

Making Modern Treaties Work – LCAC
BREAKOUT 4B: Revenues, Financial Relationships & Modern Treaty
Implementation

Moderator: Charles Morven, Chief Councillor, Nisg'a Village of Gitlaxt'aamiks

PANELIST 1: Mike Joyce, Consultant (See PPT for Speaker Notes)

- Focus of the presentation will be on
 - o Budget decision-making process,
 - o Spending and revenue numbers,
 - o Targets, and
 - o Unallocated reserves
- Process: Parliament
 - o Might seem odd to start with budget decision-making,
 - o But it does let me touch on what an annual budget is and is not. The Annual Budget is debated in the House of Commons. The budget debate is, however, considered a matter of confidence. Parliament plays an instrumental role in authorizing the funds needed to implement the government's budgetary policies.
 - o Who is involved: PM, Minister of Finance, with support from offices and PMO. No Cabinet committees are formally engaged in the process?
 - o The process itself is messy, iterative, contentious, highly centralized and secretive
 - o Framed, or constrained by the need to trade-off two opposing factors: fiscal flexibility and policy priorities.
 - o Final decisions on the budget are driven by: date set for tabling, trade-offs that yield politically acceptable policy options, and need for surplus/deficit/balance.
- Numbers: by component
 - o Major categories of the planned spending total
 - o Four existing budget planned spending components: transfers to persons, transfers to other levels of government, debt charges, and direct program spending.
 - o Last three pieces complete the spending picture: reserves, prudence and new policy
 - o Weighed against planned spending are revenue forecasts
- Numbers: revenue shortfall
 - o Slide shows a result where forecast revenue is insufficient.
 - o Shows challenges and the reality of an iterative and politically contentious process.
 - o Options are: cutting spending, but cutting any of the major statutory spending means changing legislation with attendant need for consultation and parliamentary review. Or on the revenues side, taxes can be increased. The last option is that government can also reduce their priorities.
- Numbers: Budget 2019 actual
 - o This slide shows the spending components using actual numbers from the fall fiscal update and illustrates the degree to which trade-offs were made in the decision-making process that led to Budget 2019.
 - o CIRNAC and ISC, through which most funding related to First Nations flows sit within the Direct Spending component

- Although claim settlements may have a legislative base, that is not necessarily equivalent to a statutory program spending – for example the Inuit of Nunavut had to sue government to get their money.
- Targets: Budget 2019 fiscal anchors
 - Traditionally, the primary fiscal outcome target has been the budgetary balance – the planned surplus or deficit
 - The government is trying to shift focus to emphasize the debt/GDP ratio as a target. Three reasons for this:
 - Volatility of the budget balance
 - Predicted year over year targets look better
 - Canada’s debt/GDP ratio has and continues to compare very favourably with other G7 countries
- Reserves:
 - Three categories of reserves: contingent liabilities, pressures, and implicit prudence.
 - These last two reserves are generally significant in budget development for two reasons:
 - amounts allocated to them decrease the fiscal flexibility available for new policy decisions in the Annual Budget
 - to the extent that the risk factors that prompted their inclusion reduce as the fiscal year unfolds, the amounts become available for allocation to additional “in-year” new policy measures
- Contingent Liabilities
 - This slide shows the contingent liabilities from the most recent public accounts.
 - CIRNAC responsible for the vast majority of the following three: pending and threatened litigation and other claims, Specific Claims, and Comprehensive land claims.
 - In fiscal planning terms, the significance is that the hit on the fiscal framework occurs at the time a liability is recognized and is available for allocation at the time a claim or litigation is settled. To the extent that amount is sufficient, settlement has no impact on the fiscal framework.

PANELIST 2: Greg Richard, Chief Economist, Fiscal Realities Economists (PPT)

- Confederation was never done properly. Fiscal arrangements, federal to leave provinces out of their business.
- What is fiscal?
 - Fiscal relating to government revenues especially taxes.
 - Funding arrangement supplement that.
- The revenue – transfer, FNs develop own source revenues, increased value.
- FN should contribute to generating their own revenues, not only way to develop own source revenue.
- Economist framework. – Eligible population.
- Need transfers, other government commitments to come through.
- What is fiscal arrangement?
- Which government has what revenue jurisdictions?
 - Most need to renegotiate every 8 years.

- Which government delivers which services i.e. (health)?
 - o Each First Nation needs to negotiate funds, contribution funding.
 - o Which government actually pays for services?
- How does system of transfers reconcile two and three?
- Your sovereignty is your legal power and fiscal power. Control your own revenues under treaty, extensive list, some are not subject to claw backs i.e., direct members tax, capital transfers, interest capital, sale of land.
- Federal government has caveat we can change this at any time.
- Report card – funding to date is below provincial standards.
- Checklist, assess your treaty, Revenues, does treaty make revenues more politically secure?
- When it comes to expenditures and services, what is your responsibility, with out funds what do you do?
- We have been working on this issue and have created a set of revenue and expenditure we want excluded, take over responsibility and take government out of it.
 - o First Nation Land Management Act is a good model.

