreciated their opportunities to participate in Joint Forum events, their priorities were very practical – usually focused on improving their communities and the lives of future generations, and on acquiring capacity, resources and control at the community level:

“We need a new way of thinking here. Have to talk to government to make them understand. We can take care of our communities one way or the other but we need resources. Where is the common sense? ...

²⁴ Mutual respect and recognition, responsibility and sharing are the four principles of partnership renewal cited by the Royal Commission on Aboriginal Peoples. (See Section 3.3.1. and Footnote 15 for discussion).

²⁵ F.G. Fowler and H.W. Fowler, *The Pocket OXFORD DICTIONARY of CURRENT ENGLISH*, (Oxford: Clarendon Press, Fourth Edition, 1942) 423,315

²⁶ INAC BC Region, Joint Planning and Policy Development Forum, *Summary Report: Joint Planning and Policy Development Forum* (Joint Forum) November 23-24, 1999, 2

²⁷ INAC BC Region, Joint Planning and Policy Development Forum II, February 21-22, 2001, *Agenda Day Two*

Right here it says we have the resources out there, there are Aboriginal treaties out there, your people have a say in what you do. What we have to do is build a complex where we can build capacity. We can work together ...

We can fight all we want with [INAC] but we have to take accountability ourselves. We have to take into account the people we represent but in order to do that we need funds. What we say today is for the benefit of our children. So that they don't have to go through the same hell that I did ...

When notified about Joint Planning process was very excited because anticipated providing input into policy. Recommending if [INAC] is on board about changing policy then have FN's change policies. Went through documents and noticed [INAC] made commitments to take recommended options to the communities. In reviewing recommendations it stated it would implement policies within existing processes. But the process is not working ...

Form ad hoc committees and make policy changes and bring policy back to open forum. If [INAC] is sincere about partnership put a co-management process into place. Needs to be results based and develop a product. We need clear goals and set timelines. Put these into action and have a reporting procedure so that we have results at the end of the day.”²⁸

3.3.1.1.2.2 *Commitments and Recommendations: Reporting and Tracking*

It is evident on the face of the record that from the outset of the Joint Forum process, INAC has worked hard to document and track its various Commitments made to and Recommendations taken from Joint Forum participants. In February 2001, the Department released its *Report on the Status of Recommendations from the November 1999 Joint Planning and Policy Development Forum* (42 pages). March 2002 saw the release of the *Report on the Status of Commitments from the November 1999 and February 2001 Joint Planning and Policy Development Forum* – summarizing the status of 11 Commitments and 70 Recommendations (24 pages). The four Sub-Regional Forum events of 2002 led to four separate *Recommendations Reports*, compiling the various issues discussed and recommendations made (54, 50, 29, and 35 pages). Those reports were condensed into the *Sub-Regional Forums 2002 Summary* (37 pages), and followed by the *Joint Planning and Policy Development Forum Accountability Report: Progress on Commitments and Recommendations March 2004* (28 pages). Finally, the three Joint Forum events of 2005 were followed by reports²⁹ summarizing issues discussed, commitments given and recommendations made (12, 8, and 16 pages).

²⁸INAC BC Region, Joint Planning and Policy Development Forum, February 21, 2001 *Summary Session Notes*, 2-10

²⁹Joint Planning and Policy Development Forum, *Economic Opportunities Joint Forum Summary Report*, March 2-4, 2005; *Accountability for Results – A New Relationship Joint Forum Summary Report*, March 15-16, 2005; and *Sustainable Housing Joint Forum Summary Report*, March 30-April 1, 2005.

In the early stages, Commitment tracking and progress reporting were relatively straightforward. Significant progress was made in both tracking and delivering on INAC's Joint Forum Commitments.³⁰ However, as the Forum events multiplied, so did the number and complexity of Commitments. A total of 38 INAC commitments were given on behalf of INAC during the four Sub-Regional Joint Forum events held in 2002. A close reading of the *Joint Planning and Policy Development Forum Accountability Report: Progress on Commitments and Recommendations March 2004*³¹ indicates that at the time of that reporting, 13 Commitments had been resolved, 24 dealt with open-ended performance issues³², and one had not yet been acted upon. No updates to that March 2004 Report have been published to date.

The challenges of tracking and reporting the implementation of Joint Forum Recommendations have been very significant. Literally hundreds of Recommendations have been received from the participants at the various Joint Forum events. Hundreds of pages and hours have been invested by the JF Steering Committee and INAC staff in documenting, collating and forwarding Recommendations to appropriate INAC Directorates and First Nations/INAC Joint Technical Committees for action, and in tracking, managing, and reporting the implementation of those Recommendations. I see a number of difficulties in the current process.

First, the inherent complexity of the bureaucratic process makes it difficult to manage, track, and report on the implementation of Recommendations by the appropriate First Nations/INAC Joint Technical Committees and Departmental Directorates. Second, that very difficulty means that it is hard even for the informed observer to follow the reporting process. Accordingly, much of the potential for building communication and good will through progress reporting is lost.

A third and more serious difficulty in the context of “**Renewing the Relationships**” lies in the nature of the reporting structure. The “Recommendation/Response” approach projects and perhaps even perpetuates traditional divisions of perspective, as demonstrated below:

³⁰ For example, see *Report on the Status of Commitments from the November 1999 and February 2001 Joint Planning and Policy Development Forum*, Ibid, 3-4 – for reporting on the status of five INAC Commitments given at the 1999 Joint Forum, and six INAC Commitments given at the 2001 Joint Forum.

³¹ Joint Forum Steering Committee and INAC BC Region, *Joint Planning and Policy Development Forum Accountability Report: Progress on Commitments and Recommendations March 2004*, See: www.ainc-inac.gc.ca/bc Last accessed May 3, 2006.

³² For example, see page 1: Kitsumkalum Sub-Regional Forum,

“**Commitment 4. Improved Communication:** To ensure information on the Joint Forum process is clear and concise and delivered in a timely manner.

Progress to Date

The Joint Forum Steering Committee produces and distributes the following communications materials to all First Nations in BC: Joint Forum summary reports; Joint Forum monthly progress bulletins; Joint Forum recommendations reports; and Accountability Reports. This information is available at http://www.ainc-inac.gc.ca/bc/index_e.html Last accessed May 3, 2006.

“Issues/Challenges/Recommendations

...

- 5) **“Departmental processes are affecting First Nation communities; no cultural components to the processes”**

Response

INAC has a commitment to incorporate cultural components to all the Joint Planning and Policy Development Fora and other components of our work.

- 6) **“... Civil servants need to better understand their roles with regard to First Nations people”**

Response

We are continually working to improve our staff’s awareness of First Nations by hosting cultural awareness workshops, visits to villages and communities, organizing a speaker series on First Nations issues, and working more closely with the directorates and other government agencies.

- 7) **“Steering Committee needs to meet more frequently; terms of reference for Steering Committee weak; the work of the Steering Committee needs a life of its own; INAC using it as a tool to make its work more effective; Steering Committee should go to the communities to hear concerns first-hand; necessary in order for governments to address issues at the community level; have a joint forum in the north; strategic planning and development requires visits to communities; not enough to just make plans”**

Response

Steering Committee meets on a regular basis as well as communicates via conference calls. Steering Committee is comprised of First Nations leaders, administrators and INAC staff. This representation is crucial in ensuring that commitments are met and recommendations are worked upon. INAC does work with the Steering Committee to ensure that First Nations needs and aspirations are properly reflected in the department’s programs, policies and planning ...

- 20) **“Communication from INAC needs to be more free-flowing; report on last year’s forum results should have gone out before the forum to provide enough time for analysis and to form criticisms; at least 2 weeks before to allow for preparation and better use of time at the forum”**

Response

Communication from INAC is a crucial factor in the success of a First Nation community. Every attempt is being made to improve communication, for example, we are increasing the scope of information available on our website.

21) **“Language of written policy statements is too sophisticated”***Response*

Any and all communication arising from INAC attempts to express itself in clear and professional style.”³³

These “Challenges” and “Responses” both reflect and reinforce the ‘old reality: INAC and other government departments as providers/stewards vs. First Nations as recipients/dependents. The dialogue and critical feedback represented by the exchanges is still valuable, but a more inclusive reporting perspective would better represent the goals of the Joint Forum process. Focusing on the Joint Forum – JF Steering Committee engagement as a key to Forum reporting might be considered.

A fourth difficulty with the current reporting approach lies in the mis-matching of timeframes. While “Recommendations” are often cast broadly as ‘panoramic’ expressions of need for long-term improvement and on-going monitoring of progress, “Responses” tend to be framed as ‘snapshots’ of current status:

“Recommendation: INAC’s infrastructure procedures must include water, wastewater, and municipal-type service provisions and agreements and related funding and training.

Progress to date**Water/Wastewater management**

- *INAC is working to ensure that all First Nations are able to provide high quality water/wastewater management through the national First Nation Water Management Strategy. INAC is working in partnership with federal, provincial, and municipal governments and the private sector to implement the national Water Management Strategy, and a joint federal/provincial/First Nations Steering Committee has been formed.*
- *Under the national Water Management Strategy, 302 water and 119 wastewater facilities in BC First Nations communities have been assessed. A water team was established to support First Nations to develop the competencies required to comply with the Water/Wastewater Strategy.*
- *A plan for certification of operators is in place, and training and certification are underway. An Action Plan for addressing water and wastewater operations and maintenance was established and is currently targeting high-risk sites for immediate action. Specific training in water and wastewater management is delivered in First Nations communities.*
- *A public education program on water and wastewater for First Nations communities is under development.*
- *A Memorandum of Understanding being developed to devolve emergency preparedness and initial response to First Nations Emergency Services Society ...*

³³ *Report on the Status of Commitments from the November 1999 and February 2001 Joint Planning and Policy Development Forum, Ibid., 5-9*

Recommendation: High frustration with all aspects of on-reserve housing program

Progress to date

- *BC Region is working with CMHC to synchronize housing funds and programs, by streamlining paperwork and reporting, and a subsidy plan was developed. INAC is working toward improvements in the on-reserve housing program by improving inspector accountability, and providing resources such as the “Practical Guide to Housing”. Critical housing issues are being addressed through a plan implemented by the joint INAC/First Nations Technical Housing Steering Committee.*
- *CMHC and Secwepemc Cultural Education Society and Malaspina College provide training of Building Inspectors. List of graduates located at www.building-inspector.org*

Recommendation: Lack of consistency in delivering mouldy homes program and needed First Nations inspectors.

Progress to date:

- *A Mould Protocol Agreement Terms of Reference was drafted.”³⁴*

There are at least two problems with this ‘systemic complaint’ vs. ‘positional snapshot’ approach to framing “Recommendations” and “Responses”. First, traditional polarization of perspectives is perpetuated. Second, unless updated regularly, ‘Progress to date’ Responses are soon left behind by current events.

3.3.1.2 “Renewing the Partnerships”: JF Steering Committee Participation

Formed at the conclusion of the 1999 Joint Forum, the JF Steering Committee was initially a group of representatives of British Columbia First Nation organizations who “... volunteered to work jointly over the next year on implementing the results of the [1999] Joint Forum with the [INAC] BC Region Management team.”³⁵ The composition of the original group shows both depth and range of representation by First Nation leadership:

- Chief Victor Robinson, Gitanmaax Band / Gitksan Government Commission
- Chief Sophie Pierre, Ktunaxa Kinbasket Tribal Council
- Grand Chief Ed John, Summit Task Group
- Arnie Smith, Executive Director, Kitamaat Village Council
- Norman Dale, Administrator, Oweekeno-Kitasoo Tribal Council
- Will Sandoval, Ulkatcho Band

³⁴ JF Steering Committee and INAC BC Region, *Joint Planning and Policy Development Forum Accountability Report: Progress on Commitments and Recommendations March 2004*, Ibid, 1-14

³⁵ INAC BC Region, Joint Planning and Policy Development Forum, *Summary Report: Joint Planning and Policy Development Forum* (Joint Forum) November 23-24, 1999, 3

- Deywahgeewas, Soda Creek Band
- Richard Behn, Advisor, Yale First Nation
- Cameron Beck, Carrier Chilcotin Tribal Council
- Pearl Hunt, Administrator Whe-La-La-U Council³⁶

3.3.1.2.1 JF Steering Committee Participation – Terms of Reference

In May 2001, the JF Steering Committee established formal Terms of Reference, calling for an open and inclusive approach to participation:

“Participation:

- Participation in the [JF Steering Committee] is open to any First Nation or [INAC] representative on a voluntary basis and originates through participation in the Joint Planning and Policy Development Forum;
- A new [JF Steering Committee] may be formed at the conclusion of each annual Forum and new [JF Steering Committee] members are welcome throughout the year”³⁷

Beyond “Who”, the Terms of Reference addressed “How” the JF Steering Committee should operate:

“Approach:

- The [JF Steering Committee] will use a joint approach to doing business wherever possible:
 - The [JF Steering Committee] will ensure that First Nations and the Department of Indian Affairs sit together, address concerns, bring back work done to report on at the next Forum;
 - Administrative activities undertaken on behalf of the [JF Steering Committee] will be done jointly and not be exclusively departmentally driven.”³⁸

‘How often’ was also covered:

“Meeting Frequency:

- The [JF Steering Committee] will meet at least every three months.”

By May 2003, the Terms of Reference had been revised: retaining the open “Participation” provisions, yet adding much more restrictive “Membership” terms:

³⁶ Supra, 3

³⁷ JF Steering Committee, *Terms of Reference*, May 15, 2001, 2-3

³⁸ Supra, 4

“Membership:

Membership on the [JF Steering Committee] will consist of the following:

- Representatives from as many sectors and geographic regions as possible;
- Mix of technicians and politicians;
- Must commit to a 2 year term (review conducted in 2003);
- INAC representatives are [Regional Director General], [Associate Regional Director General], all Directors, and Managers from Funding Services, Economic Development and Business Partnerships, Strategic Planning and Communications, and Intergovernmental Affairs;
- Honorary Chairs/Members.”³⁹

At the same time, “Participation” was fortified with a mandatory “review” clause, and “Meeting Frequency” was broadened to include “Conference calls:

“...

- Membership participation review will occur every 2-3 years ...
- Conference calls will occur on an ad-hoc basis.”⁴⁰

Overall, it seems clear that the JF Steering Committee’s Terms of Reference support the principle of **“Mutual Respect and Recognition”**. With respect to First Nations, the 2003 Membership terms emphasize diversity of representation, without prescribing quotas or guaranteeing membership for particular organizations. As for INAC, the Membership terms ensure that the Committee is provided with authority to make decisions and to change policy – within the jurisdictional limits noted earlier.

Less clear is how the open and inclusive “Participation” terms are reconciled with the more prescriptive “Membership” provisions, and with the curiously vague “Participation review” clause introduced in the 2003 revisions.

The JF Steering Committee files contain a third version of the Terms of Reference, updated in May 2005 – leaving untouched the 2003 amendments to “Participation” and “Membership”, and adding a Committee membership list for 2005-2006:

“Joint Forum Steering Committee Membership 2005-2006

Victor Robinson, Gitanmaax First Nation (one year leave of absence)

Howard Grant, First Nations Summit Task Group

Grand Chief Ed John, First Nations Summit Task Group

Chief Stewart Phillip, Union of BC Indian Chiefs

Cameron Beck, Bonaparte Nation

Pearl Hunt, whe-La-La-U

³⁹ JF Steering Committee, *Terms of Reference*, May 15 2003, 3

⁴⁰ *Supra*, 2, 4

Shawn Atleo, Vice-Chief, BC-AFN
 Mike Mearns, Aboriginal Finance Officers of BC
 Ray Gerow, BC Counsel for Aboriginal Economic Development
 Jennifer Guscott, A/Regional Director General, INAC
 Ted Adnitt, Director, Funding Services, INAC
 Patrick Kelly, Director, Strategic Planning and Communications, INAC
 Bill Zaharoff, A/Director, Intergovernmental Affairs, INAC
 Thomas Howe, A/Associate Regional Director General, INAC
 Joanne Wilkinson, Associate Director, Lands and Trusts Services, INAC
 Tim Low, A/Director, Economic Development and Business Partnerships, INAC
 Cindy Hubbard, A/Manager Strategic Planning, INAC⁴¹

The strength of the leadership capacity invested by First Nation organizations and by INAC in the current composition of the JF Steering Committee is noteworthy – another indication of “**mutual respect and recognition**”.

3.3.1.2.2 JF Steering Committee Participation – Meetings

According to its records, the JF Steering Committee convened for 25 meetings between February 10, 2000 and November 29, 2005. Eight of those meetings were Conference calls (CC), and 10 were major planning sessions held over two days. I have reviewed the Minutes⁴² of all 25 meetings with care, and offer the following impressions.

➤ *Quality of the Minutes*

JF Steering Committee Meeting Minutes have been maintained at a professional level, providing a thorough and descriptive account of meeting proceedings. I note that copies of the Minutes of most (but not all) JF Steering Committee meetings have been posted to the Joint Planning and Policy Development Forum web site.

➤ *Level of Engagement*

First, I have been impressed by the high level of engagement and discussion indicated by the Minutes. Representing interests and organizations with very different perspectives, difficult histories, and complex relationships, members of the JF Steering Committee have consistently treated one another with courtesy and respect.

⁴¹ JF Steering Committee, *Terms of Reference*, Updated May 2005, 4
 See Appendix 1 for full text.

Of the 17 JF Steering Committee members, nine represent First Nation organizations and eight represent INAC.

⁴² JF Steering Committee, *Minutes of Meetings*: February 10, 2000; May 11-12, 2000; June 22-23, 2000; October 13, 2000; November 9, 2000 (CC), January 30, 2001; March 29, 2001; May 11, 2001; February 11, 2002 (CC); April 8, 2002 (CC); May 8, 2002; July 8, 2002 (CC); July 29-30, 2002; September 30, 2002; February 7, 2003 (CC); March 20, 2003 (CC); April 24-25, 2003; June 26, 2003 (CC); July 31-August 1, 2003; November 5, 2003 (CC); October 5-6, 2003; December 1-2, 2004; May 11, 2005; June 27-28, 2005; and November 29, 2005.

Second, I have noted the Committee's sensitivity in its handling of policy, coordination, and political issues. Each context requires care; taken together, they demand finely balanced judgment. The Minutes offer numerous examples of that quality of judgment. For example, consider this excerpt from the record of an early planning meeting:

- “Victor Robinson Meeting with political leaders will take place September 6-7, 2000.
- Wendy John The meeting should be attended by a small group of people - REC and the same number of First Nations representatives.
- Ed John Each of BC's umbrella organizations should send one representative to the meeting (Summit, UBCIC, AFN, Interior Alliance).
- Will Sandoval The purpose of the meeting should be to identify guiding principles and develop the protocol for the Joint Forum Steering Committee.
- Wendy John The current terms of reference is for this (Joint Forum Steering Committee) technical group but does not apply to the political level meeting which will happen in September. The November Forum did not give us a mandate to work on the issues for the September political level meeting. Therefore, the current Terms of Reference will guide us until the next full Forum meeting (November 2000) when we are given a new mandate.
- Ed John Let's not isolate the terms of reference as all we do. It is one of many things. The September meeting may expand on the mandate of this group.
- Wendy John Our report back to the next November forum will include that we called the political level meeting in September in order to sort out the issues and obstacles that were getting in the way of our work.
- Victor Robinson There should be two stages to our report back to the next November Forum a) What we were asked to do; b)What we evolved into.
- Ed John There will be three issues to discuss at the next meeting.
 1. forum relationship - “partnership”/advisory - regional/national;
 2. working committees - mandate/members;
 3. steering committee - coordination of mandate and committees -coordination role between Forum and committees.
- We need broad political support for what we are doing. However, we should still go ahead even if other umbrella groups do not join in. As long as we address the concerns of all First Nations, they will

eventually support us.”⁴³

➤ ***Frequency of Meetings***

As noted above, the JF Steering Committee’s Terms of Reference call for its members to meet in person “at least every three months”, and by conference call “on an ad-hoc basis.” Actual meeting frequency is summarized below:

<u>Year</u>	<u>Meetings</u>	<u>Conference Calls</u>
2000	4	1
2001	3	
2002	3	3
2003	3	4
2004	2	
2005	3	

My review of JF Steering Committee minutes and correspondence leads to two observations regarding the frequency of meetings. First, it has often been a challenge for the Committee to find meeting dates that accommodate the schedules of its various members, who come from all corners of the province and are busy people. Second, apart from the convening of Joint Forum events, the JF Steering Committee’s work tends to follow the flow of events, rather than lead them. Accordingly, other policy and political priorities will sometimes override Committee business.

- That is not necessarily a bad thing: for the Steering Committee to position itself ahead of current events and departmental policy would be to risk irrelevance, and to lose sight of the mandate set out in its Terms of Reference.⁴⁴

3.3.1.2.3 The “Steering” Process: Coordination, not Control

In reading through the Minutes of individual meetings, my first impression was that the JF Steering Committee sometimes seems to lose focus. Initiatives that are discussed and even

⁴³ JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes* June 22-23 2000, 1

⁴⁴ Joint Planning and Policy Development Steering Committee, *Terms of Reference*, Updated May 2005, 1
“Scope of Joint Planning and Policy Development Forum Process:

Within INAC BC Region, the authority to affect policy and process changes is confined to regional operational matters. We are looking to jointly make changes within the boundaries set out by national policy and legislation in order to better serve First Nations in the areas of program and service delivery and administration.

Issues pertaining to national policy, program funding allocations and priorities, or direction requiring legislative amendments are outside of the purview of Forum participants (ie First Nations or INAC BC Region) or the Steering Committee to authorize change.” However, recommendations from Forum participants and joint First Nations/INAC committees of this nature will be communicated by the SC to First Nation national organizations and INAC headquarters for consideration and to inform national discussions on these issues.”

launched may quietly disappear, without apparent disposition or decision, to be replaced with something new.

