# THE PLAYBOOK

The Playbook is a guide for your journey through the online Understanding Our Treaties series, where you are taking the lead.

You will become a creator by sharing your reflections after you complete each series. The Playbook is here to help you get started. The action happens at <u>understandingtreaties.com/create</u> where you and other emerging leaders share and connect.



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# THE PLAYBOOK PREGAME

### WHERE TO LEARN

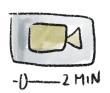
The series and episodes referenced here in *The Playbook* are on the **understandingtreaties.com** website under **LEARN**. Each episode has a video for you to watch online. You also have illustrated-text versions of each episode here in this book.

When you start a new series, look it up in *The Playbook* for questions or ideas to think about before watching the episodes.



### HOW TO CREATE

After you finish watching a series, come back to *The Playbook* and get creative with what you learned. You will find questions or ideas to help you reflect. You can use your phone, computer or pen to record your reflections in a creative way. Here are some ideas:



Record a video of yourself (keep it under 2 minutes)



Make a digital image of your written words



Draw or doodle and snap a photo of your creation



Take a photo of something that represents your reflection

Submit your creative reflections to the Community Gallery on the **understandingtreaties.com** site under **CREATE**. Your work will be seen by other learners on this journey, and it could even be featured on the site or social media. Take some time to browse work from other learners in the Community Gallery and get inspired by their stories.



# GUIDELINES FOR USING THE COMMUNITY GALLERYS

- 1. Only submit content that is respectful of others and relevant to the content on this site.
- 2. Only submit content that is your own original work (or include proper credit if you have permission to share someone else's work).
- 3. Respect the work posted by others in the gallery. Do not take it or use it without their permission.

### FREE APPS FOR CREATING A VIDEO:

Adobe Spark Video (<u>Desktop</u> | <u>Apple</u>)
Adobe Rush Video (<u>Android</u> | <u>Apple</u>)

### FREE APPS FOR CREATING AN IMAGE OR EDITING PHOTOS:

Adobe Photoshop Express (Android | Apple)

Adobe Photoshop Mix (Android | Apple)

Adobe Spark Post (Android | Apple)



### SERIES 01: THE JOURNEY STARTS HERE

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### LEARN

BEFORE YOU WATCH THIS SERIES ....



How are treaties significant (or important) to me?



What do I want to know about treaties, the treaty process, leadership, resource and land management, treaty implementation, or other treaty details?

### CREATE

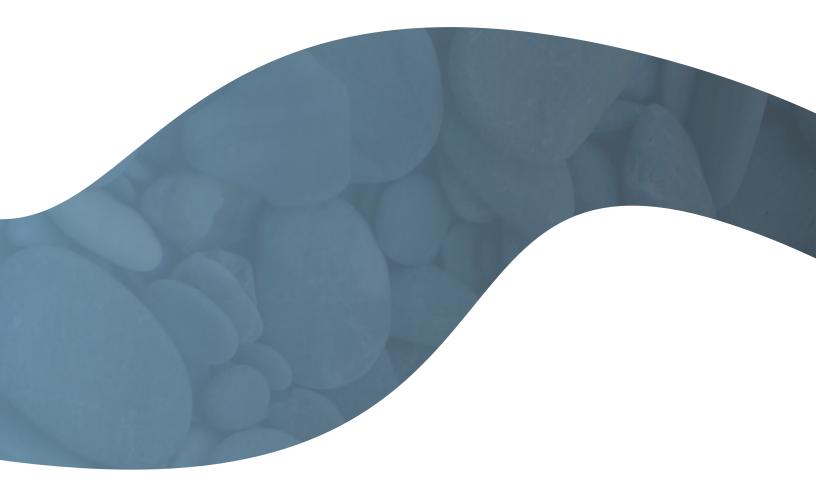
### AFTER YOU WATCH THIS SERIES ....



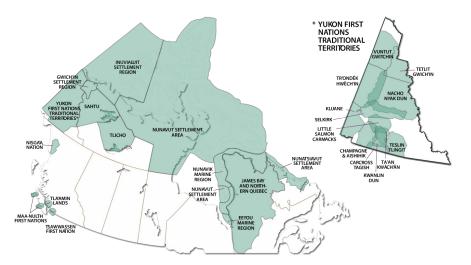
### What did I learn from these episodes?

List five facts or reflections. Choose one fact or reflection from your list and think about how it makes you feel about the past, present, or future.

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# OVERVIEW



## Modern treaties are charting new relationships between Indigenous peoples and Canada.

Since 1975, 26 modern treaties have been signed, with Indigenous people reclaiming ownership of more than 600,000 km<sup>2</sup> of land. And many more modern treaties will be signed in the coming years.

MODERN TREATY TERRITORIES MAP, FROM LAND CLAIMS AGREEMENTS COALITION

Modern treaties have a major impact on all our lives.



The treaties enable Indigenous peoples to rebuild their communities and nations on their own terms. Modern treaties are intended to improve the social, cultural, political, and economic wellbeing of the Indigenous peoples concerned.

