



TE'MEXW
TREATY ASSOCIATION

KEY ISSUES OF TREATY









OUR KEY ISSUES

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Photo: T'Sou-ke Nation, June 2019

OUR KEY ISSUES

Each Te'mexw member Nation will have specific issues that are important to it but, generally, the key issues for all member Nations include:

-  **Self-Government:** First Nations have the right to govern themselves according to their own traditions, free of the Indian Act. Through self-government, Nations can take steps towards becoming self-determining and self-sufficient.
-  **Hunting, Fishing and Gathering:** The Te'mexw member Nations have been hunting and harvesting food from the lands and waters in their territories for thousands of years. Protecting this right is integral to continuation of their cultures.
-  **Land and Waters:** The land and waters have deep spiritual, economic, and political significance for our member Nations. Their traditional territories are integral to their identity and survival as distinct Nations.
-  **Fiscal Arrangements:** Modern treaties would bring many changes to the way the Nations, BC and Canada interact with one another. This includes how the parties would contribute to the newly defined economies. Knowing the financial impacts of the treaty process is an essential step to understanding how it can benefit each party.

A scenic landscape photograph showing a calm body of water in the middle ground, with a dense forest of evergreen trees on a hill in the background. In the foreground, there is a grassy field with a wooden fence. The sky is clear and blue. A dark blue rounded rectangle is overlaid on the upper left portion of the image, containing white text.

Q.

What is the difference between Indian Status and Citizenship?

A.

Indian Status is issued by the federal government to individuals who meet the criteria under the Indian Act. Citizenship is issued by your Nation under the criteria set and agreed to by the people. Citizenship under your Nation comes with rights and responsibilities that are set out in the Nations constitutions and modern treaties if approved.

Photo: Fir Tree Notch. Snaw-naw-as Nation, NFN Campsite

SELF-GOVERNMENT

The Te'mexw Treaty Association negotiates self-government rights for each of the member Nations. Modern treaties would give Nations the ability to get out from under regulation imposed by the Indian Act. Gaining recognition of the inherent right to self-government and self-determination means that Te'mexw member Nations may manage their own communities and freely determine their own political, economic, social, and cultural development in accordance with their values.



Photo: Youth Summit, March 7th 2020

CHALLENGES

One of the challenges currently faced by many First Nation communities in implementing self-government is being bound by the legal constraints of the Indian Act. The Indian Act imposes many restrictions on First Nations governments such as restrictions on membership, governance structure, elections, land management and the types of laws that can be passed. Self-government under the Indian Act is also limited by the need for federal approval for many actions taken under the Act. Additionally, it faces the risk that the federal government can amend the Indian Act at any time. A modern treaty would allow each Nation to implement laws, governance structures and practices that best fit their Nation, under an agreement with BC and Canada that can only be amended if all parties agree. Moving away from the Indian Act would allow Nations to transition towards true self-government.



Photo: 2019 AGA

SELF-GOVERNMENT

ELIGIBILITY & ENROLMENT

Nation members will need to enrol to vote on their treaty following the criteria and process the Nation sets out in their modern treaty . Enrolment will also be necessary to receive the benefits of a modern treaty.

If the treaty is ratified, everyone who meets the enrolment criteria will have the right to be a Citizen of the Nation. Each Nation can also decide to extend citizenship to others and what the criteria for additional citizens will be.

GOVERNANCE STRUCTURE

With a constitution and a treaty, Nations will be able to determine what their governance structure looks like and how the leaders of the Nation's government are selected. Each Te'mexw member Nation is currently in the process of developing its own constitution. The building of a government and a constitution provides each Nation with the ability to create a governance model that is aligned with its unique traditions, culture and values. Prior to contact with settlers, our member Nations governed their communities without outside interference. Returning to self-determination is central to their survival as distinct Nations.



Photo: 2019 AGA

GOVERNANCE POWERS

The modern treaties would set out the governance powers of each Te'mexw member Nation, Canada and BC on and off Treaty Settlement Land. It is expected that modern treaties would give Te'mexw member Nations the choice to exercise many more powers than are currently allowed by the Indian Act.