For example, in a number of meetings, the concept of a “Joint Leaders Board” was discussed. A draft Terms of Reference document was prepared and presented for discussion at the meeting of October 5-6, 2004.⁴⁵ I have found no further reference to a Joint Leaders Board, but the Minutes of later meetings discuss a pending “Leaders Circle Agreement”⁴⁶, “Leadership Circle”⁴⁷, “Leaders Council”⁴⁸ and “Leaders Circle”⁴⁹ - all apparently referring to a still un-formed body, intended to fill a role similar to that planned earlier for the “Joint Leaders Board”.⁵⁰

However, as I read the body of JF Steering Committee Meeting Minutes as a whole, it became apparent that this was not an example of ‘loss of focus’; but rather, of ‘steering’. As the coordination link between the Provincial Territorial Organizations (PTOs)⁵¹ and INAC, the JF Steering Committee must work within and subject to the current policies and priorities of its clients. Managing the Joint Forum process; coordinating the work of the Joint Technical Committees; referring Recommendations and issues to those Committees, to INAC’s Departmental Directorates and national Headquarters, and to national First Nations organizations: in all these roles, the JF Steering Committee provides coordination, guidance and communication, subject to the mandates and powers of those bodies.

The JF Steering Committee has been well aware of the care and clarity called for by the complexities of its environment and of its ‘steering’ role within it:

“MINUTES March 29, 2001 JF Steering Committee Meeting

...

Patrick Kelly: One of the messages that came out [at the February 2001 Joint Forum] is that we need to be clear on our objectives, because they are linked to people’s expectations. Department has its own perceptions, as do individual FNs. The frustrations at the forum were indicative of gaps between these expectations. Forum began to close those gaps and bring understanding a bit closer. Need to consider in the future that the gap is closing and this is necessary in the grand scheme of things.

⁴⁵ JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, October 5-6, 2004, 3

⁴⁶ JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, May 11, 2005, 3

⁴⁷ *Supra*, 4

⁴⁸ JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, June 27-28, 2005, 1

⁴⁹ *Supra*, 3

⁵⁰ “Original intent of [Joint Leaders Board] was to deal with the issues that the joint committees can’t deal with, and raise to a national level; need to agree with [the Assembly of First Nations BC, the First Nations Summit and the Union of BC Indian Chiefs] on how to do this. The [JF Steering Committee] will review Joint Forum recommendations, identify which are nationally based and forward to the [Joint Leaders Board]”

JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, October 5-6, 2004, 3

⁵¹ BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs

Herb George: What do you mean by gap in closing?

Patrick Kelly: As a part of government, the department has a certain approach to things eg: laws, policies and directives. FNs may or may not have similar processes or systems. Department doesn't know some of the FN processes or systems. Gap is in the lack of understanding between the department and FNs of what things we need to share more in common eg: systems. Expectation was that people wanted to address policies. In the SC we didn't necessarily go to the heart of the issue.

Wendy John: The things we can and can't do are the gaps as she sees it. Sees her role as making decision-makers understand legislative boundaries and not fool each other about what we can and can't do in the relationship. If you don't tell us where BC Region can go and what has to go to HQ, we can't build partnerships. We are still there. This SC has to look at this gap in order to build the relationship of decision-making. Gap is still wide. Sees this group and new faces of people. Wants to make sure the next forum meets their expectations and this is the closing of the gap.

Herb George: If this is part of what we are trying to accomplish we need to be clear on what the gap is. What we can and can't do needs to be clearly defined. The gap in understanding is something else. Need to be clear that people will complain because they have every right to complain. It's important to make clear to FNs what's important to engage in this exercise. We are talking here not about changing policy, but about trying to work better within policy that exists. Need to try to be clearer in our own understanding of what we are doing."⁵²

3.3.1.2.4 The JF Steering Committee and Joint Forum Management

The Meeting Minutes record many JF Steering Committee discussions devoted to planning and de-briefing events. Alongside awareness of the sensitivity of larger issues, I found determination to get the planning details right for the particular Joint Forum events. And, at least as important, has been Committee members' willingness to learn from mistakes and to **share responsibility**. For example:

"... 1. Review of February 2001 Forum

...

Will Sandoval: Most participants had perception that they would address policies and make changes at the forum. We didn't communicate well enough in advance. Concept was to bring policy people together and identify issues for committees to address in the follow-up and report on the work at the next forum. People were disappointed and felt they wasted their time.

⁵²JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, March 29, 2001, 3-4

Cameron Beck: A lot were frustrated and angry and didn't come back after day 1. A lot of positive stuff too eg: capital, social development reports, FN Public Service presentation was good.

Victor Robinson: Day 1 too disorganized and uncontrolled. Bitch and gripe session for 3/4s of the day and not held in check. Only when reports came out was positive feedback there. Role of the Steering Committee (SC) vague and not set out sufficiently. A lot of people frustrated and quite angry regarding having to listen to history. SC knew it would happen. A lot of control at first session, but not at the second one. Reports well received and good comments came back. Minority felt that breakouts would have been good. Most liked plenary.

...

George Muldoe: Slow start. Frustration levels are high on reserves due to cumbersome paperwork, especially in capital. People thought that they were coming to work and change policies. Eg: capital, housing. Wanted to go through it one by one. Fairly good start even though it took time. Better towards the end of the day. Gitsegukla FN presented a good paper and this is what a lot of people were looking for. They were the only group that prepared before they came. Anticipated changing policy right there.

Chief Michael Christian: He joined the SC because of the frustration he felt at the forum. Given directions from his council to be heard at the forum. Meeting felt like a general band meeting at home (ie: the emotions expressed at the forum). Should be doing business if there is business to do. Some people will never be able to separate feelings from business.

...

Cameron: Have to take collective responsibility for what went wrong. It was our agenda. Need to focus on some of the good things that happened and the progress made.

Wendy John: Suggestion on how to do the forum came from her. It was to help DIAND staff to a deeper level of understanding. Frustration of Chiefs and council in communities needs to be understood. Sees the forum as a very good success. Frustrating for chiefs and people who went to work at the forum. First session was government agenda to set out timelines and DIAND process information. She and committee wanted to turn this around to allow DIAND to be supportive by understanding the FN environment. Very frustrating to try to do day 1 in day 2. Frustration expressed was legitimate. Doesn't want to cover the frustration level of the leaders ...

Will Sandoval: Looked to disappointments and learn from them, but great deal of success as well. Participation at the SC has grown. Most people there when they left were committed to maintaining the process and working with INAC to address policy issues that affect programs and services. In the past, problems and concerns went to INAC only. Now FNs want to work on them jointly with INAC. Therefore,

the forum was a success.

Donna Hill: When we began the process and decided how to report back, we wrestled with it. The reports were essential. We didn't do a report from the Committee on Committees. Should have given explanation of the role of the SC and seek ideas from the participants. We didn't deliver our report card from the beginning of the forum. Communications should have told them what role they were expected to play at the forum. We didn't meet their expectations. Expectations weren't delivered on either side. Common lesson learned."⁵³

3.3.1.2.5 The JF Steering Committee and Joint Forum Communications: 'Easier Said than Done'

Communication is a critical element of both the Joint Forum process and the JF Steering Committee's mandate:

"Action Plan:

...

Communications

- Report regularly to First Nations and INAC on the progress of those policy initiatives identified as priorities, including any identified issues;
- Make recommendations to First Nation national organizations and INAC headquarters with respect to issues of national policy, program funding allocations and priorities and legislative amendments as identified by Forum participants and working committees ...

Communications:

- The [JF Steering Committee] will develop a communications strategy to inform and consult with First Nations on progress in joint planning and policy development; and will attend other committees and provide information about joint planning and policy development ..."⁵⁴

The Minutes show that the JF Steering Committee both understands and wrestles with the complexities of the challenges it faced in carrying out its interwoven 'coordination' and 'communication' responsibilities.⁵⁵ A "Communication Strategy" was drafted and revised,⁵⁶ as was a "Communications Plan,"⁵⁷ and numerous communication challenges were catalogued:

⁵³ Supra, 1-2

⁵⁴ JF Steering Committee Terms of Reference, Updated May 2005, Ibid, 2-3

⁵⁵ See page 4 of the Minutes of the Meeting of January 30, 2001 for an excellent discussion. Patrick Kelly caught the nub of the problem: "How do we jointly manage the issues and objectives when doing communications jointly on key issues?"

⁵⁶ JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, September 30, 2002, 2

⁵⁷ JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, April 24-25, 2003, 2

“... General Issues

- Information overload
 - Update website
 - Info sent to C & C not generally distributed, need to address “Public Notice, Please Post”
 - Some info directly to community members (mail drop)
 - Some info to program heads
 - Include Tribal Councils
 - Ensure right product for right audience
 - Have clear messages i.e. purpose of mail out
 - [JF Steering Committee] role is to raise awareness and increase accountability
 - Communication challenge is right product for right person for right reason
 - Communication Plan, change Public environment section
- ...
- Increase communication and exposure to Forum more regularly. Monthly newsletter format (one page) to include successes and program/policy changes as opposed to simply policy review – explain why Forum was started
 - Include a section in the Accountability Report on what was changed since 1999 (identify 2 or 3 policies that have not been worked on)
 - Forum website update required
 - Improve communications with sub-committees and provide communications assistance
 - Increase communications to First Nations, leaders, and administrators;
 - Finalize Communications Plan and appoint people to work on activities;
 - Many broad issues that have the greatest effect in the communities (i.e. racism, anger, etc.) cannot be addressed by the [JF Steering Committee]. Must communicate our authority
 - Need to clarify and communicate Forum accountability relationship between First Nations and INAC ...”⁵⁸

I have reviewed a range of communication products developed by and for the JF Steering Committee, including:

- Joint Forum Backgrounder (undated)⁵⁹
- JF Steering Committee Progress Report, dated May 18, 2001
- JF Steering Committee Update, dated October 2003
- JF Steering Committee Monthly Newsletters, dated September, October, November and December, 2003; and February, March, April, May, June and September, 2004
- Joint Forum Summary, dated November 2004

⁵⁸ Supra, 2 and JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, July 31-August 1, 2003, 2

⁵⁹ Context indicates preparation prior to the February 2001 Joint Forum

- Joint Forum Fact Sheet, dated January 2005
- Joint Forum Reports, dated November 23-24, 1999; February 2001; February 21, 2001; and March 2002
- Sub-Regional Forum Recommendations Reports, dated March 13-15, 2002; May 7-9, 2002; May 14-15, 2002; and October 1-3, 2002
- Sub-Regional Forums 2002 Summary Report (undated)
- Joint Forum Summary 2002, dated June 2003
- Joint Forum Accountability Report, dated March 2004
- Recruiting the First Nation Administrator – A Toolkit (undated)⁶⁰
- First Nations Administrators Forum – Lessons Learned, dated July 2003
- Economic Opportunities Joint Forum Summary Report, dated March 2-4, 2005
- Economic Opportunities Joint Forum Action Plan Contacts, dated March 2-4, 2005
- Accountability for Results Joint Forum Summary Report, dated March 15-16, 2005
- Sustainable Housing Joint Forum Summary Report, dated March 30-April 1, 2005
- Various Joint Technical Committee Progress Reports, dated October 2004 and February 2005.

The quality of these materials is generally excellent: informative, well-written, and attractively presented. It is apparent that very significant resources have been committed to communications on behalf the Joint Forum and the JF Steering Committee. Yet, I am concerned that a number of the communication concerns that the Committee itself has identified⁶¹ may yet be unresolved:

- Information overload
- Communication challenge is right product for right person for right reason
- Increase [Forum communication regularity]
 - Newsletters, Fact Sheets, and Progress Reports are excellent ideas that lose much of their value unless updated consistently and regularly. In the context of “**Renewing the Relationships**”, ‘how’ the information is shared is at least as important as the information itself. The manner, consistency and regularity of the communication process matters as much as the subject matter.⁶²
- Finalize Communications Plan
 - The last reference to this issue that I have been able to find in the JF Steering Committee Meeting Minutes was at the July 31-August 1, 2003 planning meeting
 - “Finalize Communication Plan and appoint people to work on activities.”⁶³I
- Need to clarify and communicate Forum accountability relationship between First Nations and INAC

⁶⁰ Launched at the First Nations Administrators Forum, May 2003

⁶¹ See Footnote 50.

⁶²Or, as Marshall McLuhan so famously put it, “The medium is the message.” McLuhan, Marshall, *UNDERSTANDING MEDIA: The Extensions of Man*, (New York: McGraw-Hill Book Company, 1964) Second Edition, 24

⁶³JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, July 31-August 1, 2003, 3

- This is a large issue, with a number of facets. I will return to consider ‘financial accountability’ and ‘results accountability’ in Section 3.3.3. **“Developing A New Fiscal Relationship”**. Here, I note that the balance of the communication dynamic seems to lie heavily on the side of INAC. The reporting perspective, much of the information conveyed, and the bulk of the resources invested in the communication process, seem to come from INAC. A First Nation perspective recorded in the Joint Forum process is that “... the work of the Steering Committee needs a life of its own; INAC [is] using it as a tool to make its work more effective; ...strategic planning and development requires visits to communities; not enough to just make plans.”⁶⁴ At the December 1-2, 2004 planning meeting attended by the JF Steering Committee and seven First Nation/INAC Joint Technical Committees, two “Key Decisions” were reached:

“DECISION 1. Develop a **Protocol** between the Joint Technical Committees, INAC, and First Nations leaders on the JF Steering Committee to ensure the coordinated, timely and effective flow of communication to effect change for First Nations communities.

DECISION 2. Hold **four Joint Forums** focused on *Canada-Aboriginal Peoples Roundtable* themes by the end of March 2005, coordinated by Joint Technical Committees.”⁶⁵

DECISION 2 has been implemented; DECISION 1 remains outstanding.⁶⁶

3.3.1.2.6 *Minimizing Duplication and Gaps*

Throughout its existence, the JF Steering Committee has recognized the importance of the ‘compartmentalization’ challenge. At its first formal meeting, the Committee struck an “Addressing the Gaps Working Group “[t]o confirm whether or not the gaps identified ... are areas that need work and to make recommendations on how to deal with those gaps.”⁶⁷

At its April 24-25, 2003 meeting, the Committee noted:

“... Need to improve accountability to First Nations and other committees

Role of [Steering Committee]

Clearing house for First Nations input into INAC policies, programs

Coordinate committee work to ensure minimal overlap/gaps/continuity

Monitor recommendations/commitments are enacted ...”⁶⁸

⁶⁴ *Report on the Status of Commitments from the November 1999 and February 2001 Joint Planning and Policy Development Forums*, Ibid, 6

⁶⁵ JF Steering Committee, *December 1-2, 2004 Meeting Summary*, 1

⁶⁶ INAC BC Region, Interview with Strategic Planning and Communications staff, April 13, 2006. Work has commenced in preparation of a draft Protocol, but is being held in abeyance pending completion of protocol discussions with the First Nations Leadership Council.

⁶⁷ JF Steering Committee, *Minutes of Working Session February 10, 2000*, 1-2

The work of the Addressing the Gaps Working Group led to the creation of the First Nations Public Service Initiative.

⁶⁸ JF Steering Committee, *Minutes of Meeting*, April 24-25, 2003, 1

3.3.1.2.7 Occasional Disconnect between ‘Planning’ and ‘Execution’

The JF Steering Committee’s ongoing campaign to minimize “duplication and gaps” is marked by an element of unevenness. On the one hand, quality and conscientiousness of analysis are evident throughout. Issues are identified; options are assessed; strategic plans are developed; and decisions are made – often with remarkable clarity, given the complexity, diversity and number of issues calling for simultaneous attention. On the other hand, the Committee’s decisions are not always carried through to execution.

On the big issues, that is not only understandable – it is usually prudent. The perils of planning and acting too far ahead of the stakeholders’ current political priorities, and of current government policy, have already been noted. But, the same disconnect between planning and execution tends to be-devil some of the operational details, such as cataloguing and tracking Forum recommendations, publishing Steering Committee newsletters and Joint Committee Progress Reports, and updating website postings.

3.3.1.2.8 Shopping Basket Reporting

The JF Steering Committee has been able to identify these difficulties, and others:

“DISCUSSION OF ISSUES AND RECOMMENDATIONS

Policy Development/Changes

- There is concern that recommendations cannot influence national policy, Treasury Board or cabinet decisions. Need to find a way to influence national decision making ... as most decisions do not reflect First Nation realities. Recommend obtaining authorities’ renewal schedule
- [Steering Committee] may not be able to influence national policies but can reduce or minimize negative impacts
- Need to improve communications on policy changes, how are they made and who makes them
- Concern that government is devolving programs and authorities without appropriate funding or capacity building resources

Communications

- Recommendation to increase communication and exposure to Forum ... Monthly newsletter format (one page) to include [Steering Committee] successes as opposed to simply policy review ...
- Include a section in the Accountability Report on what has changed since 1999 (identify 2 or 3 policies that have not been worked on)
- Forum website update required

Sub-committees

- Some sub-committees are having great success, yet process is long and difficult to keep enthusiasm and momentum going
- ...
- [Steering Committee] to clarify relationship with other committees

...

[Steering Committee] Meeting Structure

- At meetings, the [Steering Committee] is not moving toward substance. Need more structure around committee chair work. Must address all agenda items, need to focus on finalizing comments, making commitments and moving forward on issues
- Need to communicate limitations and scope of authority ...
- Finalize [Steering Committee] membership and meeting attendance. Concern with lack of continuity (i.e. new people, meeting times and dates)⁶⁹

I've chosen this excerpt because it represents a fairly common thread running through the Minutes of JF Steering Committee meetings: a 'shopping basket' approach to recording discussion of issues, recommendations, and decisions. Politics, policy, protocol, procedure, priorities and problem-solving are often rolled together. While this reporting method may accurately reflect meeting proceedings, it also contributes to the tendency to disconnect planning and execution.

3.3.1.2.9 JF Steering Committee/Secretariat Areas for Improvement: Relationship Protocol(s), Operational Autonomy, and Reporting Clarity

➤ *JF Steering Committee's Relationship Protocol*

It is interesting to note the Recommendation that received the greatest number of votes at the December 1-2, 2004 JF Steering Committee Planning Meeting:

“Identify mechanism to raise issues to national level (INAC, Assembly of First Nations, others). Recommendation is to develop a protocol between Steering Committee, Joint Technical Committees and leadership (e.g. 'leaders circle') to deal with national issues.”⁷⁰

I have already acknowledged the political realities contributing to the fact that such a protocol has yet to be completed, notwithstanding various attempts by the JF Steering Committee.⁷¹ However, I would also suggest that the political complexities that have stymied efforts to develop a relationship protocol for the Joint Forum and/or its Steering Committee would be better managed by all parties with the support of such a protocol. Clear lines of communication and terms of reporting, providing for regular meetings and on-going engagement on defined issues of mutual interest, should improve both clarity and accountability of engagement for all stakeholders in the Joint Forum process.⁷²

⁶⁹JF Steering Committee, *Minutes of Meeting*, July 31-August 1, 2003, 3-4

⁷⁰ Supra, 12

⁷¹ See page 29, Footnote 66.

⁷² While “process” and “protocol” have similar meanings, the difference is crucial in the context of relationship-building. “Protocol” imposes the sense of commitment and accountability; “process” does not. According to Roget's Thesaurus, “process” is a word of “voluntary action”, in the company of words like “work, operation, execution, perpetration, proceeding ... procedure, doings, dealings, business, affair.”

➤ *JF Steering Committee's Operational Autonomy*

Earlier I referred to a Joint Forum recommendation calling for strengthening of the Steering Committee's Terms of Reference to give the Committee "... a life of its own."⁷³ The tendency to disconnection between planning and execution noted earlier⁷⁴ would be diminished greatly in the work of the JF Steering Committee and the Joint Forum by commitment to the use of an effective protocol to regulate stakeholders' Forum dealings. Regarding the on-going administration and communication work of the Secretariat, these thoughts are offered for consideration:

- Clarifying the authority and accountability of the Committee Secretariat
- Increasing the Secretariat's operational autonomy
- Re-positioning the JF Steering Committee and Secretariat to become the Joint Forum's stand-alone operating units: independent of INAC, accountable to and funded by the Joint Forum's various stakeholders

➤ *Reporting Clarity*

With respect to recording proceedings, these thoughts are offered for consideration:

- Separating the reporting of
 - Policy from Procedure
 - Discussion from Decision
 - Recommendation from Commitment
- If recording of proceedings as they actually occurred is preferred, it might still be possible to flag key contexts: i.e.
 - Policy vs. Procedure
 - Discussion vs. Decision
 - Recommendation vs. Commitment

3.3.1.2.10 The Steering Committee's Evolving Roles

Like the Joint Forum process that it oversees, the JF Steering Committee is not a static body. Its complex roles have evolved over time in response to changes in its environment and mandate. A good illustration is provided by another excerpt from the Minutes of March 29, 2001:

“Patrick Kelly: Objective is 1) to meet [the Joint Technical Committees]; and 2) to hear their executive summaries in order to understand what they do.

“Protocol” belongs in the family of “compact”: “contract, agreement, understanding, bargain, bond, deal, pact ... covenant, settlement, convention ...”

Browning, D.C., revised from Roget, Peter, *ROGET'S THESAURUS of English Words and Phrases*, (London: Octopus Books Limited, 1982) 261, 292

⁷³ See page 14, Footnote 33

⁷⁴ See page 41

Victor Robinson: Responding on some of the issues from the [First Nations] will be difficult. The ball is in [INAC]'s court on some of these issues.

Greg Smith: What's the [JF Steering Committee]'s role? Not clear on operational versus policy role.

