Joint Presentation

Renewed Relationship between the Mohawks of Kahnawake and the Government of Canada
Introduction

A renewed relationship between the Mohawks of Kahnawake and Canada is needed:

< Mohawks have a long history of governing themselves
< The *Indian Act* passed in 1876 has imposed a band council system

The draft Umbrella Agreement sets the framework for this new relationship.

The draft Sub-Agreements describe Kahnawake jurisdiction over:

< Education, Mohawk Language and Culture
< Kahnawake Membership
< Kahnawake Lands
< Policing Aspects of the Administration of Justice
The Context

- Turning-Point: 1988 police intervention in Kahnawake
  - Kahnawake community gave the mandate to the Mohawk Council of Kahnawake to negotiate a new relationship
- Signature of an agreement on a negotiation process in 1991
- Canada’s policy on self-government changed:
  - 1995: recognition of Aboriginal peoples’ inherent right to self-government within section 35 of the *Constitution Act*
- Royal Commission on Aboriginal Peoples (RCAP)
  - 1996: tabling of the Royal Commission’s Report
  - Need to transform the relationship between Aboriginal peoples and Canada to one of co-operation and growing successes
- Gathering Strength:
  - 1998: Canada’s response to the Royal Commission, a commitment to renewal and reconciliation
Kahnawake is managing its own affairs and has established a number of institutions including:
- Education System
- Hospital
- Cultural and Mohawk Language Instruction Centre
- Economic Development Commission
- Social institutions
- Caisse Populaire

Agreements between Kahnawake and Quebec in 1999
Draft Umbrella Agreement

Key Elements

- Provides framework for renewed relationship based on trust and mutual respect
- Forms the basis for legislation entitled *Canada-Kahnawake Intergovernmental Relations Act*, which establishes a process to gradually replace the application of the *Indian Act* on Kahnawake Territory
- Makes provisions for a Kahnawake Charter, based on Mohawk customs and traditions, which will establish rules governing the Mohawk Government of Kahnawake in areas such as:
  - democratic form of governance
  - law-making process
  - leadership selection
  - accountability
  - conflict of interest rules
  - rights of appeal and redress
Draft Umbrella Agreement

Key Elements (Cont’d)

- Lists 27 areas of jurisdiction and/or authority set out in Sub-Agreements to be negotiated over the next 5 years
  - Within these areas of jurisdiction, Kahnawake will make laws and Canada will have no role in approving these laws.
- Establishes processes that will give effect to Sub-Agreements
- The draft Umbrella Agreement also covers:
  - Relationship of laws
  - Establishment of a Canada/Kahnawake Commission
  - Dispute resolution mechanisms
  - Basic protections for individual and collective rights
  - Interim provisions for administration of justice
  - Continuation of the fiduciary relationship
  - Financial relationship between Canada and Kahnawake (government-to-government relationship)
Sub-Agreements

Key Elements

A Sub-Agreement covers:
< Description of the jurisdiction and/or authority to be exercised by Kahnawake
< Specific rules for resolving conflicts between laws
< Identification of those *Indian Act* provisions that will no longer apply
< Ratification procedures

Four draft Sub-Agreements have been negotiated to date
Draft Sub-Agreement

Education, Mohawk Language and Culture

Kahnawake has jurisdiction within its Territory:
- Primary, secondary and special education, including the continuing ability of students to transfer between education systems
- Administration of post-secondary support funding
- Preservation, enhancement and promotion of Mohawk language and culture

Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to education, Mohawk language and culture

In the event of a conflict, Kahnawake laws in relation to education will prevail over federal laws in relation to First Nations Education.

In the event of a conflict, Kahnawake laws in relation to Mohawk language and culture will prevail over federal laws in relation to First Nation languages and culture.

The provisions of the *Indian Act* dealing with this sub-agreement will no longer apply to Kahnawake.
Draft Sub-Agreement

Membership

Mohawk Government of Kahnawake has jurisdiction on membership.

Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to membership.

In the event of a conflict, Kahnawake laws in relation to membership will prevail over federal laws in relation to First Nation membership.

Any person entitled to be registered as an Indian under the Indian Act will continue to be registered by the Registrar of the Department of Indian Affairs and Northern Development.

The provisions of the Indian Act dealing with membership will no longer apply to Kahnawake.
Lands

- Mohawk Government of Kahnawake has jurisdiction over its lands including:
  - Development
  - Management
  - Use
  - Possession

- Once this sub-agreement is in effect, Kahnawake will make the decisions with respect to lands.

- In the event of a conflict, Kahnawake laws in relation to lands will prevail over federal laws in relation to lands reserved for or under the control of a First Nation community.

- The provisions of the *Indian Act* dealing with this sub-agreement will no longer apply to Kahnawake.
Draft Sub-Agreement

Policing Aspects of the Administration of Justice

- Kahnawake has jurisdiction over the administration of police on its Territory including:
  - Establishment or maintenance of a police force
  - Recruitment, appointment and swearing-in of members of the police force
  - Establishment of mechanisms for independence, accountability and management of the police force
- Maintains existing agreements and protocols between Kahnawake, Canada and Quebec, and promotes mutual assistance between police forces
- Dispute mechanism as specified in the Umbrella Agreement
Next Steps

- Kahnawake:
  - Consultation on draft agreements
  - Negotiation of final agreements
  - Ratification of final agreements
- Canada:
  - Report to Cabinet on the consultation results
  - Negotiation of final agreements
  - Cabinet approval and passage of legislation by Parliament
- Negotiations of sub-agreements on remaining 23 subject matters
The Benefits

- The draft agreements represent a major milestone in the relationship between Kahnawake and Canada
  - Recognition of essential powers required by the Mohawk Government of Kahnawake for the 21st century

- For Kahnawake:
  - Build on existing foundation of governance
  - Framework for additional governance powers
  - Control over its own affairs

- For Canada:
  - Renew the relationship with Kahnawake through negotiations
  - Strengthen self-sufficiency and governance for the Mohawks of Kahnawake
  - Create a positive environment for Kahnawake with direct benefits for the region