With self-government, members of each Nation will be better able to contribute to and meaningfully participate in the decisions that affect their lives.

Under modern treaties, Te'mexw member Nation Citizens with Indian Status would continue to be able to access programs and services generally available to Status Indians across Canada, such as non-insured health benefits, in addition to any new programs and services their Nations put in place.



Photo: 2019 AGA



HUNTING, FISHING AND GATHERING

For thousands of years, First Nations people have harvested and gathered food, medicine and materials from their lands and waters. Today, these traditions are protected as Aboriginal or treaty rights by section 35 of the Canadian Constitution. Te'mexw member Nations' harvesting rights have been greatly impacted by development and urbanization, but continue to be important for the Te'mexw member Nations and their members.



HUNTING

The Te'mexw member Nations hold Douglas Treaty rights to hunt over unoccupied lands, but the Nations' views of what these rights include often differ from the provincial government's view. Modern treaties would recognize hunting rights within certain wildlife harvest areas to be negotiated between the Nation, Canada and BC, subject only to conservation, public health and public safety. Te'mexw member Nation Citizens would also be able to trade and barter wildlife and wildlife parts harvested under the treaties among themselves or with other Indigenous people in Canada.

We also expect the modern treaties would address the rights of Te'mexw member Nation Citizens to hunt outside of their traditional territories under protocols with other Nations.

Under modern treaties, the Nations would also have law-making power with respect to hunting and trade and barter of wildlife by Te'mexw member Nation Citizens.

HUNTING, FISHING AND GATHERING

FISHING

The Te'mexw member Nations have fished the waters in their territories since time immemorial and hold Douglas Treaty rights to "carry on our fisheries as formerly."

Accordingly, TTA is not negotiating fishing rights in the modern treaties. However, TTA is exploring other options to improve the Nations' access to fisheries.

GATHERING

Under modern treaties, Nation Citizens would be able to gather plants for food, medicines, household goods and apparel within their respective Plant Gathering Areas to be negotiated between the Nations, BC and Canada. Nation Citizens would have the right to trade and barter these plants among themselves or with other Indigenous people in Canada. The Te'mexw member Nation governments would be able to make laws regarding the gathering of plants by Nation Citizens.



Photo: Beecher Bay First Nation, June 2019

An aerial photograph of a vast, dense evergreen forest. In the upper right, a coastline is visible with a blue body of water and distant mountains under a cloudy sky. The forest is composed of various shades of green, with some trees appearing darker and others lighter, suggesting different species or canopy heights. A small, light-colored path or clearing is visible on the right side of the forest.

LAND AND WATERS

For thousands of years, First Nations people have harvested and gathered food, medicine and materials from their lands and waters. Today, these traditions are protected as Aboriginal or treaty rights by section 35 of the Canadian Constitution. Te'mexw member Nations' harvesting rights have been greatly impacted by development and urbanization, but continue to be important for the Te'mexw member Nations.



TREATY SETTLEMENT LANDS (TSL)

Each Nation would have a treaty that outlines and affirms land and water (surface water and groundwater) management rights. This would allow the Nations to make decisions about how the land and water on TSL are used and protected. Under modern treaties, current reserves, some parcels of former Crown lands and some lands held privately by the Nations would become TSL and would be under the ownership and control of the member Nation.