Donna Hill: ... Need to clarify with the committees that the [JF Steering Committee] is looking to them to advise which [First Nation] recommendations the committees can deal with and which they can't.

Chief Michael Christian: How does the communication and information flow between the [JF Steering Committee] and the existing [INAC]/[First Nation] committees?

Wendy John: There is no process currently. The JF Steering Committee wasn't mandated until this last forum to do anything beyond passing recommendations to committees and overseeing the implementation process. Now the [JF Steering Committee], as of the last forum, is mandated to give direction to the committees and working groups and feed information back to the forum. They are currently independent, but the [JF Steering Committee] can be a vehicle for communications."⁷⁵

Of course, that evolutionary process has been on-going, and must continue. A number of significant policy and political events have unfolded over the past year⁷⁶, providing both pressures and opportunities for change – as alluded in the following excerpt from the Minutes of the JF Steering Committee's November 29, 2005 meeting:

“... ”

- Summary of June 2005 [JF Steering Committee] meeting (Cameron Beck)
- The following action items from June 2005 meeting require follow-up:
- Develop a 5-year plan for [JF Steering Committee]
 - Establish protocol agreement to clarify linkages between [JF Steering Committee], Joint Technical Committees, and Leadership Council
 - Set topic for next Joint Forum ...

Action Items

- Schedule meeting with Leadership Council⁷⁷ to
 - Explore linkages between Leadership Council and [JF Steering Committee]

⁷⁵ JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, March 29, 2001, 9

⁷⁶ See Section 4 for discussion.

⁷⁷ Alliance of BC Assembly of First Nations, First Nations Summit and Union of BC Indian Chiefs, pursuant to an accord effective March 17, 2005 (the Leadership Accord). See Section 4 of this report for discussion. www.ubcic.bc.ca/files/PDF/leadership_accord_May_2005.pdf Last accessed May 3, 2006.

- Consider implications of commitments/agreements reached at First Ministers Meeting⁷⁸ for role and direction of [JF Steering Committee]
- Discuss and endorse theme(s) for next Joint Forum ...⁷⁹

3.3.2 “Strengthening Aboriginal Governance” by “Closing the Gaps”: The First Nations Public Service Initiative

3.3.2.1 Background

In response to one of the key priorities identified by First Nation leaders at the November 1999 Joint Forum, INAC BC Region committed “... to work with First Nations to develop a skilled First Nations public service with bands, tribal councils and First Nation organizations.”⁸⁰ Shortly after its formation, the JF Steering Committee formed an “Addressing the Gaps Working Group”, which determined that

“...there are no existing [First Nations/INAC Joint Technical Committees dealing] exclusively with building capacity within the First Nations public service, and that this is an area where [INAC] should concentrate efforts.”⁸¹

Accordingly, the Joint First Nations Public Service Committee was established, and charged by its Terms of Reference with:

“... the responsibility of achieving the mission of the First Nations Public Service Initiative: “The development of a stable, professional First Nations public sector in British Columbia.” The mission will be achieved by pursuing the three main objectives of the Initiative:

1. Anticipate and meet the challenge of creating a “made in BC” First Nations Public Service,
2. Strengthen skills to close present gaps, and
3. Build new skills to anticipate future gaps.”⁸²

By February 2002, a draft First Nations Public Service Initiative Work Plan had been developed and circulated for First Nations’ review:

“...5. Developing the concept is the first stage of the Work Plan
Stage one is the most critical at this time and its objectives are:

⁷⁸ First Ministers and National Aboriginal Leaders Meeting, *Strengthening Relationships and Closing the Gap*, Kelowna, November 24-25, 2005. See Section 4 for discussion.

⁷⁹ JF Steering Committee and INAC BC Region, *Joint Forum Steering Committee Meeting Minutes*, November 29, 2005, 1

⁸⁰ *Report on the Status of Recommendations from the November 1999 Joint Planning and Policy Development Forum*, Ibid, 8

⁸¹ Joint Policy and Planning Working Group, *Dealing with the Gaps*, undated file memorandum, 1

⁸² Joint First Nations Public Service Committee, *Terms of Reference*, August 2002, 1

- Review of various models of public administration
- Analysis of First Nation cultural values as they relate to the concept and scope of a BC First Nations Public Service
- Prepare the program scope and framework for the initiative
- Develop a communications strategy to provide information on the initiative to First Nations leadership.

...

As an aid to further development of the First Nations Public Service Initiative we would appreciate your input to the following Draft Work Plan ...”⁸³

Co-chaired by Victor Robinson, Band Administrator of Masset First Nation, and Patrick Kelly, Director of Strategic Planning and Communications, INAC BC Region, the Committee chose to focus its initial efforts on developing a set of human resource tools for the pivotal band management position of administrator (band manager), and assembled a task group of experienced administrators:

“... [t]o work in conjunction with human resource specialists designated by the First Nations Public Service Committee to develop a competency profile for First Nation administrators outlining the full range of First Nation administrative responsibilities and stressing the role they must play in selecting, educating and training a stable, professional public service within their First Nation.”⁸⁴

The task force worked with a human resources consultant to produce a resource document, *FIRST NATION ADMINISTRATOR – Primary Duties and Core Competencies*, a working draft of which was critiqued by 140 First Nation administrators at the First Nations Administrators Forum in May, 2003. Revised with the benefit of input received at the Administrators Forum, the final version⁸⁵ of that document became the centerpiece of *Recruiting the First Nation Administrator – A TOOLKIT*, a well-organized, clearly written and practically focused set of precedent documents and supporting information now available for as a recruiting resource for British Columbia First Nations and organizations.⁸⁶

⁸³ INAC BC Region, Strategic Planning Group, *First Nations Public Service Initiative Work Plan*, February 2002, 1

⁸⁴ Joint First Nations Public Service Committee, *Terms of Reference for the Joint First Nations Public Service Initiative First Nation Administrators’ Task Group*, August 2002, 1

⁸⁵ Joint Planning and Policy Development Forum and INAC BC Region, *FIRST NATION ADMINISTRATOR Primary Duties and Core Competencies*, 24 pages

⁸⁶ First Nations Public Service, an Initiative of the Joint Planning and Policy Development Forum, *Recruiting the First Nation Administrator – A TOOLKIT*, “The toolkit includes generic work descriptions, selection profiles, recruitment advertisements and assessment tools for a developmental opportunity level administrator and a superior performance level administrator, based on the behavioural scale in the First Nation Administrator Primary Duties and Core Competencies document ...”¹

First Nation communities are unique and varied throughout the province, a factor that influences the duties of the First Nation administrator. These tools are, therefore, meant to be flexible. Each First Nation must recognize its specific need at a specific time and then use and adapt the tools as necessary.”

Four First Nations⁸⁷ are participating in the First Nation Public Service Pilot Project, the purpose of which is:

- To develop partnerships between First Nations to further strengthen their human resource capacity;
- To produce a set of best practice tools that would be available to other First Nation communities; and
- To document and share resulting products and outcomes of the pilot projects with First Nations in BC.”⁸⁸

3.3.2.2 First Nations Public Service – Assessment as a Joint Forum Initiative

The First Nations Public Service Initiative is a superb example of the potential of the Joint Forum process. Conceived in response to First Nations recommendations received at the 1999 Joint Forum, developed by a First Nations/INAC Joint Committee formed for the purpose, and reporting to and taking direction from the Joint Forum through its Steering Committee, this Initiative offers value and inspiration on a number of levels.

First and foremost, its operating focus is practical, tangible and community-based. Second, its scope is powerful, addressing needs that are critical to successful devolution and transition to self-government.⁸⁹ Third, the Initiative is expressly driven by First Nations’ priorities and supported by INAC’s resources.

This “made in BC” approach to building a First Nations Public Service offers far more than the potential to achieve its declared objective “to develop a stable, professional First Nations public service in British Columbia.”⁹⁰ Beyond governance

⁸⁷ Chemainus First Nation, Musqueam First Nation, Osoyoos Indian Band and Tsleil-waututh First Nation

⁸⁸ http://www.ainc-inac.gc.ca/bc/index_e.html Last accessed May 3, 2006.

Follow links to First Nations Public Service Initiative Pilot Project

⁸⁹ For excellent discussion of the Initiative’s potential to guide and inspire First Nations’ leadership as well as their public service, see:

Sterritt, Neil J, *FIRST NATIONS PUBLIC SERVICE CAPACITY BUILDING PROJECT Background and Draft Work Plan*, Discussion Draft submitted to Joint Planning and Policy Development Forum, May 16, 2001, 25 pages. Mr. Sterritt is a member of the Gitksan Nation and was president of the Gitksan-Wet’suwet’en Tribal Council from 1981 to 1987.

“Leaders should be role models. They should set an example for community members and staff. Leaders serve the interests of their members well if they display strong ethical values and high performance standards, and if they expect the same of their staff, committees and advisors ... [E]xploring the idea of establishing a “made in BC” First Nations Public Service is important. It is an ideal way to explore the values and standards needed to do our job as leaders and staff. Perhaps, by identifying values and standards for an effective public service, leaders will recognize that they have a critical role to play by adopting the same standards for themselves.” (page 7)

⁹⁰ Joint First Nation Public Service Committee, *First Nation Public Service Initiative Progress Report*, February, 2005, 1

tools and training, it also offers value in immediate experience and enduring legacy regarding the ‘how’ of **“Renewing the Partnerships”**. All four elements of partnership renewal called for by the Royal Commission on Aboriginal Peoples are featured here: **mutual respect and recognition, responsibility and sharing.**⁹¹

3.3.3 Developing a New Fiscal Relationship: toward First Nations’ Stability and Self-reliance in Fiscal and Capital Management

3.3.3.1 Background

In *Gathering Strength*, the Government of Canada committed:

“... [to] work in partnership with Aboriginal governments and organizations to develop a new fiscal relationship which provides more stable and predictable financing, is accountable, and which maximizes the internal generation of own-source revenue.

For First Nations, this means putting in place new fiscal relationships that will allow First Nations governments to exercise increased autonomy and greater self-reliance through the creation of expanded new transfer arrangements, First Nation fiscal authority, resource-revenue sharing and incentives for enhancing First Nations own-source revenue capacity.”⁹²

In the 1998 *Gathering Strength* community hearings, and at the 1999 Joint Forum, British Columbia First Nations representatives expressed concern that their capacity-building efforts are handicapped “... without additional funding and flexibility, given that programs or services may be underfunded, poorly publicized, [or] funded in a compartmentalized manner.”⁹³ How have these issues been addressed through the Joint Forum process? What progress has been made? What ‘best practices’ can be identified and what lessons have been learned?

3.3.3.2 Addressing Fiscal and Capital Issues in the Joint Forum Process

It is clear from the JF Steering Committee’s Terms of Reference that primary responsibility for “reviewing, changing and developing policy” in the Joint Forum process rests with the Joint FN/INAC BC Region Committees:

⁹¹ See Section 3.3.1. and Footnote 15 above for discussion.

⁹² Ibid, 14

⁹³ INAC BC Region, *Previous Feedback and Recommendations from First Nations and Others* (For Use in development of an [INAC BC Region] Strategic Planning Approach), Draft, April 2001, 1

“For clarification, the [JF Steering Committee] does not replace existing Joint First Nation/INAC working committees in reviewing, changing and developing policy. These latter committees are made up of technical experts in specific policy areas and, as such, are best qualified to consider the merits and implications of proposed policies, policy changes, and planning processes. The [JF Steering Committee] will encourage First Nation communities to participate directly with joint First Nation/INAC committees respecting policy and planning issues of primary concern to them.”⁹⁴

- Two of the 19 FN/INAC Joint Committees focus on fiscal and capital issues (the Funding Agreement Management Committee and the Capital Policy Development Committee; the work of least five others has direct fiscal and capital implications.⁹⁵

The Funding Agreement Management Committee and the Joint FN/INAC Capital Policy Development Committee were both created in response to First Nations recommendations made through the Joint Forum.⁹⁶ As the Capital Policy Development Committee was first out of the gate, and as its prescribed membership structure and composition offer cross-cutting insights on the process of **partnership renewal**, we turn our focus there now.

3.3.3.3 Joint FN/INAC Joint Capital Policy Development Committee

3.3.3.3.1 *Mandate*

Formed immediately following the 1999 Joint Forum by First Nations, INAC, and Public Works and Government Services Canada, this Committee:

- ... works in partnership to address issues arising from existing and new policies, managing capital and housing projects and addressing Joint Forum recommendations; and
- ... provides input to National Policy respecting capital programs and housing issues and sends representation to those applicable committee meetings to ensure the British Columbia Region’s concerns are addressed and heard ...⁹⁷

3.3.3.3.2 *Membership*

Revealing clues regarding a policy committee’s priorities can often be found in its terms of membership. The Capital Policy Development Committee’s Terms of Reference indicate

⁹⁴ JF Steering Committee, *Terms of Reference*, Updated May 2005, Ibid, 2

⁹⁵ Aboriginal Housing Committee for BC, BC Capacity Initiative Council, Economic Development Project Review Committee, Counsel for BC Aboriginal Economic Development, and the First Nations Public Service Committee.

See: Strategic Planning and Communications, INAC BC Region, *JOINT FIRST NATIONS/INAC BC REGION COMMITTEES*, February 2005

⁹⁶ JF Steering Committee, *Meeting Summary Dec. 1-2, 2004*, 1

⁹⁷ Joint FN/INAC Joint Capital Policy Development Committee, *Progress Report*, February 2005, 1

serious intention to maintain a perspective that combines balance, expertise, and commitment:

“3. Membership

3.1 The Committee will consist of (3) First Nation members at large, (10) First Nation representatives working for aboriginal organizations, (6) members appointed by [INAC] (which will include a secretary), and (1) member representing Public Works Government Services Canada. There will be no alternates in order to ensure continuity at the meetings.

3.2 Any member who misses (3) consecutive meetings without notice will be considered to have withdrawn as a member of the Committee.

4. Membership Selection

4.1 Resumes will be solicited and reviewed by the Committee on an as needed basis.

4.2 The individuals selected will be First Nation chosen for their:

- a) Credibility and expertise in housing and capital;
- b) Ability to work effectively in a group;
- c) Ability to work at a regional and strategic level; and
- d) Ability to commit the necessary time and effort ...

4.2.2. The Committee will also endeavor to ensure that the Committee comprises of a balance of gender and age.

4.3 Committee selection will also consider a range of experience (local to regional, operations to policy); and geographic distribution. Note that individuals are chosen for their experience and expertise, and not as a representative of their organization. ...

4.4 Members are not to promote their personal agendas, as they have been selected to look at a problem from the regional perspective and the needs of all who could benefit from their experience.”⁹⁸

3.3.3.3 Tangible Results

Co-chaired by Victor Robinson, Member of Gitanaax First Nation, and Sheila Jackson Craig, Acting Manager Special Services Unit, Funding Services, INAC BC Region, the Capital Policy Development Committee has achieved a number of early successes, including:

- Replacement of the notorious “Freeze List” with the “Monitoring and Compliance Policy”, reducing housing reporting requirements by 75 per cent and capital/infrastructure reporting by 50 per cent, and establishing an “Extenuating Circumstances” provision that allows project funding to continue to flow notwithstanding that a required report may not have submitted (for reasons beyond the responsible First Nation’s control)
- Revision of the “BC Region Infrastructure Priority Ranking System” to reflect the First Nation priorities articulated by Committee members⁹⁹

⁹⁸ Joint FN/INAC Joint Capital Policy Development Committee, *TERMS OF REFERENCE*, March 4, 2004, 1-2

- Revision of the “Subdivision Priority Ranking System”¹⁰⁰
- Development and delivery of a three-day Project Management Workshop by the Apprenticeship and Industry Training Program of the Secwepemc Cultural Education Society
 - To support effective planning, delivery and control of projects at the community level
- Development of *The Practical Guide to Capital Projects*, a ‘how to’ explanation of capital infrastructure funding requirements
- Development of the “Community Buildings Policy”, improving the transparency of the funding process for community buildings
- Development of standard fire hall policies¹⁰¹

3.3.3.3.4 Assessment of the ‘How’ Intangibles

Beyond ‘what’ this Committee has clearly achieved, I am impressed by ‘how’ those achievements have been brought about.

First, I find it significant that this body is itself an offspring of the Joint Forum process, taking direction from and reporting to the Forum through the JF Steering Committee. Second, I note the Committee’s pursuit of a strong and balanced First Nations perspective through conscious composition of its membership. Third, and foremost, I am drawn by the evident sense of pride and purpose jointly expressed by the Co-Chairs as they explain the purpose and process of the work performed by their Committee and its members:

“... [I]n a spirit of cooperation, we look for ways to support and reduce the challenges that First Nations encounter when working toward healthy sustainable communities for their current and future members ...

⁹⁹ “The project rating system that was in place was created and implemented unilaterally by the department. Like all good bureaucracies, it attempted to put in place a system for determining where scarce capital resources should be placed. Accordingly the departmental Capital Priority Ranking System [was] based on health and safety. That means the higher the risk to health or safety [of the current situation], the higher the ranking [of the proposal]. At first blush this seems like a good system because we all want to fund those items that improve health and safety. However, what was missing was the FN perspective on health and safety. It is hard to argue that we all need fresh drinking water, but what about a community recreation facility? According to the department it would receive a very low priority, however to a First Nation it is directly linked to health and safety, and goes to the very essence of a healthy and viable community.”

Joint FN/INAC Joint Capital Policy Development Committee, *Report to the Joint Planning and Policy Development Forum*, February 20-22, 2001, 6-7

¹⁰⁰ Supra, 8 “Subdivision projects have traditionally been deferred due to their low ranking within the BC Infrastructure Priority Ranking System. This was because subdivisions were considered *growth* not *health and safety*. This caused a significant dilemma in that, subdivision projects were being deemed eligible for funding, but never funded as they had to compete with water and sewer projects that had a higher *health and safety* ranking. As a result, FN’s ... were quickly running out of available lots on which to locate their approved housing projects.”

¹⁰¹ Supra, and

Joint FN/INAC Joint Capital Policy Development Committee, *Progress Report*, February 2005, 1

We review, discuss and analyze departmental processes and policies to ensure they contain the elements to empower communities [and] to ensure the sustainability of their culture and home. Committee members from government and communities will bring issues of concern received from FN communities, capital and housing officers and individual community members.

The departmental representatives on the Committee are there to listen and provide their knowledge of current practices and policies, to assist and put forward requests for change, or bring the concerns to departmental decision-makers.

The Committee has the influence and support of Senior Management within INAC to ensure that those initiatives put forward by the Committee are taken seriously and are viewed as a positive step toward a change for the future.”¹⁰²

Ultimately, meaningful and lasting progress in “**developing a new fiscal relationship**”, as in “**renewing the partnerships**”, must come from changing ‘how’ the partners work together, more than from ‘what’ they actually do. The Joint Capital Policy Development Committee is demonstrating and applying the “**joint approach**” called for by the JF Steering Committee’s Terms of Reference,¹⁰³ and by the Royal Commission on Aboriginal Peoples in its call for “**mutual respect, recognition, responsibility and sharing**”.

3.3.4.3 The Funding Agreement Management Committee

3.3.3.4.1 Mandate

Formed in 2001, this Joint Technical Committee meets five times a year to deal with the business of developing that new fiscal relationship. Its declared purpose is a strong statement:

“Working together to create a process for developing flexible funding arrangements and management regimes that support joint goals and objectives by actively advocating for and supporting First Nations. To develop options and make recommendations to be considered for the development, communication, implementation and management of funding agreements.”¹⁰⁴

¹⁰² Robinson, Victor and McDonald, Ken, *FN/INAC Joint Capital Policy Development Committee – About Us*, Committee File Memorandum (signed and undated)

¹⁰³ Ibid, 3.

¹⁰⁴ Strategic Planning and Communications, INAC BC Region, *JOINT FIRST NATIONS/INAC BC REGION COMMITTEES*, February 2005, 19

3.3.3.4.2 Membership

Co-chaired by Elona Ewing, a member of Nak'azdli Indian Band, and Richard Papiernik, Funding Services, INAC BC Region, the Funding Agreement Management Committee has broad and deep representation: 14 First Nation members from a range of technical, administrative and political backgrounds (plus 12 alternate First Nation representatives), and eight INAC representatives (including a Senior Advisor on Transfer Payments and two Funding Service Officers).