PANELIST 3: Corinne McKay, Secretary Treasurer, Nisga’a Nation (PPT)

- Building today for a better tomorrow. Nisga’a treaty was signed in May 2000 and the 20th Anniversary is coming up.
- In 1887 Nisga’a first petitioned to have the “land question” settled. In 1998 signed land agreement, which came into effect 2000.
 - o Nisga’a owns and controls 2000 km of land.
- Financial Administration and defined in Financial Administration Act.
 - o Federal and Provincial provides funding for governance, services, etc.
 - o Improvement, funding for governance, land and resource funding, moratorium on own source revenue deductions, infrastructure, housing and social well being gaps.
- Provincial funding FFA#3 collaborate with modern treaty nations to develop new fiscal arrangements. Fiscal Financing Agreement (FFA) #3 was approved by Wilp Si Ayuukhl Nisga’a in 2019.
- FFA #3 obligates British Columbia (BC) to develop, in collaboration with
- modern treaty nations a new fiscal policy. On November 5th 2019 Nisga’a Nation formally joined the BC Modern Treaty Nations by signing a Memorandum of Cooperation
- Personal income taxes
 - o Campaign to members that revenues will come back to our Nation as revenue.
 - o Legislation to enact Real Property Tax Coordination Agreement was introduced and passed by Wilp Si’ayuukhl Nisga’a in July of 2014
 - o Any development on Nisga’a lands we can have own source revenues.
- The Capital Finance Commission (CFC) was established to enable the financing of major maintenance or replacement of FFA listed assets. The CFC meets to consider submissions under Schedule C of the FFA, and to consider submissions under the New Assets Act.
- Settlement trust develop revenue for the trust.

- We have increased revenues and looking to meet our goals.

PANELIST 4: Michael Welters, Partner, Aldridge + Rosling LLP (PPT)

- Discussion around the fiscal relationship and the implementation of fiscal relationship.
- We are dealing with governments that are constitutionally protected. Indigenous governments should be part of fiscal confederation, we are not there yet. We are implementing fiscal chapter framework principles set out agreements.
- Indigenous governments are not happy with policy on rebuilding fiscal policy from ground up. Significant step forward.
- When implementing fiscal chapter Canada taken a step forward to change the policy.
- Can engage and collaborate with self-government, but the policy process is not perfect.
- BC is more challenging, we have agreement with funding, BC brings land and BC fiscal relationship with band council was not effective.
- BC is different from Canada ISC.
- Talking on how to fix the fiscal relationship and the renewal of fiscal agreements. We hope to improve fiscal relationship with British Columbia.
- Tax policy in Canada advances slowly.
- Implementation of income tax and GST. On modern treaty lands, is a cost-effective way to do things, however narrow self-governance control.
- BC shares income tax, smaller base, revenue sharing.
- Harmonized approach caused challenges to deal with local situation.
- Tax sharing arrangement was too small of a tax base. Sharing arrangement too small, Indigenous Governments will always be dependable on federal transfers. Indigenous Governments should be a part of the fiscal confederation.
- We are working in piece meal and fragmented environment. We are trying to improve Indigenous Governments to take their proper place in confederation.
- Historically they have been underfunded. Once this is looked after, then we can start dealing with bigger issues.

Questions:

1. What are key factors?

Response:

- 20 years later, it is the implementation chapter.
- Work needed to be done for many years. We have had the same general council for 50 years, benefit of corporate memory and knowledge. We need capacity funding so people can come back and help our people.
- Strong fiscal chapters is key to success.

2. Different mandates from Canada, cost or save?

Response

- If we do not invest in our young people, we affect society as a whole. We took an active part to help our people help ourselves.
- It is very costly to negotiate and fix relationship. When government works with First Nation governments, we move quicker.
- Broader fiscal perspective, the risks GDP growth could be a vulnerability.

- There is a pressure on government for how much money will continue to flow, many buckets are partially filled and we need to keep pressure on government. There are also the risks of changing governments which will impact the process.
- Need to have a strategy to deal with changes and pressures.
- We saw changes with bureaucratic inertia.

3. What are the best practices?

Response:

- Settlement trustees to diversify investments, investments into self-sustaining projects, pay ourselves; invest into our project there for the long term.
- To ensure we provide best opportunities for our young people, to improve our families. We want to continue to improve our revenue generation agreement possible.
- We are part of BC projects, opportunity to be a part of projects happening in our regions, to ensure we invest in young people.
- We want to prepare ourselves for market decline.