Photo: T'Sou-ke Nation, June 2019

LAND AND WATERS

WATER

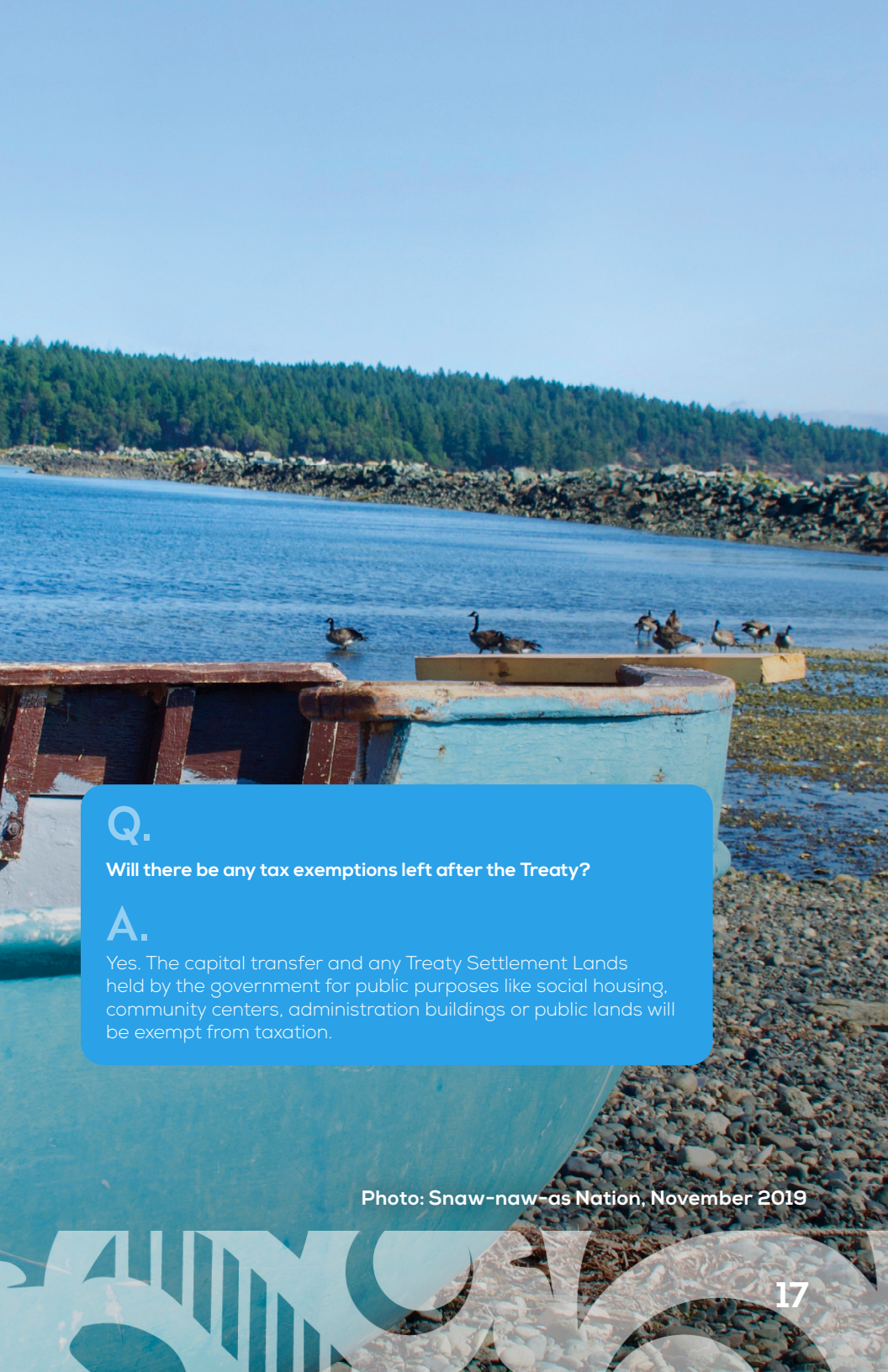
Where needed, modern treaties would set aside certain amounts of surface water for the Nations' industrial and domestic use. The Nations would have the power to determine who uses this water and how. TTA, Canada and BC are currently negotiating groundwater options.

TTA, Canada and BC are also negotiating what powers and rights the Nations will have over foreshore and marine areas adjacent to Treaty Settlement Lands.

PRIVATE PROPERTY

Private property (fee simple land) is not available for negotiation in the treaty process, except on a willing-buyer, willing-seller basis. Current land offers to the Te'mexw member Nations as future Treaty Settlement Lands consist of federal and provincial Crown land and other lands held privately by the First Nations.