3.3.3.4.3 Tangible Results

The Committee's *Progress Report February 2005* demonstrates technical achievement on the Regional front, and perhaps more telling in the long run, indicates early and on-going influence on national policy and procedure:

- “Annual input into funding arrangements, audit process, *Allocation Reporting and Coding Handbook*, *Year End Reporting Handbook*.
- First Nations recommendations brought forward to [National Headquarters], resulting in changes to the national [Comprehensive Funding Agreement] model.
- One First Nation representative from the Funding Agreement Management Committee is now a member of the national Alternative Funding Agreement authority renewal team.
- Development of a *Funding Formulas Manual*, explaining the funding methodology for all INAC Vote 10 funding.
- Introduction of a Chief and Council training package on orientation to the funding agreements.
- Continued input to enhance *Allocation Reporting and Coding Handbook*, Management Control Framework for reporting, *Funding Formula Manual*, Audit Review Process, and recommendations on changes to funding arrangements.”¹⁰⁵

In March 2005, the Funding Agreement Management Committee and the Aboriginal Financial Officers Association of B.C. hosted the Accountability for Results Forum in Nanaimo. Forty nine First Nation representatives from around the province addressed four broad accountability themes:

- Supporting a government-to-government relationship
- Improving the accountability framework
- Strengthening internal accountability
- Measuring results

¹⁰⁵ Funding Agreement Management Committee, *Progress Report February 2005*, 1

The discussions produced a set of recommendations collected by the JF Steering Committee for incorporation into INAC BC Region planning, and for action by appropriate Joint Committees and Departmental Directorates.¹⁰⁶

3.3.3.4.4 *Catalytic Implications*

By and large, the Joint Capital Policy Development Committee's intangible strengths (assessed earlier) are shared by the Funding Agreement Management. In addition, I see this Committee as a driver of structural change, with implications and potential going well beyond its technical mandate "... [t]o develop options and make recommendations to be considered for the development, communication, implementation and management of funding agreements." Several factors combine to give the Funding Agreement Management Committee its catalytic power:

- The Committee's large fiscal constituency
 - representing a large and attentive audience for its message and example regarding bureaucracy reform;¹⁰⁷
- The Committee's demonstrated vertical and lateral reach – both within INAC BC Region and at National Headquarters;¹⁰⁸
- The Committee's activist First Nations agenda
 - fortified by strong and open INAC management support.¹⁰⁹

3.3.3.5 The Joint Forum Steering Committee: "identifying areas of duplication and critical gaps"

As noted earlier, a long-standing First Nation concern has been that capacity-building efforts are handicapped "... without additional funding and flexibility, given that programs or services may be underfunded, poorly publicized, [or] funded in a compartmentalized manner."¹¹⁰ Apart from the intermittent integration efforts of the Joint Forum and of the various Joint Technical Committees, it is important to consider the on-going efforts of the JF Steering Committee to

¹⁰⁶ Joint Forum and INAC, *Accountability for Results Forum Executive Summary*, March 15-16, 2005, 1

¹⁰⁷ For example, consider Treasury Board's influence on federal public policy. Fiscal reform in public administration reaches all facets of the bureaucracy.

¹⁰⁸ Ongoing input to national funding arrangements and audit processes, to revision of the *Allocation Reporting and Coding Handbook* and the *Year End Reporting Handbook*, development of and continued input to the *Funding Formulas Manual*, development and presentation of the "Chief and Council Orientation to the Funding Agreement" package – all indicate current and potential influence reaching far beyond fiscal policy.

¹⁰⁹ Consider this excerpt from the Committee's mandate: "Working together to create a process ... that support[s] joint goals and objectives by actively advocating for and supporting First Nations." This mission is embedded in the mandate of a cross-cutting joint committee for fiscal reform, armed with pervasive policy influence, and fortified with significant and senior INAC representation.

¹¹⁰ INAC BC Region, *Previous Feedback and Recommendations from First Nations and Others* (For Use in development of an [INAC BC Region] Strategic Planning Approach), Draft, April 2001, 1

- Develop and maintain links with joint First Nations/INAC committees which review, change and develop INAC operational policy and planning processes;
- Identify areas of duplication and critical gaps across First Nations/INAC committee mandates, and provide information and advice to resolve.”¹¹¹

My review of the JF Steering Committee’s records confirms that significant effort and resources have been invested in addressing the issue of compartmentalized INAC administration and funding. At least three JF Steering Committee meetings have included formal Joint Technical Committee participation, with reporting, roundtable and/or break-out discussions on a wide range of issues.¹¹²

Appendix 3 to the Minutes of the Meeting of December 1-2, 2004 provides 18 pages of detailed meeting notes – documenting an array of discussion outputs, including: “Issues”, “Recommendations”, “Best Practices”, “Lessons Learned”, “Roadblocks”, “Priorities” and “Measuring Progress”. A striking combination of two qualities appears frequently in the participants’ contributions: cross-cutting practicality. The observations are grounded in real experience, gained and presented from a broad range of perspectives. For example:

“Breakout question #1: What lessons have we learned from our committee work?”

...

Influencing change

- **Joint Capital Committee: working collaboratively gave us more authority in our presentations to Treasury Board. We were able to demonstrate that the process we were suggesting would be well managed. This changed [Treasury Board’s] decision to cut funding**
- Have had success in affecting national agenda and taking leadership role and driving the process
- Because we have the Joint Forum we are more prepared to influence the agenda; we have to pick our battles to some extent
- Joint determination of priorities has allowed us to focus resources
- **By addressing policies that are beyond INAC’s authority, the Housing committee was able to advance the agenda within INAC**
- First Nations’ expectations of ability to effect change usually greater than we ([Joint Technical Committees], INAC) are able to do ...

Committee process

- **First Nations representatives can be leaders on the [Joint Technical Committees]. For example: Housing committee has made large structural difference on how INAC and [Canada Mortgage and Housing Corporation] work together. If this can happen in one group, it can happen in others; need to share the experience with other committees**

¹¹¹ JF Steering Committee, *Terms of Reference*, Updated May 2005, Ibid, 2

¹¹² See the JF Steering Committee *Minutes of Meetings*, April 24-25, 2003, October 5-6, 2004, and December 1-2, 2004.

- Housing committee has found a successful approach to be using an external facilitator who is not afraid to take risks (consultant)
- A principle of the committees needs to be that the status quo is not acceptable; participants need to be risk takers as well”¹¹³ (emphasis added)

3.3.3.6 “Accountability for Results – A New Relationship”

To be meaningful, fiscal management must address the issue(s) of accountability. However, it is important to note that the term “accountability” means very different things to different people and in different contexts. Traditionally those differences have raised a point of friction between First Nations and the federal and provincial governments.¹¹⁴

The Joint Forum process has been engaged with these issues from the outset. “Reciprocal Accountability” was a Break-out Session topic at the 1999 Joint Forum.¹¹⁵ The December 1-2, 2004 JF Steering Committee Planning Meeting produced the following Recommendations:

“Data Collection and Reporting

- Results-based reporting: Has to be ‘triple bottom line’ reporting (economic, social and environmental impacts). Need to include more aspects of community in reporting; holistic reporting; more narrative; and more information. Have just one comprehensive report that ties everything together. Doesn’t help to have just figures.
- Department and First Nations need to work to become less of a data collecting group; need more meaningful data so are looking at outcomes in a more realistic sense. Need to be sensitive to impacts of current results-based evaluation approach; this can strangle some communities. Example: Housing committee is trying to do research right now; finding that much of the data is not relevant
- Jointly develop appropriate measures to measure success so relevant issues can be taken into account (e.g. social)
- Need to shift thinking to a shared outcome approach for delivery of program resources
- There should be consistent reporting on who applied for and received funding
- Provide the Aboriginal Affairs Secretariat with a Joint Forum annual report to be prepared by JFSC”¹¹⁶

¹¹³ JF Steering Committee, *Planning Meeting Summary Dec. 1-2, 2004*, 6

¹¹⁴ For example, see:

Assembly of First Nations, *AFN Background Paper on Accountability*, Canada-Aboriginal Peoples Roundtable ACCOUNTABILITY FOR RESULTS FOLLOW-UP SECTORAL SESSION, Ottawa, January 25-26, 2005. http://www.aboriginalroundtable.ca/index_e.html Last accessed May 3, 2006.

¹¹⁵ *Joint Planning and Policy Forum Report*, November 23-24, 1999, Table of Contents

¹¹⁶ Joint Forum Steering Committee Secretariat, *Joint Form Steering Committee Planning Meeting Summary Dec 1-2, 2004*, 8-8

It would appear that those Recommendations played a role in the convening of the Accountability for Results Joint Forum in Nanaimo, March 15-16, 2005. A series of Recommendations emerged from that event, framed around four themes:

- “1. Supporting Government-to-Government Relationships
2. Improving the Accountability Framework (Canada-First Nations)
3. Strengthening Internal Accountability (First Nations-Members)
4. Measuring Results”¹¹⁷

I have no hesitation in concluding that the Joint Forum process has contributed to the development of a more innovative and inclusive approach to accountability in fiscal relations between BC First Nations and INAC. More fundamentally, in terms of relationship-building, I would suggest that the Joint Forum’s sustained dialogue process has provided all parties with valuable opportunities to improve mutual understanding, and to engage in truly collaborative policy improvement in this difficult area.

3.3.3.6.1 Best Practice Point

This discussion illustrates a strong Best Practice principle running through much of the Joint Forum’s work: the creation of on-going or institutionalized avenues of communication leads to improved understandings, better technical solutions to problems historically grounded in cultural divisions and misunderstandings, and ultimately, to stronger relationships. Put another way, the Joint Forum dialogue process enables the parties to harness the heat of historical frictions to re-forge their relationships, making them stronger, more durable and more flexible.

¹¹⁷ BC Joint Planning and Policy Development Forum, *Accountability for Results – A New Relationship Joint Forum Summary Report*, Table of Contents, Ibid, 3

3.3.4 Supporting Strong Communities, People and Economies: Enabling Community Sustainability

The fourth and final pillar for this Joint Forum assessment focuses on the elements of Aboriginal community sustainability. Both the *Report of the Royal Commission on Aboriginal Peoples* and *Gathering Strength – Canada’s Aboriginal Action Plan* spoke of four key building blocks, joined together to form a “circle of well-being: self-government, economic self-reliance, healing and a partnership of mutual respect.”¹¹⁸ *Gathering Strength* confirmed the federal government’s commitment to:

“...a concentrated framework for action, to be pursued with Aboriginal people and other partners, in three key areas:

- Improving health and public safety
- Investing in people
- Strengthening economic development.”

These three key areas will frame the following review of Joint Forum proceedings and records, focusing on identifying current priorities and initiatives indicated by that review. I will attempt to note their alignment to the *Gathering Strength* ‘framework for action, to outline key examples of progress, and to flag apparent gaps or difficulties – relating to the Joint Forum process and the work of the JF Steering Committee. This review does not presume to audit or even to summarize the considerable work done by the various Joint Technical Committees on these issues since the Joint Forum process began in 1999. Finally, I note that while many Forum process matters already discussed in this report are equally at play in the context of this review of community sustainability issues, they will not be re-addressed here.

3.3.4.1 Improving Health and Public Safety

Although my review has not uncovered any Joint Forum references to issues falling under this topic description, I note the advice of INAC BC Region staff that Health Canada has expressed strong interest in taking an active role in the on-going Joint Forum process.¹¹⁹

Also, I note that throughout the Joint Forum process, INAC has continued to provide primary funding to the First Nations Emergency Services Society, a registered non-profit society. Under the direction of a First Nations Board of Directors, the Society is “...dedicated to building capacity within First Nations communities by increasing the safety, security and well being of First Nations people throughout the province.”¹²⁰ It does so by offering a range

¹¹⁸ *Gathering Strength – Canada’s Aboriginal Action Plan, Ibid, 17*

¹¹⁹ Harivel, Colin, Acting Manager, Strategic Planning and Communications, INAC BC Region, *Interview*, March 23, 2006

¹²⁰ <http://www.fnesc.bc.ca> Last accessed May 3, 2006.

of services related to community assessment of fire fighting infrastructure, First Responder and fire fighting training, and public education on fire safety.¹²¹

3.3.4.2 Investing in People

A number of recommendations made at the 1999 Joint Forum were taken by INAC BC Region as undertakings for immediate implementation. One such recommendation, “Explore the potential to restore a network of Band Social Workers and Band Administrators”¹²² led to the following Response:

“Since 2002, BC Region has funded the Burrard Band and now the Social Development Steering Committee Society to operate a 1-800 line for policy clarification; provide orientation and training to Band Social Development Workers; undertake special initiative with INAC and other partners including : participation on a tripartite forum on Social Assistance programs with the BC Ministry of Employment and Income Assistance and INAC BC Region to share information on changes to provincial legislation and impacts on First Nations; annual conference on support to employment and integration of programs and services available at the band level. For 2006-07, INAC and the Society has reached agreement on their workplan and budget for the year.”¹²³

Another 1999 Joint Forum recommendation, “To work with First Nations to develop a skilled First Nations public service within Bands, Tribal Councils and First Nations Organizations”¹²⁴ led to the launch of the First Nations Public Service Initiative.¹²⁵

3.3.4.2.1 First Nations Social Development Steering Committee Society

Formed in 1998 as a Gathering Strength Initiative called the “Social Development Working Group”, this body was incorporated under its current name as a non-profit society in 2003. One of the 19 Joint Technical Committees, the Society’s purposes go to the heart of “investing in people”:

- “Promote a better standard of living for all First Nations people.
- Partnership with other First Nation organizations to enhance First Nation opportunities in employment and training.

¹²¹ For more detail, see:

INAC BC Region, *Capacity Building Activities A Compendium*, (Vancouver: Strategic Planning and Communications, INAC BC Region, 2004) 5

¹²² INAC BC Region, *Summary Report – Joint Forum November 23-24, 1999*, Ibid, 2

¹²³ Stiller, Linda, Manager, Intergovernmental Affairs, INAC BC Region, Email correspondence, April 28, 2006

¹²⁴ INAC BC Region, *Summary Report – Joint Forum November 23-24, 1999*, Ibid, 2

¹²⁵ See Page 30: Section 3.3.2. “Strengthening Aboriginal Governance” by “Closing the Gaps”: The First Nations Public Service Initiative

- Act as liaison between First Nations and the Federal and Provincial Governments and other agencies regarding First Nation Social Development issues
- ...
- Coordinate educational opportunities and practical training experience for First Nation Band Social Development Workers.
- ...
- Provide Social Assistance policy review, critiques and recommendations to INAC.”¹²⁶

In 2001, the Social Development Resource Centre opened its doors to run training programs for Band Social Development Workers. Created as an initiative of the First Nations Social Development Steering Committee Society, in partnership with the Tseil-Waututh Nation and INAC, the Centre conducts workshops, provides referrals, email and telephone support, and distributes wide-ranging social development information (handbooks, videos, CD’s etc.)¹²⁷

I note that the *Report on the Status of Recommendations from the November 1999 Joint Forum* refers to the early stages of development of this very worthwhile venture in response to a number of Social Development Recommendations.¹²⁸ I note also the 2001 Joint Forum featured a 20 minute “Social Development Working Group Presentation” followed by 35 minutes for “Questions, Discussion, and Direction”.¹²⁹

3.3.4.2.2 Building Our Legacy Together 4 Youth (BOLT 4 YOUTH)

In 2002 the Aboriginal Youth Committee was established as a provincial advisory body to begin organizing youth forums “... to better understand Aboriginal youth issues and ensure that youth priorities are better reflected in INAC’s programming ...”¹³⁰ Renamed as BOLT 4 YOUTH, the group held a two day planning session in April, 2004 with the support of the BC Assembly of First Nations and INAC. That session developed the concept for a series of five BOLT Youth Forums to be held throughout British Columbia to enable “Aboriginal youth to identify issues and make recommendations for change, as well as to introduce and engage Aboriginal youth with Aboriginal leadership and elders.”¹³¹

Launched under INAC’s direct stewardship, BOLT 4 YOUTH is now administered through the BC Assembly of First Nations, with INAC BC Region’s continuing support. The first Forum was held January 28-30, 2005 in the Fort Rupert Big House (on the Kwakwaka’wakw First Nation reserve near Port Hardy). Fund-raising and organizing is underway for the four remaining Forum events, being planned for 2006-2007.¹³² Supporting organizations include:

¹²⁶ First Nations Social Development Steering Committee Society, *Information Circular*, undated, 1

¹²⁷ *Supra*, 4

¹²⁸ JF Steering Committee, *Report on the Status of Recommendations from the November 1999 Joint Forum*, 33-35

¹²⁹ JF Steering Committee, *Joint Planning and Policy Development Forum II Agenda* February 21-22, 2001

¹³⁰ Haiyupis, Pawa, Youth Coordinator, BC Assembly of First Nations, *Building Our Legacy Together for Youth Forums – Phase Two: Coordination and Planning for Youth Forum Events Proposal*, October 28, 2005, 2

¹³¹ *Building our Legacy Together, Progress Report*, February 2005, 1

¹³² *Supra*, and:

“Aboriginal Organizations

The First Nations Summit (FNS); the Union of BC Indian Chiefs (UBCIC); the Métis Provincial Council (MPCBC); United Native Nations (UNN); BC Association of Aboriginal Friendship Centres; First Nations Education Steering Committee (FNESC); National Aboriginal Health Organization (NAHO);

Federal Government

INAC; Industry Canada; Department of Canadian Heritage; Human Resources and Development Canada (HRDC); Health Canada; the Aboriginal Human Resources Development Agreements (AHRDA); Western Economic Diversification Canada (WD), the National Children’s Alliance;

Provincial Government

Ministry of Children and Family Development (MCFD); Ministry of Community, Aboriginal, and Women’s Services (MCAWS); and Ministry of Aboriginal Relations and Reconciliation.”¹³³

Finally, I note that the impetus for the development of an Aboriginal youth steering committee came from recommendations made at the 2001 Joint Forum,¹³⁴ and that the JF Steering Committee has tracked and supported the progress of the BOLT Youth Forums.¹³⁵

3.3.4.2.3 Improved Service Integration

Here our focus is on the priority of improving the quality of Aboriginal people’s lives through improved coordination of information and resources. The challenges posed by ‘funding compartmentalization’ have already been discussed, and the progress being made under the leadership of the Funding Agreement Management Committee has been noted. This discussion looks at Joint Forum contributions to establishing direct and ongoing linkages between related service providers and organizations.

➤ Education

- First Nations Education Steering Committee
 - Formed in 1992 to provide general education support to BC First Nation students, both on-reserve and off-reserve
 - Directed by First Nations
 - BC First Nations’ overarching education organization
- First Nations Schools Association
 - Formed in 1996 to provide support to BC First Nation schools

Hubbard, Cindy, Communications Officer, Strategic Planning and Communications, INAC BC Region, Email correspondence, April 18, 2006

¹³³ Haiyupis, Pawa, Ibid, 7-8

¹³⁴ JF Steering Committee, *Report on the Status of Recommendations from the November 1999 and February 2001 Joint Forums*, 22

¹³⁵ JF Steering Committee, *Minutes of Meeting*

- Has a representative on the First Nations Education Steering Committee board to minimize overlaps
 - Tripartite Education Committee
 - “Promotes open dialogue among federal, provincial and First Nation governments on Aboriginal issues”¹³⁶
 - “Each of the three partner areas has an extensive agenda in support of First Nations education initiatives. [INAC] is involved with the Gathering Strength education reform initiative, which is delivered through the First Nations Education Steering Committee”¹³⁷
 - Education Partners Committee
 - Formed in 1999 as a spin-off of the Tripartite Education Committee “[b]ringing together education partners to share information and work collaboratively within their mandates to improve school success for Aboriginal learners in British Columbia”¹³⁸
 - Targets action-oriented issues and takes on tasks on behalf of the Tripartite Education Committee
 - Membership includes Tripartite Education Committee members, First Nations Education Steering Committee, First Nations Schools Association, BC College of Teachers, BC School Trustees Association, BC Teachers Federation, INAC, BC Ministry of Education, Union of BC Indian Chiefs, ...
 - Indian Studies Support Program Committee
 - Formed in 1990 “[t]o promote, support, and enhance the development and implementation of post-secondary education and training programs which are socially and culturally sensitive in meeting the needs of First Nations people.
 - Allocates funding and is proposal driven.”¹³⁹
 - BC First Nations Education Authority
 - Formed in 2003 following signing of July 24, 2003 Memorandum of Understanding by the federal Minister of Indian and Northern Affairs, the provincial Minister of Education, and First Nations Education Steering Committee
 - Supports BC First Nations in implementation of the jurisdiction over education matters conferred to them by that MOU and related agreements
 - Has no inherent jurisdiction beyond that delegated to them by British Columbia First Nations.¹⁴⁰

¹³⁶ Strategic Planning and Communications, INAC BC Region, *JOINT FIRST NATIONS/INAC BC REGION COMMITTEES*, February 2005, 27

¹³⁷ Lutes, Ken, reporting on behalf of the Tripartite Education Committee to the Joint Forum Steering Committee, *Minutes of Joint Forum Steering Committee Meeting*, May 11, 2001, 6

¹³⁸ *Supra*, 9

¹³⁹ *Supra*, 20

¹⁴⁰ BC First Nations Education Authority, *Draft Terms of Reference*, January 2006, 1-3
See: <http://www.fnesc.ca/> and follow links to pdf. Last referenced May 4, 2006.

To say that the area of education is both jurisdictionally complex and important to the future of First Nations is perhaps understated on both counts. Still, encouraging progress is being made in building collaborative relationships between key organizations, as this summary has attempted to demonstrate.

The JF Steering Committee's records confirm that it has worked closely with the First Nations Education Steering Committee, the Tripartite Education Committee, the Education Partners Committee, and the Indian Studies Support Program Committee through its Technical Committee coordination process over the years.¹⁴¹

I note the following Recommendations and Responses in the *Report on the Status of Recommendations from the November 1999 and February 2001 Joint Forums*:

“Education Steering Committee needs to follow up on the INAC programs based on education.

Response

[First Nations Education Steering Committee] and the First Nations Schools Association are active in organizing conferences and support services aimed at the improvement of quality and diversity in educational programs for Aboriginal learners. In addition to conferences, speaker series and professional development offerings, [these committees] operate a Special Education toll-free help line.

All training must attempt to include references to traditional teachings and practices

Response

[First Nations Education Steering Committee] has been part of the development of aboriginal language teacher certification initiatives and continues to work on a number of fronts toward increasing exposure to and respect for, aboriginal traditions and teachings.”¹⁴²

¹⁴¹ For example, see: *Minutes of Joint Forum Steering Committee Meeting*, May 11, 2001, 6-11

A letter dated September 7, 2001 sent to Strategic Planning and Communications on behalf of British Columbia's Deputy Minister of Education also caught my attention. It provides an interesting baseline from which to appreciate the progress made in subsequent years: "... Although a member of the Aboriginal Education Branch did attend the Joint Planning and Policy Development Forum Steering Committee meeting held on May 11, 2001, according to your terms of reference developed on May 15, 2001, we are not and cannot be a member of your committee as it focuses on national policy and legislation between First Nations governments and the Department of Indian Affairs ..."

¹⁴² JF Steering Committee, *Report on the Status of Recommendations from the November 1999 and February 2001 Joint Forums*, 21

➤ **Social Development and Housing (*Improved Service Integration – cont'd*)**

The powerful linkages between quality of housing, quality of health, and quality of social development were stressed by the federal government in *Gathering Strength*.¹⁴³ My review indicates that these linkages have been addressed in the Joint Forum process. For example, strong First Nations input during the 2002 Sub-Regional Fora¹⁴⁴ led to the following INAC Commitments and Progress to Date responses in the *Joint Planning and Policy Development Forum Accountability Report: Progress on Commitments and Recommendations*, March 2004:

Kitsumkalum Sub-Regional Form

“Commitment 3. Improved integration of the [First Nations Social Development Steering Committee] and the [Aboriginal Housing Committee for BC]: To ensure that representatives from committees are working together on similar issues.

Progress to Date

There are now representatives from both the First Nations Social Development Steering Committee and the [Aboriginal Housing Committee for BC] sitting on one another’s committee and/or society.

Fort Nelson Sub-Regional Forum

Commitment 14. Health: INAC will jointly advocate with First Nations to address common health issues to Health Canada, Human Resources Development Canada and Canada and Mortgage and Housing Corporation.

Progress to Date

- *When appropriate, INAC participates or leads with other federal departments and provincial ministries to address community health issues.”¹⁴⁵*

¹⁴³ Ibid, 18

¹⁴⁴ For example, see:

JF Steering Committee and INAC BC Region, *Report on Joint Planning and Policy Development Forum at Kitsumkalum*, March 13-15, 2002, 25-30

¹⁴⁵ *Joint Planning and Policy Development Forum Accountability Report: Progress on Commitments and Recommendations*, March 2004, 1-3.

While both exchanges indicate Joint Forum engagement on the integration issue, it would seem very likely that the former generated more First Nation satisfaction than did the latter.

- **Social Development and Housing (*Improved Service Integration – cont'd*)**
 - **The Joint Aboriginal Housing Committee of B.C.**

Established in 2000, the Aboriginal Housing Committee has representation from B.C. First Nations, INAC, and Canada Mortgage and Housing Corporation, providing "... technical advice and strategic advice on Aboriginal housing programming in British Columbia."¹⁴⁶ My review suggests that awareness of the linkages between quality of housing, quality of health, and quality of social development is a keystone of this Joint Committee's strategic foundation.

The 2005 Sustainable Housing Joint Forum was jointly organized by this Committee and the Joint First Nations/INAC Capital Policy Development Committee. We have already reviewed the Forum; here I simply highlight two examples of cross-cutting insight that emerged:

“Strengthening governance through effective bylaws. One of the biggest difficulties for communities dealing with rental arrears, maintenance issues and tenant difficulties is the lack of housing bylaws, policies or the process to enforce them. A viable governance structure with policies and the authority to take action is one way to develop strong and healthy communities. The following is a key recommendation:

- First Nations to receive funding support from INAC to enforce new bylaws and policies via on-site housing officers.

Effective construction and improved inspection. First Nations face many challenges related to ensuring that their communities are healthy. Issues include access to potable water, environmentally safe sewer systems, schools, roads and proper infrastructure inspections. The following is a sample of key recommendations:

- Streamline INAC's review process (fees, pre-design, design and construction) by decreasing the number of steps;
- Avoid stale-dated designs; and,
- Increase a band's capacity to do feasibility studies/submissions in-house ...¹⁴⁷

Finally, I note that one Joint Technical Committee was formed expressly to focus the resources of three federal departments on a residential and community building problem that raises serious issues for community health and well-being.

- **Health and Housing (*Improved Service Integration – cont'd*)**
 - **BC Mould Technical Committee**

- Established in 1999, this Joint Committee was created to work, together with First Nations and other stakeholders, “to identify

¹⁴⁶ *List of JOINT COMMITTEES*, Ibid, 4

¹⁴⁷ Joint Planning and Policy Development Forum and INAC, *Sustainable Housing Joint Forum Executive Summary*, March 30-31, 2005, 1-2

the causes and effects of mould in First Nations housing stock and community buildings, [and] to develop a holistic management strategy to address the equitable and efficient application of resources available.”¹⁴⁸

- Committee members
 - Sheila Jackson Craig INAC
 - Tom Siems CMHC
 - Peter Mazy Health Canada

3.3.4.3 Strengthening Economic Development

Gathering Strength provided a good outline of the economic challenges facing all Aboriginal communities:

“The transition to self-reliance is difficult, as many Aboriginal communities have limited economic opportunity and capacity. They experience major difficulties in accessing the tools to build economic self-reliance: investment capital, markets for their products and services, suitable work experience, access to lands and resources, and innovation in the workplace.”¹⁴⁹

My purpose here is not to review the economic development opportunities and challenges facing British Columbia’s First Nations – the issues have been thoroughly documented elsewhere. I want simply to confirm their vital importance to the pursuit of prosperity, self-reliance and meaningful self-government for all Aboriginal communities; and to highlight the attention those issues have received through the Joint Forum process.

Economic development has been a central element of the Joint Forum from the beginning. A Workshop Topic at the 1999 Joint Forum, ‘ECONOMIC DEVELOPMENT’ accounted for two full pages of Recommendations and Responses in the *Report on the Status of Commitments from the November 1999 and February 2001 Joint Planning and Policy Development Forums*.¹⁵⁰ Another two full pages of the *Joint Planning and Policy Development Forum Accountability Report: Progress on Commitments and Recommendations*, March 2004 were devoted to Recommendations and Responses regarding the economic development cause.¹⁵¹

¹⁴⁸ *List of JOINT COMMITTEES*, Ibid, 6

¹⁴⁹ *Gathering Strength – Canada’s Aboriginal Action Plan*, Ibid, 22

¹⁵⁰ Ibid, 19-20

¹⁵¹ Ibid, 15-16

Eleven of the 19 Joint First Nations/INAC BC Region Committees on the February 2005 List include economic development issues in their focus:

- Aboriginal Housing Committee for BC
- BC Capacity Initiative Council
- Counsel for BC Aboriginal Economic Development
- Economic Development Project Review Committee
- First Nation Alliance 4 Land Management
- First Nations Environmental Assessment Technical Working Group
- First Nation Forestry Program Provincial Management Committee
- First Nations Public Service Initiative
- Fisheries Dialogue Process
- Funding Agreement Management Committee
- Joint Capital Policy Development Committee¹⁵²

I have already reviewed the JF Steering Committee's mandate and efforts to coordinate the work of these bodies, to identify and resolve overlaps and gaps in their handling of issues, and to forward Joint Forum Commitments and Recommendations for action. Two of the Joint Technical Committees concentrate on economic development:

- Counsel for BC Aboriginal Economic Development
 - [A] consultative body to the Government of Canada on Aboriginal economic development initiatives
 - Provides economic advice to INAC BC Region senior management for forwarding to other government departments as appropriate
 - Available to act as a resource for First Nation organizations and other government bodies
 - Apolitical orientation to addressing the economic development interests of British Columbia's entire Aboriginal population¹⁵³
- Economic Development Project Review Committee
 - Established in November, 1999 to assess, review and recommend project proposals for funding from the Economic Development Opportunity Fund, the Resource Acquisition Initiative and the Major Business Development Program
 - Evaluates all projects that have been approved for funding by an independent business assessor

¹⁵² Ibid, 3

¹⁵³ Counsel for BC Aboriginal Economic Development, *Progress Report October 2004*, 1

For an excellent analysis of the issues and a strong argument that "... [c]reating a sustainable community economy means nurturing projects that draw the community close to its neighbours and open opportunities for partnership and shared success..." , see:

Counsel for BC Aboriginal Economic Development, *A New Vision for Aboriginal Economic Development in BC*

Contact: Ray Gerow, Manager, Aboriginal Business Development Centre, 3945 15th Avenue, Prince George, BC, V2N 1A4

Email: gerow@bcgroup.net ; Phone: (250) 562-6325; Cell: (250) 614-4661; Fax: (250) 562-6326

- Ensures compliance with funding programming terms of reference and assesses viability of the businesses considered for funding
- Current Committee membership represents the following organizations
 - All Nations Trust Company
 - Current Committee Chair
 - Nuu-Chah-Nulth Aboriginal Capital Corporation
 - Tribal Resources Investment Corporation
 - Aboriginal Business Canada
 - BC Ministry of Community, Aboriginal and Women’s Services
 - Human Resources Skills Development Canada
 - Indian and Northern Affairs Canada

3.3.4.3.1 The Economic Development Working Group

The JF Steering Committee’s records indicate that it works closely with another important group in this policy area. At the May 11, 2001 JF Steering Committee meeting, Rick Sabiston and Ray Gerow made a strong presentation on behalf of the Economic Development Working Group. Ray Gerow stated that the Group was established in 1999:

“... [as] a fairly informal group of economic practitioners who wish to see some serious changes take place in BC, mainly with the federal government ... Had previously struggled ... [to] find ways to make the federal government (mainly in BC) responsible for delivering programs we need. We were finding that all of the economic programs were all being designed at a federal level, by the time they hit the ground in BC they weren’t close to what we needed in our communities.”

Rick Sabiston provided a clear summary of the key economic development issues identified by the Group:

“In the successes we see strength in [community] planning, in land development and economic development planning. Also, [we see the stability of] insulating businesses from governance issues within the communities. The barriers, two issues: [first], flexibility in program criteria of the programs that do exist; [second], approval times and processes for getting these projects turned around, approved and funds flowing to the First Nations for their business ventures. Also, the term “economic development” is different for various First Nations, which runs into issues in terms of determining what to do with the program criteria, not always meeting specific needs or [having the] flexibility to adapt to changes in the economy.”¹⁵⁴

I note the strength and first-hand quality of the Aboriginal perspectives informing the work of these committees. I note also the encouraging parallels between the perspective called for by Counsel for BC Aboriginal Economic Development’s *A New Vision for Aboriginal Economic Development in BC* (see Footnote 143) and the conclusion reached by Dr. Gordon Shanks (Executive in Residence at the Public Policy Forum – formerly INAC’s Senior

¹⁵⁴ JF Steering Committee, *Minutes of Meeting of May 11, 2001*, 13-14

Assistant Deputy Minister, Regional Operations Support and Services) in his recently published *Economic Development in First Nations*:¹⁵⁵

“What is to be achieved needs to be coupled with how it is to be achieved. This study demonstrates that there is a strong desire to get out from under the smothering culture of dependency to a positive, future-oriented culture of self-sufficiency. Public policy solutions need to recognize the strength of the First Nations desire to be full participants in directing the course of their own destiny. Governments at all levels must resist the long-standing urges to impose paternalistic solutions. Governments must find ways to break the “fiduciary grid-lock” to constructively engage and share risks with First Nations as partners.”¹⁵⁶

It seems appropriate to conclude this discussion with acknowledgement of the importance of the March 2-4, 2005 Aboriginal Economic Opportunities Joint Forum:

- Organized by Counsel for BC Aboriginal Economic Development
- Hosted by the Lheidli T’enneh First Nation in Prince George, BC
- Sponsored by BC Ministry of Community, Aboriginal and Women’s Services, Enbridge Corporation, INAC BC Region, and Western Diversification
- Attended by over 100 participants from across British Columbia, including
 - 71 representatives of First Nation communities and organizations
 - 15 representatives of INAC and other federal departments
 - 6 representatives of the Government of British Columbia
 - 15 representatives of businesses and business organizations¹⁵⁷

Two participants’ comments resonate strongly with my overall impression:

“The goal of First Nations is to improve the quality of life and increase the standard of living on reserve. How can we do this? We need to create opportunities to develop economies both at the band level and at the entrepreneurial level.”

“The vision needs to be a shared community vision. If people feel empowered then they will help to make it the best that it can be.”¹⁵⁸

¹⁵⁵ Shanks, Dr. Gordon, *Economic Development in First Nations – An Overview of Current Issues*, (Ottawa: Public Policy Forum, January 2005)

¹⁵⁶ *Supra*, 20

¹⁵⁷ INAC BC Region, Joint Planning and Policy Development Forum, *Economic Opportunities Forum, Executive Summary*, 1; *List of Registrants*, 3-5

¹⁵⁸ INAC BC Region, Joint Planning and Policy Development Forum, *Economic Opportunities Forum, Summary Report*, March 2-4, 2005, 2-3

3.3.5 Conclusion

Throughout Part I of this review I have commented on opportunities for improvement in the Joint Forum process as I have seen them. Three key areas were noted.

First, I suggested that attention and resources be focused on communications execution: ensuring regularity of monthly newsletters, web site postings and progress reporting. I proposed more inclusive and collective Joint Forum-based reporting on progress of implementation of Recommendations and Commitments, rather than the current “Issues/Recommendations/Responses” approach

Second, I noted that the JF Steering Committee occasionally experiences ‘dis-connects’ between planning and decision-making, and between decision-making and execution. Consideration of a ‘stand-alone’ administration and communications platform for the Steering Committee and Secretariat was suggested: possibly re-positioning the JF Steering Committee and Secretariat to operate independently of INAC, accountable to and funded by the Joint Forum’s various stakeholders.

Third, I highlighted the current ‘shopping basket’ approach to the recording of JF Steering Committee meeting proceedings, noting the tendency to roll together the recording of matters involving different contexts. In the ‘action’ context, discussion, planning, recommendation-making (and taking), commitment-making, decision-making, and reporting tend to be mingled. In the ‘subject-matter’ context, politics, policy, protocol, procedure, priorities, problem-solving and communications tend to be rolled together. I suggested that while this ‘shopping basket’ reporting method may accurately reflect meeting proceedings, it may also contribute to planning – execution disconnect. I recommended that reporting protocol be revised to support separation of:

- Policy from Procedure
- Discussion from Decision
- Recommendation from Commitment

I have also commented on best practices that I have seen in the work of the Joint Forum and its Steering Committee. Particular emphasis was given to:

- Strong and balanced representation of First Nations and INAC on Joint Technical Committees and the JF Steering Committee
- De-fusing difficult issues by addressing them jointly, openly and regularly through the Joint Forum and Committee processes
- Commitment to reality

- focusing Joint Forum discussion on
 - issues that are relevant to participants and their communities
 - on generation of Recommendations and Commitments directed at action
 - tracking the implementation of those Recommendations and Commitments

- Recognition of importance of regular reporting and communication

- Quality of Steering Committee judgment in managing the interwoven complexities of its political and policy environments

- Quality of Steering Committee focus and commitment regarding the importance of ‘walking the talk’ - building sustainable relationships through conscious and daily practice of a collaboration approach to engagement

The Joint Forum is an enormous undertaking, raising serious administrative, communications and political challenges, and imposing heavy demands on resources. It is also a process of enormous potential. Beyond the tangible contributions through improved policy and planning, the greatest contribution of the the Joint Forum is its very existence. The Forum process itself, through the many working relationships that give it life, offers daily opportunities to engage in truly collaborative planning and joint action – renewing partnerships in and through that process.

PART II: Seismic Shifts in the Joint Forum Landscape

4.0 From “Strengthening the Relationship” Through “The Transformative Change Accord”

We now turn our attention to a series of significant national and provincial events that unfolded between April 19, 2004 and November 25, 2005. Beginning with the convening of the Canada-Aboriginal Peoples Roundtable in Ottawa, and concluding with the signing of the Transformative Change Accord in Kelowna, those events have altered the context framing the relationships between British Columbia’s Aboriginal peoples, their Governments and other representative organizations with the Governments of British Columbia and Canada. Fortunately (for writer and reader alike), it is beyond the scope and purpose of this report to analyze the events and agreements flowing from them in detail.

I have three tasks:

- (1) to outline the events and related agreements, noting the key principles and priorities defined by each;
- (2) to *highlight* key elements of those events and agreements for their relevance to British Columbia’s Joint Forum process; and
- (3) to outline for further consideration elements of a strategic approach to the next stage of the Joint Forum’s development.

4.1 The Canada-Aboriginal Peoples Roundtable, April 19, 2004

On April 19, 2004, about 70 national Aboriginal leaders gathered in Ottawa for a series of roundtable and breakout discussions with representatives of the federal government, led by the Prime Minister. The Roundtable was co-chaired by the Minister of Indian Affairs and Northern Development and the Federal Interlocutor for Métis and Non-Status Indians. In his Foreword to *Strengthening the Relationship*,¹⁵⁹ the Prime Minister defined the federal government’s goals for the Roundtable and its four commitments for outcomes:

“The goals of the Roundtable were to renew the relationship between the Government of Canada and Aboriginal leadership and to discuss meaningful ways of making tangible progress on improving the health and well being of Aboriginal peoples ...

In order to move forward, this Government, in partnership with Aboriginal peoples, is committed to advancing the four main outcomes of the Roundtable. The first is the

¹⁵⁹ *Strengthening the Relationship*, Report on The Canada-Aboriginal Peoples Roundtable, April 19, 2004, 23 http://www.aboriginalroundtable.ca/index_e.html Last accessed May 4, 2006.

... report, *Strengthening the Relationship*, that provides a written record of “what was heard” ...

[T]he three remaining outcomes that were committed to ... include the development of an Aboriginal Report Card¹⁶⁰, sectoral follow-up sessions on quality of life issues discussed at the Roundtable and a policy meeting between Aboriginal leadership and members of the Cabinet Committee on Aboriginal Affairs.”¹⁶¹

The essence of the federal government’s Roundtable perspective was spelled out by the Prime Minister in his Opening Speech. First, he set out three keys to success in “...break[ing] the cycle of poverty, indignity and injustice in which so many Aboriginal Canadians live”:

“

First, we have to give ourselves clear goals - to reverse the course, and to bring new hope ... The purpose of our goals must be to organize our every effort and focus our every response.

The second criteria to ensure success: We have to demonstrate the political will to get on with the job of achieving our goals and sticking to them come what may ...

No longer will we in Ottawa develop policies first and discuss them with you later. This principle of collaboration will be the cornerstone of our new partnership.

The third element in ensuring success is that we must agree to a concrete plan to achieve our goals..”¹⁶² (*emphasis added*)

The Prime Minister then outlined the six key planning areas that had emerged from his discussions with Aboriginal leaders across the country:

“First, it is crucial that we support improvements in educational outcomes for our youngest generations of Aboriginal peoples – from kindergarten to grade 12. Aboriginal educators and leaders must be front and centre in this discussion.

Second, it is not enough to seek to improve the health of Aboriginal peoples generally; we must also recognize their particular needs.

¹⁶⁰ “... that will initially be included as a chapter in *Canada’s Performance: Annual Report to Parliament*. The Report Card is an important initiative that will allow governments, Aboriginal peoples and other Canadians to see and understand the progress being made in addressing key socio-economic priority areas and transforming Canada’s relationship with Aboriginal peoples. It will include jointly developed key indicators and identify areas where more work is needed to deliver on closing the gap in the living conditions of Aboriginal people.”

Supra, 23

¹⁶¹ Supra, i

¹⁶² Supra, 32-34

Third, we must create economic opportunities for Aboriginal peoples both on and off reserve.

Fourth, we have to do better in the provision of adequate housing.

Fifth, we must hold ourselves to account ... **We need a manageable and transparent Aboriginal Report Card to set clear targets for achievement – and to measure our progress and success in getting there.**

And finally: We need to find more efficient ways to conclude negotiations on self-government and land claims agreements. *Courts do not define relationships. People do – by working together on the basis of mutual respect and trust. And that is the course we must set.*¹⁶³ (*Emphasis added*)

4.1.1 Roundtable Sectoral Follow-up Sessions

By January 26, 2005, a series of six Roundtable Sectoral Follow-up Sessions had been conducted in various locations across Canada, fulfilling the third commitment made by the Prime Minister at the conclusion of the April 19, 2004 Canada-Aboriginal Peoples Roundtable. The Canada-Aboriginal Peoples Roundtable website (<http://www.aboriginalroundtable.ca/>) contains the agenda, background papers and participants list for each of the Sectoral Follow-up Sessions as well as the final facilitators' roll-up report:

“The intent of the Sectoral Follow-up Sessions was to explore new and innovative ideas through which the Government of Canada, national aboriginal organizations, and provincial and territorial governments can work together in order to close the quality-of-life gap between Aboriginal peoples and all Canadians. These sessions include: [health](#), [life long learning](#), [housing](#), [economic opportunities](#), [negotiations](#) and [accountability for results](#) ...

Documentation from these sectoral follow-up sessions may be used to help inform the future development of Aboriginal policy in Canada and will be important documents for consideration at upcoming meetings between governments and Aboriginal leaders including a Policy Retreat in the Spring of 2005 and a First Ministers Meeting with Aboriginal leaders on Aboriginal issues planned for the Fall, 2005.”¹⁶⁴

¹⁶³Supra, 35-36

¹⁶⁴ at URL: <http://www.aboriginalroundtable.ca/>

4.2 Policy Retreat – Spring 2005

On May 31st, 2005, the Prime Minister, members of the federal Cabinet Committee on Aboriginal Affairs, and the leaders of five National Aboriginal Organizations met for a Policy Retreat, where they reviewed the reported outcomes of the six Roundtable Sectoral Follow-up Sessions, completing the fourth and final Prime Ministerial Roundtable commitment.

As the key outcome of the Retreat, the leaders of the Assembly of First Nations, the Inuit Tapiriit Kanatami, the Métis National Council, the Congress of Aboriginal Peoples, and the Native Women's Association of Canada all signed joint accords with the Government of Canada. The agreements are not generic: each contains provisions specific to the interests of the particular parties.