The modern treaties would include a process for adding private property acquired from willing sellers to Treaty Settlement Lands after the Effective Date of the modern treaties. This would be particularly useful in urban areas where Crown land is limited.



Q.

Will there be any tax exemptions left after the Treaty?

A.

Yes. The capital transfer and any Treaty Settlement Lands held by the government for public purposes like social housing, community centers, administration buildings or public lands will be exempt from taxation.

Photo: Snaw-naw-as Nation, November 2019



FISCAL

Treaties bring certainty to land ownership, jurisdiction, economic development, and new investment. Through treaties the Te'mexw member Nations would be able to provide services appropriate to the cultural, economic, and social needs of their communities.

The fiscal (financial) parts of the treaties are crucial. A variety of revenue sources would ensure that each Nation's government can function properly and deliver improved programs and services for its members. These revenue sources would include the capital transfer, taxation, fiscal financing agreements, implementation funding and the Nation's revenues from economic development.



CAPITAL TRANSFER

The Capital Transfer is a series of scheduled payments from Canada and BC to each Nation beginning on the Effective Date of the modern treaties. The Capital Transfer and Land Fund are the “cash” in the “land and cash offer”. The Capital Transfer money may be used by the Te’mexw member Nations, and their governments as they choose.

LAND FUND

The Land Fund is provided by Canada and British Columbia to a Te’mexw member Nation as part of the “cash” in the “land and cash offer” and is intended to be used to purchase additional Crown or private lands. These lands may be added to Treaty Settlement Lands subject to the agreement of the Nation, BC and Canada.

Photo: Sheringham Point, T’Sou-ke Nation

TAXATION

Taxation generally provides the largest stream of revenue for any government. Such revenues will be critical to allow the Te'mexw member Nations to provide programs and services to their Citizens. Under modern treaties, each Nation would have the ability to tax the income of businesses and individuals on the Nation's lands and collect property taxes. We expect that a large proportion of these taxes would go to the Nation to fund the programs and services of their government. Some of the provisions on taxation would be covered in the modern treaty itself, and others would be in side agreements.

Under modern treaties, the current Indian Act tax exemptions for Status Indians would be phased out gradually over time after the Effective Date of a modern treaty. Citizens earning below a certain minimum would not pay income tax.

FISCAL FINANCING AGREEMENT

To ensure that each Nation's government is properly funded and able to deliver the programs and services required by its Citizens, a Fiscal Financing Agreement will be negotiated with Canada and BC. This would set out a series of annual payments beginning on Effective Date to be renegotiated periodically.



LOAN FORGIVENESS

In the federal budget of 2019, the federal government announced that all treaty negotiation support loans would be forgiven. Moving forward, negotiations will be funded entirely by grants (money TTA does not have to pay back to the federal and provincial governments).

FUNDING TO IMPLEMENT THE TREATY

If modern treaties are ratified, the Nations will need to have the ability to implement their treaty and governance structure. Implementation funding will be negotiated to allow each Nation to make that transition to Effective Date and beyond. For example, the Tsawwassen First Nation treaty agreement provided \$13.5M (2009\$) for start-up and transition costs. The treaty agreement with the five Maa-nulth First Nations provided \$47.3M (2011\$) to fund transition and implementation costs. This fund will allow the Nation to take the necessary steps to create their self-government.

Photo: Road to Freedom Workshop, August 2019





Q.

Who can vote on the treaty?

A.

Everyone who is a member of the band has the right to enrol to vote on the treaty. Individuals who have ancestry in your Nation and have a real connection to the communities and who go through the enrolment process will also be able to vote on the treaty.

Q.

Do we lose our Douglas Treaties?

A.

No. The Douglas Treaties will continue after the Modern Treaties but we will use our Douglas Treaty rights in accordance with the Modern Treaties and the long-term fisheries agreement.

Photo: Wooden bear carving by Barry Sam from Tsartlip



TE'MEXW
TREATY ASSOCIATION

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Photo: Malahat Nation, 2019



Malahat



Songhees



T'Sou-ke Nation

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