4.2.1 A First Nations – Federal Crown Political Accord

All of the agreements are expressly “political accords”: not having the force of law without further ratification, agreement, etc., and not over-riding any existing treaties or other agreements – except the accord signed by the Assembly of First Nations: *A First Nations – Federal Crown Political Accord on the Recognition and Implementation of First Nation Governments* (the Political Accord).¹⁶⁵ While that agreement too “... does not abrogate or derogate from Aboriginal and Treaty rights, recognized and affirmed by s. 35 of the *Constitution Act, 1982* ... [and] will only apply to those First Nations who have consented to its application ...”¹⁶⁶, it otherwise reads as an legal agreement.¹⁶⁷

Legalities aside, the Political Accord is a serious policy document. As its full name suggests, the *First Nations – Federal Crown Political Accord on the Recognition and Implementation of First Nation Governments* is framed in constitutional terms: confirming in the Preamble shared commitment “to recognition and implementation of First Nation governments through constitutionally consistent and principled approaches ...”; citing key passages from the Supreme Court of Canada’s interpretation of s. 35 of the *Constitution Act, 1982* in *Sparrow*, *Van der Peet* and *Haida* as the basis for honourable negotiations toward recognition and affirmation of Aboriginal and treaty rights; and confirming mutual recognition of “... the importance of strong First Nation governments with recognized right of self-government in

¹⁶⁵ *A First Nations – Federal Crown Political Accord on the Recognition and Implementation of First Nation Governments*, May 31, 2005. Copies of all of the Accords and a Backgrounder briefing document can be found by following the links at: www.aboriginalroundtable.ca

¹⁶⁶ *Supra*, 5

¹⁶⁷ Please note that while this interpretation is informed by my legal background, I am not presently practicing law, and these comments (along with the rest of this report) do not constitute legal opinion and should not be relied upon as such.

achieving political, social, economic and cultural development and improved quality of life ...¹⁶⁸

The Political Accord's intent, purpose and grounding principles are: *"...to commit the Parties to work jointly to promote meaningful processes for reconciliation and implementation of section 35 rights, with First Nation governments to achieve an improved quality of life, and to support policy transformation in other areas of common interest, affirming and having regard to the following principles ...*

Upholding the Honour of the Crown

Cooperation will be a cornerstone for partnership between Canada and First Nations. *This requires requires honourable processes of negotiations and respect for requirements for consultation, accommodation, justification and First Nations' consent as may be appropriate to the circumstances ...*

2. Constitutionalism and the rule of law

Section 52(1) of the *Constitution Act, 1982*, provides that "The Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is, to the extent of the inconsistency, of no force or effect." The legislation, policies and actions of governments must comply with the Constitution, including section 35 of the *Constitution Act, 1982*, which recognizes and affirms existing Aboriginal and treaty rights, and the rule of law.

3. Canadian Federalism, pluralism and First Nation Diversity

Canada is a federal state and in this regard Canada – First Nation relations and the respect for section 35 rights are important to the operation of the Canadian federation and to meeting the challenge of accommodating pluralism within the Canadian Constitutional framework.

4. Mutuality

The renewed relationship should be based on mutuality, taking into account the four principles expressed by the Royal Commission on Aboriginal Peoples:

- *Mutual Recognition;*
- *Mutual Respect;*
- *Sharing; and*
- *Mutual Responsibility.*

¹⁶⁸ *A First Nations – Federal Crown Political Accord on the Recognition and Implementation of First Nation Governments*, Ibid, 1-2

5. Recognition of the Inherent Right of Self-Government and Aboriginal Title

The inherent right of self- government and Aboriginal title are existing Aboriginal rights recognized and affirmed in section 35 of the Constitution Act, 1982.

6. Implementation of the treaty relationship

Implementation of the treaty relationship must be informed by the original understandings of the treaty signatories, including the First Nations' understanding of the spirit and intent.

7. Compliance with the Crown's Fiduciary Responsibilities

The Crown must uphold its fiduciary relationship with First Nation peoples and fulfill its fiduciary duties.

8. Human Rights

First Nations and Canada are committed to respecting human rights and applicable international human rights instruments.

9. Implementation of First Nation governments and socio-economic development

Implementation of strong First Nations governments is important for sustainable economic and social development, and for improving the quality of life for First Nation peoples to standards enjoyed by most Canadians.

10. Traditional forms of government, First Nation languages and traditional teachings

Implementation of First Nation governments will require recognition of the importance of First Nation languages, traditional teachings and traditional forms of government in ensuring the vitality of First Nation cultures, societies and governments.

11. The Special Relationship with the Land

First Nation peoples have a special relationship with the land, which is a connection that is not just economic, but also social, cultural and spiritual.”¹⁶⁹

¹⁶⁹ Supra, 2-4

The Political Accord's objectives and grounding principles are significant for at least two reasons. First, they were expressly carried forward by reference in the two implementation agreements reached at the Kelowna First Ministers Conference in November, 2005.¹⁷⁰ Second, they provide the context for applying the principle of collaboration, expressly entrenched in the Accord as "the cornerstone of our new partnership."

4.2.1.1 The Political Accord's Entrenchment of the Collaborative Process

The second clause of the Preamble incorporates the Prime Minister's Roundtable commitment that *"...No longer will we in Ottawa develop policies first and discuss them with you later. The principle of collaboration will be the cornerstone of our new partnership."*¹⁷¹

Two tangible commitments are spelled out regarding undertaking and overseeing "joint action and cooperation on policy change:

"THE PARTIES COMMIT TO THE FOLLOWING:

1. Establishment of a Joint Steering Committee with representation from the Parties. The Committee will undertake and oversee joint action and cooperation on policy change, including the establishment of a framework or frameworks, to promote meaningful processes for the recognition and reconciliation of section 35 rights, including the implementation of First Nation governments. The Committee will contribute to relationship renewal through consideration of:

a) New policy approaches for the recognition and implementation of First Nation governments, including mechanisms for managing and coordinating renewed and ongoing intergovernmental relationships, and assessment of the potential for a 'First Nation Governments Recognition Act';

¹⁷⁰ "... The purpose of the *First Nations Implementation Plan* is to reflect that federal commitments to promote the goals of the First Ministers Meeting (FMM) will be implemented in a manner consistent with the principles and objectives of the *First Nations – Federal Crown Political Accord on the Recognition and Implementation of First Nation Governments ...*"

Government of Canada and Assembly of First Nations, *First Nations Implementation Plan*, November 25, 2005, 1 http://www.ainc-inac.gc.ca/nr/prs/s-d2005/02749bk_e.html

"Two important documents preceded the First Ministers' Meeting: the First Nations - Federal Crown Political Accord - on the Recognition and Implementation of First Nations Governments signed in May 2005; and The New Relationship - A vision document setting out an initial work plan to move toward reconciliation of Aboriginal and Crown Titles and Jurisdictions within British Columbia

The goals in each document continue to be pursued and the understandings reached in both serve as the foundation for this tripartite accord."

Governments of Canada and British Columbia and the Leadership Council (representing the First Nations of British Columbia), *Transformative Change Accord*, November 25, 2005, 1-2

http://www.gov.bc.ca/arr/down/transformative_change_accord.pdf Last accessed April 30, 2006.

¹⁷¹ Supra, 1

- b) New policy approaches to the implementation of treaties;
- c) New policy approaches for the negotiation of First Nation land rights and interests;
- d) A statement of guiding principles for reconciling section 35 rights in the context of ongoing relationships with First Nation peoples, their governments, and Canada; and
- e) New or existing opportunities to facilitate First Nations governance capacity-building, working with First Nations communities and organizations to jointly identify approaches that support the implementation of First Nations governments, including program, policy, institutional and legislative initiatives.

Discussions on these topics should draw, in part, upon the report *Our Nations, Our Governments: Choosing Our Own Paths*, the “*Penner Report*” and the work of the Royal Commission on Aboriginal Peoples on restructuring the relationship with First Nations.

2. To develop the modalities of a cooperative approach to policy development, as set out in ‘Appendix I’ to this Accord.’¹⁷² (emphasis added)

¹⁷² Supra 4-5

4.3 “The New Relationship”: British Columbia’s Big Move

4.3.1 Setting the Stage: The Supreme Court of Canada’s Decisions in Haida Nation and Taku River Tlingit

On November 18, 2004 the Supreme Court of Canada handed down its much anticipated judgments in the companion cases of Haida Nation and Taku River Tlingit.¹⁷³ In so doing, the Court clarified the duties of consultation and accommodation and laid the groundwork for a series of political breakthroughs. Both the Haida Nation and Taku River Tlingit judgments were written by Chief Justice Beverly McLachlin, and led to unanimous decisions (7-0) by the Court. While much has already been said and written about Haida Nation and Taku River from a legal and non-Aboriginal perspective¹⁷⁴, there have been fewer interpretations published from Aboriginal points of view.¹⁷⁵

I believe that there are two keys to understanding how Haida Nation and Taku River triggered (or at least accelerated) the ‘government-to-government’ negotiations that soon followed it. First, the Court ruled that both the federal and provincial governments of Canada owe duties of consultation and accommodation to First Nations that cannot be delegated; and second, the Court used emphatic reasoning and language to establish ‘reconciliation’ and ‘honour of the Crown’ (emphasis added) as the foundation for those Crown duties:

“The government’s duty to consult with Aboriginal peoples and accommodate their interests is grounded in the honour of the Crown. The honour of the Crown is always at stake in its dealings with Aboriginal peoples ...It is not a mere incantation, but rather a core precept that finds its application in concrete practices. (at Para.16)

The historical roots of the principle of the honour of the Crown suggest that it must be understood generously in order to reflect the underlying realities from which it stems. In all its dealings with Aboriginal peoples, from the assertion of sovereignty to the resolution of claims and the implementation of treaties, the Crown must act honourably. **Nothing less is required if we are to achieve “the reconciliation of the pre-existence of aboriginal societies with the sovereignty of the Crown”:** Delgamuukw (at Para. 17)”¹⁷⁶ (emphasis added) ...

¹⁷³ Haida Nation v. British Columbia, 2004 SCC 73; Taku River Tlingit First Nation v. British Columbia, 2004 SCC74.

¹⁷⁴ For two clear and concise commentaries by leading legal practitioners in the field of Aboriginal rights and title, see: Charles F. Willms and Kevin O’Callaghan, *The Supreme Court of Canada Decisions in Haida and Taku: The Final Word on the Duty to Consult*, in “Aboriginal Bulletin”, Vancouver: Fasken Martineau, November, 2004, www.fasken.com; and

Tom Isaac and Tony Knox, *The Crown’s Duty to Consult and Accommodate Aboriginal People: The Supreme Court of Canada’s Decisions in Haida Nation v. B.C. and Weyerhaeuser and Taku River Tlingit First Nation v. B.C.*, in “Legal Update”, Vancouver: McCarthy Tetrault’s Aboriginal Law Group, January, 2005, www.mccarthy.ca

¹⁷⁵ For the perspective of the Haida Nation and their legal counsel on the Haida decision, see: http://www.titleandrightsalliance.org/HaidaStatement_2004-11-18.htm Last accessed April 29, 2006.

¹⁷⁶ Haida Nation, Ibid.

4.3.2 “The Leadership Accord”: First Nations’ Unity in British Columbia

On March 17, 2005, leaders of the BC Assembly of First Nations, the First Nations Summit, and the Union of BC Indian Chiefs signed “The Leadership Accord”, confirming the formation of the First Nations Leadership Council (the Leadership Council) and defining its purpose:

- “a) affirm mutual respect, recognition and support of each of the Parties for one another,
- b) formalize a cooperative working relationship of the Parties to politically represent the interests of First Nations in British Columbia and develop strategies and actions to bring about significant and substantive changes to government policy that will benefit all First Nations in British Columbia,
- c) focus on a range of agreed upon issues and initiatives of common interest or concern among First Nations in British Columbia, including:
 - i) engaging with the provincial and federal governments regarding implementation of the Crown's honourable duty to consult with and accommodate First Nations,
 - ii) advancing the interests of First Nations in British Columbia in national processes, such as the Prime Minister's Canada-Aboriginal Peoples Roundtable process, and
 - iii) addressing social and economic and service issues with the Department of Indian Affairs and Northern Development, BC/Yukon Region.
Northern Development, BC/Yukon Region.”¹⁷⁷

The Union of BC Indian Chiefs offered the following background perspective:

“By way of background, following the decisions of the Supreme Court of Canada in *Haida* and *Taku*, resolutions were passed by the First Nations Summit and the Union of BC Indian Chiefs to work promptly and together to develop a plan to ensure the implementation of these and other Court decisions. **This unity of purpose was strengthened on March 17, 2005 with the signing of an historic Leadership Accord where the First Nations Summit, the Union of BC Indian Chiefs and the BC Assembly of First Nations committed to work together for the benefit of all First Nations in British Columbia.** (original emphasis) Among the joint commitments was an agreement to engage with the provincial and federal

¹⁷⁷ http://www.ubcic.bc.ca/files/PDF/leadership_accord_May_2005.pdf

governments regarding implementation of the Crown's honourable duty to consult with and accommodate First Nations Aboriginal title, rights and interests.”¹⁷⁸

4.3.3 “The New Relationship”: B.C.’s Vision Statement

The unification of British Columbia’s Provincial-Territorial Organizations through the Leadership Council was a critical link in the chain of events leading to development of the document now well-known in British Columbia as “The New Relationship:

“The courts have been clear that government has an obligation to consult with First Nations with respect to decisions that have the potential to impact Aboriginal rights and title.

In March 2005, the Province began meetings with representatives of the First Nations Summit, the Union of BC Indian Chiefs and the B.C. Assembly of First Nations to develop new approaches for consultation and accommodation and a vision for a new relationship to deal with Aboriginal concerns based on openness, transparency and collaboration - one that reduces uncertainty, litigation and conflict for all British Columbians.”¹⁷⁹

A five-page document was agreed upon, outlining the following *vision, goals, principles, action plans, and working groups* to drive and guide the development of the New Relationship:

I. Statement of Vision

We are all here to stay. We agree to a new government-to-government relationship based on respect, recognition and accommodation of aboriginal title and rights. Our shared vision includes respect for our respective laws and responsibilities. Through this new relationship, we commit to reconciliation of Aboriginal and Crown titles and jurisdictions ...

II. Goals ...

1. To restore, revitalize and strengthen First Nations and their communities and families to eliminate the gap in standards of living with other British Columbians, and substantially improve the circumstances of First Nations ...;
2. To achieve First Nations self-determination through the exercise of their aboriginal title including realizing the economic component of aboriginal title, and exercising their jurisdiction over the use of the land and resources through their own structures;

¹⁷⁸ http://www.ubcic.bc.ca/issues/new_relationship.html Both FN 168 and 169 websites last accessed April 29, 2006.

¹⁷⁹ <http://www.gov.bc.ca/arr> Downloaded March 10, 2005

3. To 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
4. To revitalize and preserve First Nations cultures and languages and restore literacy and fluency in First Nation languages to ensure that no First Nation language becomes extinct.

III. Principles to Guide the New Relationship ...

- integrated intergovernmental structures and policies to promote co-operation, including practical and workable arrangements for land and resource decision-making and sustainable development;
- efficiencies in decision-making and institutional change;
- recognition of the need to preserve each First Nations' decision-making authority;
- financial capacity for First Nations and resourcing for the Province to develop new frameworks for shared land and resource decision-making and to engage in negotiations;
- mutually acceptable arrangements for sharing benefits, including resource revenue sharing; and
- dispute resolution processes which are mutually determined for resolving conflicts rather than adversarial approaches to resolving conflicts ...

IV. Action Plans ...

1. Develop new institutions or structures to negotiate Government-to-Government Agreements for shared decision-making regarding land use planning, management, tenuring and resource revenue and benefit sharing;
2. Identify institutional, legislative and policy changes to implement this vision and these action items; ...

9. Develop impartial dispute resolution processes and work towards a decrease in conflicts leading to litigation; and

10. Create an evaluation process for monitoring and measuring the achievement of this vision and these action items.

V. Management Committee and Working Groups

The parties will establish a joint management committee of senior officials to:

- ***develop terms of reference, priorities, and timelines for the management committee and the working groups by May 31, 2005;***
- ***identify current issues of substantial concern, and consider short and long term steps the parties could take to facilitate their resolution;***
- ***jointly develop policy frameworks;***

- *establish joint working groups and provide direction, timelines and co-ordination to further the implementation of the action items;*
- *identify and allocate financial and technical resources for the work of the management committee and the working groups;*
- *make recommendations to the parties to address problems as they arise in the implementation of the vision; and*
- *engage the Government of Canada.”¹⁸⁰*

4.3.3.1 New Relationship Implementation: “The New Relationship Fund”

It should be noted that the Government of British Columbia has already launched a number of New Relationship initiatives,¹⁸¹ the most significant by far being the New Relationship Fund: a \$100 million trust fund for Aboriginal capacity-building, to be administered by a seven member board that is independent from government. The New Relationship Trust Act establishes that a corporation will be created to manage the fund. A seven-member board of directors will also be established. The Act states that the board will solicit and consider the opinions of First Nations and the public in the development of a three-year strategic plan.

The New Relationship Trust Act took effect on March 31, 2006, and the initial Board of Directors of the New Relationship Trust has been appointed for a term of just eight months, within which it is to:

“solicit and consider input from First Nations and the public to develop a three-year strategic plan, which will set out the goals, specific outcomes, performance measures and annual budget for the fund ... [and] set up the policies and procedures for the trust...” in their eight-month term.”¹⁸²

The strength of this initial board’s composition, the brevity of its term, and the importance of the purposes of the Fund, suggest that work toward implementation will proceed very quickly.

¹⁸⁰ http://www.gov.bc.ca/arr/down/new_relationship.pdf Last accessed April 29, 2006.

¹⁸¹ http://www.gov.bc.ca/arr/popt/new_relationship_trust.htm Last accessed April 29, 2006.

¹⁸² Five members were nominated by First Nations (Dave Porter, member of First Nations Summit Task Group, Kathryn Teneese, Ktunaxa Nation member and chief treaty negotiator, Nathan Matthew, Chief of the Simpcw First Nation and chairman of the Shuswap Nation Tribal Council, Shawn Atleo, Hereditary Chief from the Ahousaht First Nation and Regional Chief of the BC Assembly of First Nations, and Stewart Phillip, Chief of the Penticton Indian Band, chairman of the Okanagan Nation Alliance, and President of the Union of BC Indian Chiefs) Two members were nominated by the Government of British Columbia (Dawn Farrell, Executive Vice-president of BC Hydro, and Donald Hayes, President and principal shareholder of Hayes Forest Services Limited).

A subsequent board of directors will be selected, based on the skills and competencies developed by the first board. All subsequent directors will serve a two-year term. http://www2.news.gov.bc.ca/news_releases_2005-2009/2006ARR0013-000373.htm Last accessed April 29, 2006.

4.4 The Kelowna First Ministers Meeting (Kelowna FMM) November 24-25, 2005: “Closing the Gap”

4.4.1 Background

Planning for Kelowna FMM began early in 2005, led by a Steering Committee with representation from federal, provincial, and territorial governments, and from five national Aboriginal Organizations. Drawing on the results of the April 19, 2004 Roundtable, the Sectoral Follow-up Sessions, and the Spring 2005 Policy Retreat, the Steering Committee set the policy areas for discussion in Kelowna as: education, housing, economic opportunities, health, and relationships.

4.4.2 The Kelowna FMM Agreements

Two multilateral agreements were reached by the conclusion of the Kelowna FMM:

- a) “Strengthening Relationships and Closing the Gap” (CLOSING THE GAP) – a multi-sectoral accord between Canada’s First Ministers and National Aboriginal Leaders, calling for federal investment of \$5.085 billion over 5 years in “closing the gap” between Aboriginal peoples and other Canadians in education, housing, economic opportunities, and health, and in “strengthening relationships and moving forward”; and
- b) “First Nations Implementation Plan” (THE PLAN) – a ‘modalities manual’, outlining the governing principles, commitments and operational protocols for carrying out the main accord.

One of those protocol elements calls for “... implementation of [CLOSING THE GAP] by working together at the regional level ... focus[ing] on developing practical approaches through existing tripartite or bilateral processes or through new processes where necessary, [taking] regional circumstances into account.”¹⁸³ The “Transformative Change Accord” is such a “practical approach”, setting out how the Governments of Canada and British Columbia and the Leadership Council (representing the First Nations of British Columbia) “... intend to implement [CLOSING THE GAP and THE PLAN] in British Columbia.”¹⁸⁴

The following pages provide a ‘bare bones’ outline of the substantive features of CLOSING THE GAP,¹⁸⁵ THE PLAN¹⁸⁶ and THE TRANSFORMATIVE CHANGE ACCORD, **highlighting** key elements for their relevance to British Columbia’s Joint Forum.

¹⁸³ Assembly of First Nations and Government of Canada, *First Nations Implementation Plan*, Ibid, 1

¹⁸⁴ Governments of Canada and British Columbia and the Leadership Council (representing the First Nations of British Columbia), *Transformative Change Accord*, November 25, 2005, 1
http://www.gov.bc.ca/arr/down/transformative_change_accord.pdf Last accessed April 30, 2006.

¹⁸⁵ http://www.gov.bc.ca/arr/down/fmm_final_document.pdf Last accessed April 29, 2006.

¹⁸⁶ http://www.ainc-inac.gc.ca/nr/prs/s-d2005/02749bk_e.html Last accessed April 29, 2006.

4.4.2.1 CLOSING THE GAP – A Bare Bones Outline

INTRODUCTION

- Agreement
 - Take immediate action to improve the quality of life for the Aboriginal peoples of Canada in four important areas – health, education, housing and relationships
 - Enhancing economic opportunities is a key priority area for multilateral action
 - Indicators to measure progress are needed
- Acknowledgement
 - Aboriginal and treaty rights, including rights under modern land claim agreements play an important role in improving the quality of life of the Aboriginal peoples of Canada
 - Aboriginal peoples of Canada includes the Indian, Inuit and Métis peoples of Canada
 - Inclusive of all Aboriginal peoples, who may reside on reserves or settlements, in rural or urban areas, or northern and Arctic regions

10-YEAR COMMITMENT TO CLOSING THE GAP

- Commitment
 - ***Strengthen relationships between Aboriginal peoples and federal, provincial and territorial governments***
 - ***Based on enhanced collaboration, effective working partnerships and mutual respect***
 - 10-year dedicated effort to closing the gap in the quality of life that now exists between Aboriginal peoples and other Canadians.
 - ***Move forward in ways that build on the principles enshrined in the Constitution including the recognition and affirmation of existing Aboriginal and treaty rights***

MEASURING PROGRESS

- Agreement
 - Measuring progress is critical in the effort to close the gap
 - Broad indicators in education, housing and health will be used to assess progress
 - Specific measures and targets will be developed at regional and sub-regional levels
- Goal is to achieve progressively better results over the next 10 years

GUIDING PRINCIPLES

- Recognizing and respecting the diverse and unique history, traditions, cultures and rights of the Aboriginal peoples of Canada which include the Indian, Inuit and Métis peoples of Canada
- Addressing the differing circumstances of Aboriginal peoples in all regions and communities regardless of place of residence or legal status
- Working collaboratively with First Nations, Inuit and Métis women to address their needs through their participation in the development of culturally relevant policies and programs that affect Aboriginal peoples;
- Working collaboratively with First Nations, Inuit and Métis in an inclusive manner on policy and program development
- Respecting existing bilateral, tripartite and multilateral agreements and processes
- Respecting regional differences
- Being accountable and reporting regularly to respective constituencies on achieving progress through agreed-upon culturally relevant indicators and targets

EDUCATION

- Agreement
 - Improving the educational outcomes of all Aboriginal learners, is essential
 - to building a more prosperous and self-reliant future for all Aboriginal peoples
 - to promoting personal well-being and positive social change.
 - All stages of the life long learning continuum are critical to achieving better results, with the support of parents, families, elders and communities
 - Means linking and enhancing programs all along the continuum, in particular:
 - Early learning
 - Child care
 - Post-secondary education
- Agreement

- Goal is closing the gap in K-12 educational attainment between Aboriginal learners and other Canadians by 2016, while respecting and supporting their unique cultures, traditions, and languages
- Measure progress towards closing the gap by increasing the number of Aboriginal secondary school graduates

HOUSING

- Agreement
 - Affordable, stable and good quality housing is essential to ensuring positive outcomes for First Nations, Inuit and Métis and their communities
 - Aboriginal peoples experience some of the worst housing conditions in Canada
 - Housing influences many aspects of life
 - Individual health and well-being
 - Educational achievement
 - Social interactions
 - Labour market attachment
 - Community identity
 - Housing sector provides employment, creates investment opportunities and stimulates and supports economic activity
 - Aboriginal peoples must be involved in determining their own housing solutions
 - Flexible approaches need to be applied to address regional, community and individual circumstances

- Agreement
 - Goal is closing the gap between Aboriginal peoples and other Canadians in housing conditions and housing opportunities, in a manner that strengthens their self-reliance
 - Achieving this goal will require
 - Re-thinking current approaches to Aboriginal housing policy, services and supports
 - Increasing housing supply
 - Maintaining the existing stock in good condition

 - Needs of Aboriginal women will be addressed
 - Measure progress towards closing the gap in access to affordable, suitable and adequate housing for Aboriginal peoples by a reduction in levels of core housing need

- Government of Canada undertaking

- Make investments in the off/non-reserve context, recognizing the responsibility of provinces and territories in the area of housing.

ECONOMIC OPPORTUNITIES

- Agreement
 - Opportunities for early actions must be seized
 - Regionally-based strategic frames that can address economic opportunities for Aboriginal peoples within the circumstances of each of the diverse regions of Canada could assist in:
 - Addressing the key components of economic opportunities for all Aboriginal peoples
 - Facilitating effective economic opportunity partnerships and relationships among all parties
 - Initiate regional distinctions-based processes, which are inclusive of all Aboriginal peoples, as well as with federal-provincial-territorial governments and private sector representatives to identify economic opportunity strategies
- Commitment
 - Economic Development/Industry and Aboriginal Affairs Ministers and National Aboriginal Leaders will develop regionally-based strategic frames to facilitate economic opportunities and partnerships and report through the multilateral process(es) to First Ministers

HEALTH

- Agreement
 - On September 13, 2004 to develop a Health Blueprint
 - To improve the health status of all Aboriginal peoples
 - Goal is closing the gap in health status between Aboriginal peoples and other Canadians
 - Health Blueprint is a 10-year transformative plan on Aboriginal Health
 - Contains First Nations, Métis and Inuit frameworks and will guide the federal government in collaboration with its partners
 - Recognizing that the achievement of long term goals requires long term funding commitments
 - Implementation of the Health Blueprint
 - Through federal initiatives
 - Through the development of plans at the level of each province and territory

- Through tripartite negotiated agreements that respect the constitutional roles and responsibilities of governments
- Measure progress toward closing the gap, as assessed by key indicators
- Partners will work to strengthen the capacity
 - To assess progress
 - To refine health indicators

STRENGTHENING RELATIONSHIPS AND MOVING FORWARD ¹⁸⁷

“First Ministers and National Aboriginal Leaders are committed to strengthening relationships between Aboriginal peoples and federal, provincial and territorial governments. These relationships will be based on enhanced collaboration, effective working partnerships and mutual respect.

The Government of Canada and provincial/territorial governments agree that Aboriginal peoples need the capacity to more effectively participate and contribute to the development of policies, programs and services that affect them.

Regional Implementation

First Ministers and National Aboriginal Leaders agree the commitments outlined in this document must be implemented by working together at the regional level. Implementation will focus on developing practical approaches through existing tripartite or bilateral processes or through new processes where necessary. These regional processes will respect the distinctions among First Nations, Inuit and Métis and will also be inclusive of all Aboriginal peoples. Regional circumstances will be taken into account.

Implementation will also include setting targets, monitoring and reporting progress at a regional level.

First Ministers will direct their governments, through Aboriginal Affairs and appropriate sector Ministers, to participate in these distinctions-based regional processes with regional Aboriginal organizations.

For the Government of Canada and the provincial and territorial governments, implementation of the commitments outlined in this document will be the joint responsibility of sector ministers and ministers responsible for Aboriginal Affairs.

¹⁸⁷ As this section seems particularly relevant to the Joint Forum process (and vice versa), *CLOSING THE GAPS*'s text is reproduced in its entirety. *CLOSING THE GAPS*, Ibid, 9-11

Multilateral

First Ministers and National Aboriginal Leaders also recognize that there are overarching issues of joint interest and functions that are best discussed through an annual meeting that includes all parties. Separate and apart from regional implementation, First Ministers and National Aboriginal Leaders also recognize the need for discussing issues collectively through distinctions-based multilateral forums.

Aboriginal Affairs ministers and National Aboriginal Leaders will meet annually for a two-day session to review progress. Sectoral ministers may also participate or report on progress as appropriate. The two days will include distinct First Nations, Inuit and Métis forums with the respective Leaders, the Government of Canada and relevant provinces and territories.

Participants will:

- Monitor and report on progress, in collaboration with sector ministers, to First Ministers towards closing the gap based on agreed indicators;*
- Support preparation for future meetings of First Ministers and National Aboriginal Leaders;*
- Discuss issues and interests of Aboriginal peoples in urban areas;*
- Address emerging issues (e.g. economic opportunities, violence against women, environmental issues);*
- Provide advice to regional processes;*
- Identify linkages between sectors; and*
- Share information on best practices.*

First Ministers and National Aboriginal Leaders agree that, in order to assess progress on commitments, they will need to receive regular reports. They will meet again in two to three years when they are in a position to measure progress.”

FIRST NATIONS**Strengthening Relationships and Moving Forward¹⁸⁸**

“First Ministers and First Nations Leaders acknowledge the special relationship between First Nations and the Crown. This is complemented by the commitment of the Government of Canada and First Nations to the joint development of a bilateral implementation plan.

First Nations and First Ministers recognize the importance to First Nations of self government in achieving political, social, economic and cultural development and improved quality of life.¹⁸⁹

First Nations Multilateral Forum

At the national level, a First Nations Multilateral Forum will be established to facilitate discussions with the Government of Canada and all provincial and territorial governments except Nunavut on First Nations-specific issues. The Forum will be convened annually at the Ministerial level to coordinate efforts and monitor progress:

- ***The Forum will be composed of ministers of Aboriginal Affairs, First Nations leaders and sectoral ministers as appropriate and agreed to by First Nations and federal, provincial and territorial governments.***
- ***The Forum will advise regional multilateral processes, create linkages across sectors and guide and monitor the implementation of national commitments, as appropriate.***
- ***The Forum will also report to future First Ministers Meetings.”***
- Reporting will be based on a set of preliminary national indicators which could include:
 - Life expectancy, infant mortality, childhood obesity and premature mortality;
 - Educational attainment, linked to language acquisition, and employment;
 - Housing affordability, suitability and adequacy, and water quality.

Education

- Commitment by Government of Canada and First Nations Governments/Organizations
 - Working to improve the educational outcomes of First Nations learners by

¹⁸⁸ As this section seems particularly relevant to the Joint Forum process *CLOSING THE GAPS* text is reproduced in its entirety.
CLOSING THE GAPS, Ibid, 11-12

- Implementing First Nations jurisdiction and control over education
 - On-reserve or
 - In self-governing First Nations
 - With the collaboration, through negotiation, of provincial/territorial governments;
 - Developing First Nations regional and sub-regional K-12 education systems
 - Supporting high quality environments for First Nations learners
 - On reserve, and
 - Those attending schools established pursuant to self-government and sectoral agreements
 - Through investments
 - in facilities and innovations
 - in curricula
 - in teachers/administrators
 - Supporting First Nations school governing bodies (outside public education systems)
 - Developing and supporting First Nations/provincial/territorial/federal protocols or arrangements
 - To improve educational outcomes for First Nations learners;
 - Supporting the development and implementation of First Nations school systems performance management, assessment and reporting mechanisms
- Commitment
 - Work together to better support all First Nations learners moving between First Nations schools and public education systems, using:
 - Reciprocal tuition arrangements
 - Effective interface between First Nations and provincial/territorial teacher certification, and certification of teachers in First Nations language and cultures
 - Recognition of graduation requirements
 - Exchange of appropriate student information
 - Data sharing
 - Professional development
 - Reciprocal sharing of knowledge and expertise.

Housing

- Commitment by Government of Canada and First Nations
 - To work together to address housing needs by:
 - Developing a series of new initiatives that focuses on enhancing and supporting First Nations control over housing
 - On-reserve and
 - Pursuant to self-government and sectoral agreements

- Develop new approaches in First Nations housing, including the development of new institutional arrangements.
- Developing practical means and tools required for fundamental/incremental reform of housing delivery of on-reserve housing and;
 - Implementing changes (pursuant to self-government and sectoral agreements) including
 - Supporting increased market based housing, with
 - Ability to lever funds in financial markets
 - Capacity development
 - Increased investments in housing-related training and infrastructure
 - Ensuring housing investments are focused on areas of greatest need
 - Addressing needs of First Nations women including
 - Housing issues arising from marital or relationship breakdown
 - Exploring new options to support greater community access to land and improved land management capacity
 - Developing alternative financing instruments and new relationships with First Nation-controlled financial institutions
 - Managing economic opportunities that flow from these initiatives (e.g. home construction and maintenance)
 - Maximize direct benefits to First Nations communities
 - Supporting social/subsidized housing requirements
 - Address immediate housing shortages and overcrowding
 - Provide assistance on basis of need

Water Infrastructure on Reserve

- Government of Canada
 - Accepts responsibility for assisting First Nations with respect to necessary potable water infrastructure on reserve
 - Commits to working jointly with First Nations to develop the necessary infrastructure required for an effective housing strategy on reserve
 - Accelerate activities to ensure the safety of water supplies within established water and wastewater standards
 - Continue improvements in other basic infrastructure including roads and fire protection
 - *Developing and implementing, with First Nations, a regime for the testing and regulation of water in First Nations communities*
 - *Commits to seeking collaboration with provinces and relevant territories through agreements*

- Government of Canada and First Nations
 - Commit to develop indicators to measure progress on these critical elements related to improving housing conditions on reserve
 - In collaboration with provincial and relevant territorial governments.

CONCLUSION¹⁹⁰

- Shared commitment to action by all parties
- First step in a 10-year dedicated effort to improve the quality of life of the Aboriginal peoples of Canada
- Agreement First Ministers and National Aboriginal Leaders
 - To take immediate action
 - To build on their commitments over time, wherever possible
 - To move forward in a manner that will achieve the maximum results for all
 - Aboriginal peoples of Canada

¹⁹⁰ Sections focused on particular Inuit and Metis issues have not been addressed here. For discussion, see: *Closing the Gaps*, Ibid, 14-18

4.4.2.2 THE PLAN: A Bare Bones Outline¹⁹¹

Purpose - to reflect that federal commitments to promote the goals of the First Ministers Meeting (FMM) will be implemented consistent with:

- Principles and objectives of the *First Nations-Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments*:¹⁹²
 - *Commit the Parties to work jointly*
 - *to promote meaningful processes for reconciliation and implementation of section 35 rights*
 - *with First Nation governments*
 - *to achieve an improved quality of life*
 - *to support policy transformation in other areas of common interest*
 - *affirming and having regard to the principles set out in the Accord*

Regional Implementation Keys

- *Focus on developing practical approaches*
 - *Through existing tripartite or bilateral processes or*
 - *Through new processes where necessary*
 - *Regional circumstances will be taken into account.*
- *Cooperation as a partnership cornerstone; requiring*
 - *Honorable processes of negotiations*
 - *Respect for requirements for*
 - *consultation*
 - *accommodation*
 - *justification*
 - *First Nations' consent*

¹⁹¹ *Highlighting indicates resonance to the Joint Forum process.*

¹⁹² For analysis of the Political Accord's essential terms and significance, please refer to Section 4.2.2, from page 64.

- First Nations involvement in implementation of Government of Canada's FMM commitments and investments.
- ***Federal commitments made in CLOSING THE GAP must be developed and implemented consistent with the First Nations-Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments¹⁹³***
- Recognition of importance to First Nations of self government in achieving
 - Political, social, economic and cultural development
 - Improved quality of life

National Implementation Keys

- ***First Nations Multilateral Forum will be established to facilitate discussions with the Government of Canada and all provincial and territorial governments except Nunavut on First Nations-specific issues***
- ***The Forum will be convened annually at the Ministerial level to coordinate efforts and monitor progress***
 - ***Advising and supporting regional multilateral processes***
 - ***Creating linkages across sectors***
 - ***Guiding and monitoring the implementation of national commitments, as appropriate***
- The Forum will report to future First Ministers Meetings based on a set of preliminary national indicators
- ***Government of Canada and First Nations governments***
 - ***Will work collaboratively with First Nations women***
 - ***To address their needs through their full participation in the development of culturally-relevant policies and programs***
 - ***Recognize role of provincial and territorial governments in supporting and complementing the joint efforts in this First Nations Implementation Plan***

¹⁹³ Note repeated incorporation of the Political Accord's explicitly joint and collaborative approach.

Health

- First Nations Blueprint Framework identifies several specific federal commitments including
 - Sustainability
 - Strengthening the role and capacity of First Nations in
 - Public health
 - Telehealth
 - First Nations capacity in health research
- First Nations collective vision is to be served by their own distinct yet coordinated health system which
 - Ensures a full continuum of services, a holistic approach to health and the integrity of traditional healing practices
- New approaches proposed in the Blueprint will be informed by any discussion of health within the treaty and fiduciary context
 - ***In the context of the First Nations-Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments***
- Government of Canada commits
 - To invest to enhance First Nations health programs and services
 - To ensure the long-term sustainability of the First Nations governments and organizations to deliver health services including through accreditation of facilities, streamlined reporting and patient support
- All parties
 - Agree on the need for improved coordination and collaboration in addressing gaps between and within
 - Federally-funded, provincially- funded and territorially-funded continuing care services
 - Will initiate steps in the short term to ensure this happens

Education

- Commitment by Government of Canada and First Nations governments/organizations to working to improve the educational outcomes of First Nations learners by:
 - ***Implementing First Nations jurisdiction and control over education on-reserve or in self-governing First Nations, with the collaboration, through negotiation, of provincial/territorial governments***

- Developing First Nations regional and sub-regional K-12 education systems and supporting First Nations school governing bodies (outside public education systems)
 - Supporting high quality environments through investments in facilities and innovations in curricula and teachers/administrators
 - for First Nations learners on reserve
 - for First Nations attending schools established pursuant to self-government and sectoral agreements
 - Developing and supporting First Nations/provincial/territorial/federal protocols or arrangements to work together to improve educational outcomes
 - Supporting the development and implementation of First Nations school systems performance management, assessment and reporting mechanisms
- Commitment by First Nations, Provinces and territories, and, when appropriate, the Government of Canada
- Work together to better support all First Nations learners moving between First Nations schools and public education systems, using measures including
 - Reciprocal tuition arrangements
 - Effective interface between First Nations and provincial/territorial teacher certification
 - Certification of teachers in First Nations language and cultures
 - Recognition of graduation requirements
 - Exchange of appropriate student information
 - Data sharing
 - Professional development
 - Reciprocal sharing of knowledge and expertise

Housing¹⁹⁴

- Commitment by Government of Canada and First Nations
- To work together to address housing needs by:
 - Developing a series of new initiatives that focuses on enhancing and supporting First Nations control over housing
 - On-reserve and
 - Pursuant to self-government and sectoral agreements
 - Develop new approaches in First Nations housing, including the development of new institutional arrangements.

¹⁹⁴ Almost verbatim to language in CLOSING THE GAP

- Developing practical means and tools required for fundamental/incremental reform of housing delivery of on-reserve housing and;
 - Implementing changes (pursuant to self-government and sectoral agreements) including
 - Supporting increased market based housing, with
 - Ability to lever funds in financial markets
 - Capacity development
 - Increased investments in housing-related training and infrastructure
 - Ensuring housing investments are focused on areas of greatest need
 - Addressing needs of First Nations women including
 - Housing issues arising from marital or relationship breakdown
- Exploring new options to support greater community access to land and improved land management capacity
- Developing alternative financing instruments and new relationships with First Nation-controlled financial institutions
- Managing economic opportunities that flow from these initiatives (e.g. home construction and maintenance)
 - Maximize direct benefits to First Nations communities
 - Supporting social/subsidized housing requirements
 - Address immediate housing shortages and overcrowding
 - Provide assistance on basis of need

Water Infrastructure on Reserve

- Government of Canada
 - Accepts responsibility for assisting First Nations with respect to necessary potable water infrastructure on reserve
 - Commits to working jointly with First Nations to develop the necessary infrastructure required for an effective housing strategy on reserve
 - Accelerate activities to ensure the safety of water supplies within established water and wastewater standards
 - Continue improvements in other basic infrastructure including roads and fire protection
 - Developing and implementing, with First Nations, a regime for the testing and regulation of water in First Nations communities
 - *Commits to seeking collaboration with provinces and relevant territories through agreements*

- *Government of Canada and First Nations*
 - *Commit to develop indicators to measure progress on these critical elements related to improving housing conditions on reserve*
 - *In collaboration with provincial and relevant territorial governments.*

ECONOMIC OPPORTUNITIES

- Economic opportunities
 - Encompass economic activity both within First Nations communities as well as First Nations involvement in wider economies
 - Include wealth creation among both individuals and communities
 - Include business arising from the implementation of Aboriginal and treaty rights and land claims agreements
 - which are priority subjects under the *First Nations-Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments*¹⁹⁵
- Agreement
 - Opportunities for early actions must be seized, such as
 - Economic infrastructure, training and skills development, connectivity, improving the regulatory environment, resource development, and business investment
- Government of Canada and First Nations Agreement
 - Develop regionally-based strategic frameworks to facilitate economic opportunities and partnerships
 - *In collaboration with provincial and territorial governments*
 - Report through the multilateral process(es) to First Ministers

¹⁹⁵ It is interesting that while the Economic Opportunities section of THE PLAN otherwise follows CLOSING THE GAP, this clause was inserted – again emphasizing the policy influence of the Political Accord.

4.4.2.3 “THE TRANSFORMATIVE CHANGE ACCORD”: Conceptual Frame of Reference and Operating Framework

As noted earlier, this agreement between the Governments of British Columbia and Canada and the Leadership Council (representing the First Nations of British Columbia) sets out how the parties intend to implement the November 24-25, 2005 Kelowna First Ministers’ Agreement, *Strengthening Relationships and Closing the Gap* (CLOSING THE GAP) in British Columbia.

The TRANSFORMATIVE CHANGE ACCORD’s significance lies in the extent to which ‘how’ it implements CLOSING THE GAP is conditioned and framed by the collaborative terms and spirit of two prior agreements: *A First Nations –Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments* (the Political Accord) and *The New Relationship*:

“Two important documents preceded the First Ministers’ Meeting:

- First Nations - Federal Crown Political Accord - on the Recognition and Implementation of First Nations Governments signed in May 2005
- The New Relationship - A vision document setting out an initial work plan to move toward reconciliation of Aboriginal and Crown Titles and Jurisdictions within British Columbia

The goals in each document continue to be pursued and the understandings reached in both serve as the foundation for this tripartite accord.”¹⁹⁶

The debt owed to both those documents is acknowledged:

“The purpose of this Accord is to bring together the Government of British Columbia, First Nations and the Government of Canada to achieve the goals of closing the social and economic gap between First Nations and other British Columbians over the next 10 years, of reconciling aboriginal rights and title with those of the Crown, and of establishing a new relationship based upon mutual respect and recognition.”¹⁹⁷

The uncertainty of the current period of change is also acknowledged, *as is the importance of the ingredients of “effective working relationships”*:

“The Accord acknowledges and respects established and evolving jurisdictional and fiduciary relationships and responsibilities, and will be implemented in a manner that seeks to remove impediments to progress by establishing effective working relationships.”

¹⁹⁶Governments of Canada and British Columbia and the Leadership Council (representing the First Nations of British Columbia), *Transformative Change Accord*, Ibid, 1-2

¹⁹⁷ Supra, 2

The Accord draws further power (and political legitimacy) from the strength and even-handedness of its guiding principles:

“The actions and processes set out herein are guided by the following principles.

- Recognition that aboriginal and treaty rights exist in British Columbia.
- Belief that negotiations are the chosen means for reconciling rights.
- Requirement that consultation and accommodation obligations are met and fulfilled.
- Ensure that First Nations engage in consultation and accommodation, and provide consent when required, freely and with full information.
- Acknowledgement and celebration of the diverse histories and traditions of First Nations.
- Understanding that a new relationship must be based on mutual respect and responsibility.
- Recognition that this agreement is intended to support social and economic well-being of First Nations.
- Recognition that accountability for results is critical.
- Respect for existing bilateral and tripartite agreements.”¹⁹⁸

That sense of ‘even-handedness’ by affirming:

“the importance of First Nations’ governance in supporting healthy communities. Actions set out in this Accord and in subsequent action plans will reflect this reality.”¹⁹⁹

The Accord then completes its framing of CLOSING THE GAP very neatly. On the one hand, it acknowledges the need for flexibility, “... a 10 ten year plan must by necessity evolve over time”; and on the other hand, it stresses that “concrete actions are required at its outset to build the relationships and momentum to achieve the desired outcome. Accordingly, the parties to this Accord agree to undertake immediate actions in the following areas: ...”²⁰⁰

In my earlier treatment of CLOSING THE GAP and THE PLAN, I attempted to distil the substantive elements of the agreements in point form. The drafters of the TRANSFORMATIVE CHANGE ACCORD make that unnecessary: the substantive elements were taken from CLOSING THE GAP, and the particular issues upon which the parties “agree to undertake immediate actions” were set out in point form:

“To improve relationships by:

¹⁹⁸ Supra, 2. These principles resonate strongly with the grounding principles laid out in the Political Accord – see page 64-67 for discussion.

¹⁹⁹ Supra, 2

²⁰⁰ Supra, 2

- *Supporting a tripartite negotiation forum to address issues having to do with the reconciliation of Aboriginal rights and title;*
- *Engaging in the review and renewal of claims, treaty implementation and self-government policies;*
- *Holding an annual meeting of political leaders intended to jointly discuss issues of mutual concern, report on progress and plan ongoing action; and,*
- *Developing and implementing a communications plan to increase public awareness of the diversity and value of First Nations cultures, including support for the 2008 North American Indigenous Games*

Possible Indicators include:

- *Concluded Treaties and other agreements*
- Increased awareness by the public of diversity and value of First Nation cultures ...

To close the gap in education by: ...

To close the gap in housing and infrastructure by: ...

To close the gap in health by: ...

To close the gap in economic opportunities by: ...”²⁰¹

The TRANSFORMATIVE CHANGE ACCORD concludes by confirming the need to build accountability on a foundation of rigorous reporting, and by noting that such reporting will require the commitment of both resources and care in the gathering of information.

4.4.3 The Common Denominator: A Collaborative Approach

While of course all three of the FMM Agreements are political accords and subject to the uncertainties inherent in that realm, in the context of relationship-building, these agreements are still very significant. Representing the successful culmination of two years of multilateral negotiations on a national scale, the FMM Agreements and the key principles embodied in them are supported by broad consensus.

Beyond the consistent focus on the substantive themes of economic development, education, health, and housing, I note the over-riding emphasis on the importance of strengthening relationships, and the explicit provision for development and use of collaborative processes and institutions. In PART I of this report, I observed that the Joint Forum’s commitment to pursuing a joint and collaborative approach to policy development and planning has yielded at least two dividends. First, creative insights and solutions have germinated from the seeds

²⁰¹ Supra, 3-5

of misunderstanding and conflict. Second, relationships have been strengthened by the very process of collaboration – by joint pursuit of common purpose.

The signatories to the various agreements outlined in PART II would benefit similarly from shared participation in a meaningful and on-going collaborative process.

4.5 A New Strategic Approach for a ‘New Joint Forum’

4.5.1 Establishing the Need

The Joint Forum process was launched in 1999 as one of a “range of joint First Nation/[INAC] processes...”, whose purpose was “... to improve and increase the partnership approach to planning and policy development.”²⁰² While from time to time other federal government departments and ministries of the Government of British Columbia have participated in the Joint Forum, that participation has tended to be intermittent and ad hoc in nature.²⁰³ The Joint Forum events themselves are vulnerable to displacement by competing events and priorities because of the ad hoc approach generally used in their planning. Success in relationship-building requires continuity of connection and clarity of commitment.

The Province of British Columbia and its major political parties appear determined to build a New Relationship with First Nations, whatever may transpire in the uncertain world of politics. Many of the commitments outlined in the “Action Plans” and “Management Committee and Working Groups” sections of the New Relationship Vision Statement overlap with the JF Steering Committee’s Terms of Reference, including the commitment to “engage the Government of Canada.”²⁰⁴

Precisely because political events and accords are inherently uncertain, a broadly based, well-defined and well-established platform for on-going dialogue and collaboration is needed.

4.5.2 Re-positioning the Joint Forum as a Platform for Multilateral Dialogue and Collaboration

The Joint Forum offers excellent potential for such a broad-based platform. Already well-established, flexible and trusted, the Joint Forum and its Steering Committee have demonstrated their ability to serve a broad range of perspectives. However, to function as the hub for truly multilateral and on-going collaborative dialogue, the ‘New Joint Forum’ would be required to deliver a range of performance elements with consistency.

²⁰² Joint Planning and Policy Development Forum (Joint Forum) November 23-24, 1999, *Summary Report*, Ibid, 1

²⁰³ Notable exceptions include on-going participation of Canada Mortgage and Housing Corporation (CMHC) in the Aboriginal Housing Committee, and the joint work of CMHC, Health Canada and INAC through the BC Mould Technical Committee. For discussion, please see pages 54-55.

²⁰⁴ *The New Relationship Vision Statement*, Ibid, 4-5

A preliminary discussion list of such elements should include ‘Accountability’, ‘Continuity’ and ‘Objectivity’:

- Accountability
 - Protocol to confirm and commit
 - Foundation objectives
 - Guiding principles
 - Lines and terms of communication
 - Resources and sources
 - Financial
 - Formula for provision of financial support by participants
 - Administration
 - Communication

- Continuity
 - Steering Committee and Secretariat
 - Administration
 - Coordination
 - Communication
 - Commitments for
 - Convening
 - Communicating
 - Reporting

- Objectivity
 - A stand-alone administrative and communications platform
 - Protocol to confirm terms of funding by and accountability to participants

5.0 Summary

I have been asked “to undertake an objective review and analysis of the records and history of the Joint Forum from origins to present, to consider these and related recent political and policy developments, and to report on the findings.”²⁰⁵

Throughout PART I, I noted various best practices evident in the work of the Joint Forum and its Steering Committee. Particular emphasis was given to:

- Strong and balanced representation of First Nations and INAC on Joint Technical Committees and the JF Steering Committee
- De-fusing difficult issues by addressing them jointly, openly and regularly through the Joint Forum and Committee processes
- Commitment to reality
 - focusing Joint Forum discussion on
 - issues that are relevant to participants and their communities
 - on generation of Recommendations and Commitments directed at action
 - tracking the implementation of those Recommendations and Commitments
- Recognition of importance of regular reporting and communication
- Quality of Steering Committee judgment in managing the interwoven complexities of its political and policy environments
- Quality of Steering Committee focus and commitment regarding the importance of ‘walking the talk’ - building sustainable relationships through conscious and daily practice of a collaboration approach to engagement

Throughout PART I, I also commented on opportunities for improvement in the Joint Forum process as I have seen them. Three key areas were noted:

- Improving execution in communications: ensuring regularity of monthly newsletters, web site postings and progress reporting
- Addressing ‘dis-connects’ between planning and decision-making, and between decision-making and execution

²⁰⁵ Harivel, Colin, Acting Manager, Strategic Planning and Communication, INAC BC Region, Email correspondence, March 17, 2006

- Consideration of a ‘stand-alone’ administration and communications platform for the Steering Committee Secretariat was suggested.
- Addressing the current ‘shopping basket’ approach to the recording of JF Steering Committee meeting proceedings
 - Tendency to roll together the recording of matters involving different contexts
 - Recommend that reporting protocol be revised to support separation of:
 - Policy from Procedure
 - Discussion from Decision
 - Recommendation from Commitment

In PART II, I outlined the key events and agreements leading to the Kelowna First Ministers’ Meeting (Kelowna FMM), and then I reviewed the Kelowna FMM Agreements (CLOSING THE GAP, THE PLAN, and The TRANSFORMATIVE CHANGE ACCORD). The integrated and cumulative quality of their grounding principles²⁰⁶ was recognized, and their common commitment to development and use of collaborative practices and institutions was considered. The suitability of a renewed Joint Forum as a broad and inclusive platform for on-going and multilateral collaboration was discussed, and the principles of accountability, continuity and objectivity were proposed as core elements of Joint Forum renewal.

6.0 Conclusion

The implications of the implementation uncertainty surrounding the FMM Agreements defy simple summation. Seismic shifts of the political landscape are in progress. The compelling point is that the highly collaborative approaches and institutions called for in all three FMM Agreements represent keys to successful relationship-building – in any political environment. Stating the compelling need for collaborative engagement and for a cooperative approach to policy development is easy enough. The difficulty lies in the execution. Establishing trust and maintaining it through tumultuous events demands more than sincerity of intention and commitment. ‘Walking the talk’ is essential – execution with consistency and continuity.

²⁰⁶Most notably in The TRANSFORMATIVE CHANGE ACCORD:
“Two important documents preceded the First Ministers’ Meeting:

- First Nations - Federal Crown Political Accord - on the Recognition and Implementation of First Nations Governments signed in May 2005
- The New Relationship - A vision document setting out an initial work plan to move toward reconciliation of Aboriginal and Crown Titles and Jurisdictions within British Columbia

The goals in each document continue to be pursued and the understandings reached in both serve as the foundation for this tripartite accord.”

Governments of Canada and British Columbia and the Leadership Council (representing the First Nations of British Columbia), *Transformative Change Accord*, Ibid, 1-2

‘Walking the talk’ requires more than effort and discipline, especially in an environment as complex and fast-moving as that of the Joint Forum. Strong, capable leadership and significant resources are required. Managing the Joint Forum process already demands a great deal of the Region’s leadership and organizational resources. I have been impressed by the quality of leadership, organization and care evident in the records that I have reviewed. But, even more leadership and organization will be needed to deal with the Joint Forum’s coming opportunities and challenges.

The Joint Forum is an enormous undertaking, raising serious administrative, communications and political challenges, and imposing heavy demands on resources. It is also a process of enormous potential. Beyond explicit improvements to policy and planning, the Joint Forum’s greatest value is implicit: by its very existence, and through the many working relationships that give it life, the Forum process offers daily opportunities to engage in truly collaborative planning and joint action – renewing partnerships in and through that process.

I hope that this review makes a meaningful contribution to the building of the foundation needed for the Joint Forum’s next five years. It has been an honour to be entrusted with the responsibility of looking closely at its first five years.

Appendix 1

Terms of Reference Joint Planning and Policy Development Steering Committee Updated May 2005

Background:

At the Gathering Strength community meetings held in BC and at the Joint First Nations-INAC management meeting in Montreal (1999), First Nations and government agreed that the annual government planning process and the government policy process should be undertaken as much as possible in a joint manner. As a result, a Joint Planning and Policy Development Forum (Joint Forum) was held in November, 1999. Representatives from Tribal Councils and unaffiliated bands along with representatives from INAC and other departments attended workshops and an Open Space session. At the Open Space, recommendations regarding operational policies and planning processes were developed in a number of areas such as: First Nation Public Service and Capacity Building, Capital, Youth Empowerment, Social Development, Reciprocal Accountability, First Nation Involvement in INAC Policy Development, Dismantling the Department – a Vision for the Future, and Funding Issues.

Scope of Joint Planning and Policy Development Forum Process:

Within INAC BC Region, the authority to affect policy and process changes is confined to regional operational matters. We are looking to jointly make changes within the boundaries set out by national policy and legislation in order to better serve First Nations in the areas of program and service delivery and administration.

Issues pertaining to national policy, program funding allocations and priorities, or direction requiring legislative amendments are outside of the purview of Forum participants (ie: First Nations or INAC BC Region) or the Steering Committee (SC) to authorize change. However, recommendations from Forum participants and joint First Nations/INAC committees of this nature will be communicated by the SC to First Nation national organizations and INAC headquarters for consideration and to inform national discussions on these issues.

Role of Steering Committee (May 2003):

Committees

- Report regularly to First Nations and INAC on the progress of those policy initiatives identified as priorities;
- Develop and maintain communication links between Forum participants and joint First Nation/INAC committees which are undertaking review, change and development of INAC operational policy and planning processes.

Recommendations/Commitments/Issues

- Coordinate the efforts of joint First Nations/INAC committees to ensure that overlaps, gaps and complementary issues are identified and addressed;
- Provide direction and guidance to joint First Nation/INAC committees as required;
- As identified by Forum participants and joint First Nations/INAC committees, make recommendations to First Nation national organizations and INAC headquarters on issues of a national or legislative nature.

For clarification, the SC does not replace existing Joint First Nation/INAC working committees in reviewing, changing and developing policy. These latter committees are made up of technical experts in specific policy areas and, as such, are best qualified to consider the merits and implications of proposed policies, policy changes and planning processes. The SC will encourage First Nation communities to participate directly with joint First Nation/INAC committees respecting policy and planning issues of primary concern to them.

Participation:

- Participation in the SC is open to any First Nation or INAC representative on a voluntary basis and originates through participation in the Joint Planning and Policy Development Forum;
- A new SC may be formed at the conclusion of each annual Forum and new SC members are welcome throughout the year;
- Membership participation review will occur every 2-3 years.

Action Plan:

Committees

- Develop and maintain links with joint First Nations/INAC committees which review, change and develop INAC operational policy and planning processes;
- Identify areas of duplication and critical gaps across First Nation/INAC committee mandates, and provide information and advice to resolve.

Recommendations/Commitments/Issues

- Take policy initiatives identified as priorities during the Forum and ensure that they are directed to the appropriate joint First Nation/INAC working committees and INAC BC Region directorates for action;
- Monitor action or lack of action on the recommendations made at the Forum and provide direction as needed.

Communications

- Report regularly to First Nations and INAC on the progress of those policy initiatives identified as priorities, including any identified issues;
- Make recommendations to First Nation national organizations and INAC headquarters with respect to issues of national policy, program funding allocations and priorities and legislative amendments as identified by Forum participants and working committees.

Forum Process

- Undertake the planning and implementation of the annual Forums, which may include regional forums designed to encourage greater participation by First Nation communities in joint policy and planning processes.

Approach:

The SC will use a joint approach to doing business where ever possible:

- The SC will ensure that First Nations and INAC sit together, address concerns and report on completed work at the next Forum;
- Administrative activities undertaken on behalf of the SC will be done jointly and will not be exclusively departmentally-driven.

Communications:

- The SC will develop a communications strategy to inform and consult with First Nations on progress in joint planning and policy development; and will attend other committees and provide information about joint planning and policy development.

Working Group:

- The SC may form working groups from its membership to undertake specific tasks;
- Participation on the SC does not preclude participation in working groups. Steering Committee members can choose to participate in working groups or sub-committees.

Membership:

Membership on the SC will consist of the following:

- Representatives from many sectors and geographic regions as possible;
- Mix of technicians and politicians;
- Must commit to 2 year term (review conducted in 2003);
- INAC representatives are RDG, ARDG, all Directors, and Managers from Funding Services, Economic Development and Business Partnerships, Strategic Planning and Communications and Intergovernmental Affairs;

- Honorary Chairs/Members.

Meeting Frequency:

- The SC will meet at least every three months;
- Conference calls will occur on an ad-hoc basis.

Remuneration:

Remuneration is provide for committee members who are not in receipt of a salary or wages. Travel is provided for meetings and attendance at Forums. Members are asked to attend only sub-regional Forums within their geographical area.

Joint Forum Steering Committee Membership 2005-2006

Victor Robinson, Gitanmaax First Nation (one year leave of absence)

Howard Grant, First Nations Summit Task Group

Grand Chief Ed John, First Nations Summit Task Group

Chief Stewart Phillip, Union of BC Indian Chiefs

Cameron Beck, Bonaparte Nation

Pearl Hunt, whe-La-La-U

Shawn Atleo, Vice-Chief, BC-AFN

Mike Mearns, Aboriginal Finance Officers of BC

Ray Gerow, BC Counsel for Aboriginal Economic Development

Jennifer Guscott, A/Regional Director General, INAC*

Ted Adnitt, Director, Funding Services, INAC

Patrick Kelly, Director, Strategic Planning and Communications, INAC

Bill Zaharoff, A/Director, Intergovernmental Affairs, INAC

Thomas Howe, A/Associate Regional Director General, INAC

Joanne Wilkinson, Associate Director, Lands and Trusts Services, INAC

Tim Low, A/Director, Economic Development and Business Partnerships, INAC

Cindy Hubbard, A/Manager Strategic Planning, INAC

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Document Name	CIDM #	Date
Letter to Joint Forum Participants	#394081	August 22, 2005
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BCJPPDF: Sustainable Housing Joint Forum Executive Summary	#361535	March 30-April 1, 2005
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Comprehensive Funding Arrangement/Terms and Conditions for BOLT 4 Youth Forums		November 16, 2004
Comprehensive Funding Arrangement Amendment, Budgets and Receipts for Youth Forums		September 27, 2004
Building Our Legacy Together Planning Session: Phase One Proposal		March 25, 2004
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First Nations Social Development Steering Committee Society Information Guide	#349705	
Joint INAC/First Nation Capital Policy Development Committee Progress Report and Request Letter	#306567	March 2005
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Counsel for BC Aboriginal Economic Development Progress Report and Request Letter	#3085098	March 2005
Tribal Council Advisory Committee Progress Report and Request Letter	#308641	March 2005
Joint First Nations / INAC BC Region Committees List	#135129	February 2005
BC Aboriginal Housing Technical Committee Information, Mandate and Terms of Reference		February 11, 2005
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Joint Forum Steering Committee Draft Workplan	#386057	2005-2006
Joint Forum Steering Committee Membership	#230242	2004
Joint Planning and Policy Development Forum Steering Committee December 1-2, 2004 Planning Meeting and Meeting Summary	#342062	December 1-2, 2004
Joint Forum Steering Committee Planning Meeting - Meeting Summary	#348186	December 1-2, 2004
Joint Planning and Policy Development Forum Technical Committee Meeting Signature List		December 1-2, 2004
Joint Planning and Policy Development Forum Steering Committee Meeting Package		December 1-2, 2004
Joint Forum Steering Committee Package		October 5, 2004
Joint Forum Steering Committee Meeting Notes – Draft – Musqueam First Nation Band Office		October 5, 2004
Joint Forum Steering Committee 2004-2005 Workplan		February 2004
Joint Planning and Policy Development Forum Steering Committee Update – Monthly Newsletter		From September, 2003 to September 2004
Joint Forum Steering Committee Meeting Letter		December 3, 2003
Joint Planning and Policy Development Forum Steering Committee Meeting Notification Letters		February 4, 2002 until November 20, 2003

Letter to the Joint Forum Steering Committee Members		August 19, 2003
Joint Forum Steering Committee 2003 Workplan	#150229	July 2003
Participation on the Joint Planning and Policy Development Forum Steering Committee Letter		June 3, 2003
Joint Forum Steering Committee Conference Call Meetings – Feb. 2002-Feb. 2003		Feb. 11, 2002; April 8, 2002; July 8, 2002; Feb. 7, 2003
Joint Planning and Policy Development Forum Steering Committee Direction Statement - Draft		
Joint Forum Steering Committee Meeting Notes		April 24-25, 2003
Joint Planning and Policy Development Forum Steering Committee Meeting – Campbell River, BC		September 30, 2001
Joint Planning and Policy Development Forum Steering Committee Meeting	#162562	July 29-30, 2002
Joint Planning and Policy Development Forum Steering Committee Invitation and Appreciation Letters		May 23, 2002 to November 20, 2002
Joint Planning and Policy Development Forum Steering Committee Letter		October 25, 2001
JPPDF Steering Committee Rejection Letter		September 7, 2001

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JPPDF BUDGET INFORMATION

Document Name	CIDM #	Date
Sustainable Housing – Joint Policy Forum Invoice		March 30-31, 2005
Budget Transfer Request		December 17, 2004
Musqueam Indian Band - Invoice		10/05/04
Paula Point - Invoice		10/05/04
Naut'sa mawt Tribal Council Budget Information		March 10, 2004
Proposed Budget Transfers between Naut'sa Mawt Accounts		October 8, 2003
Naut'sa mawt Tribal Council – Campbell River Indian Band Invoice		November 25, 2002
Naut'sa mawt Tribal Council - Expenditures		November 21, 2002
Joint Planning and Policy Development Forum Follow-Up Working Session Expense Information		February 10, 2000
Final Budget – Tribal Council Policy Review Follow-Up / Joint Planning and Policy Development Follow-Up		February 8-10, 2000

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