### RIANE PETERSON

Citizen of Tetlit Gwich'in First Nation, Northwest Territories Participant, 2020 National Treaty Simulation

This series is all about inspiring you to learn about modern treaties. Elders, treaty negotiators and those implementing treaties today can also teach you how important modern treaties are for you and the generations to come!



Signing a modern treaty is a TON of work. Negotiations sometimes take decades, and once that's done, they move into implementation. Implementation is the process of figuring out how to make the treaty a reality for the communities.

Implementation is a life long journey, and, as a community member or in leadership, you will be involved in it indirectly or directly.



Many negotiators and Elders who worked hard for years on their treaties are retiring or passing away. Indigenous youth across Canada will be the next leaders of their communities.

If youth do not get involved, the spirit and intent of the hard-fought modern treaties will be lost.

JOHN B. ZOE

Citizen of Tłįchǫ Nation, Northwest Territories Negotiator, Tłjchǫ Agreement

Together, Indigenous youth can stand up for selfdetermination and redefine the relationships between their communities and the Canadian government through modern treaties.



To help youth understand the modern treaty process, the Gordon Foundation has been hosting Treaty Simulations.

Indigenous youth participate in a hands-on treaty experience, where they get to practice the real thing with experts and Elders who know about the modern treaty process. Over the course of a few days, the youth get to experience what it is like to negotiate and implement a modern treaty.







After participating in a simulation, these emerging Indigenous leaders are more interested in their modern treaties.

They build skills in negotiation practices and strategies, critical thinking, problem-solving, decision-making, public-speaking and working in teams. It is also an opportunity for Elders and experts to share their knowledge and build intergenerational connections while participants meet other young leaders for ongoing support.



My experience during the entire simulation was so powerful. I learned an incredible amount about the modern treaties process and the negotiations process, what everything is and where it all fits. I was lucky enough to be taught by experts and lucky enough to learn an incredible amount of knowledge from them.

LAURA DRAGON

Citizen of the Gwich'in Nation, Northwest Territories Participant, 2020 National Treaty Simulation I love every opportunity I have to sit down with young minds, to share the true history of our people, because sometimes in the public education system or mainstream media it's not accurate.

ED SCHULTZ

Citizen of Little Salmon Carmack First Nation Senior Analyst, Natural Resources and Environment, Council of Yukon First Nations (Involved in implementing the Yukon Umbrella Final Agreement)

It was really great to see the youth get really into it.

GERI-LEE BUYCK

Citizen of the First Nation of Nacho Nyak Dun, Yukon Participant, 2019 Yukon Regional Treaty Simulation

We lack knowledge. A lot of youth nowadays do not know what a treaty is.

JODY ANN ZOE

Citizen of the Tłįcho Nation, Northwest Territories Participant, 2020 National Treaty Simulation I thought it was a really wonderful opportunity for me to witness how keen and how interested our young people are, how quickly they learned, and how the natural leaders among them just showed right up – they shone quite brightly.

KIM SMARCH

Citizen of Teslin Tlingit
Director of Negotiations and Implementation
Teslin Tlingit Council, Yukon

Part of the simulation is to [...] get a glimpse into your own strengths and your own

JOHN B ZOE

Citizen of the Tłįchǫ Nation, Northwest Territories Negotiator, Tłįchǫ Agreement After my first simulation, I was so moved by the experience, my perspective changed. I found myself promising to not retire, but to take my place behind them [the youth], to support and mentor them as they lead the way on the next leg of the journey.

**ROBIN BRADASCH** 

Citizen of Kluane First Nation, Yukon Negotiator, Kluane First Nation Final Agreement, Yukon Director of Governance, Crown Indigenous Relations and Northern Affairs

# TREATIES AND YOUR LIFE

### Let's talk about your treaty.

In your community, the things you can see, like the school, the hospital, clinic or nursing station, the bylaw officers – these services are all connected to and affected by your treaty. There are also things we can't see, like the laws in place to protect your land, water and maybe even the natural resources around your community.

I understand that impact to be one of responsibility to pick-up that vision that was put forward by my ancestors and my Elders and past leaders.

### KRIS STATNYK

Citizen of Vuntut Gwitchin First Nation, Yukon
Associate, Mandell Pinder Law Firm

These treaties are about taking back control of our destinies, making our own decisions and determining our own fate. ROBIN BRADASCH

Citizen of Kluane First Nation
Negotiator, Kluane First Nation Final
Agreement, Yukon
Director of Governance,
Crown Indigenous Relations
and Northern Affairs



Maybe that new road in town is there because of your treaty. Your treaty might have even created new jobs in town and other projects related to business and trade.

Your treaty helped connect your community's rights to your lands. It provides you with rules for harvesting fish and wildlife on your land and rules for what non-citizens can and cannot do on your land.

You also had the ability to have law making power over your lands and your resources and the delivery of programs and services equivalent to the federal crown.

#### ED SCHULTZ

Citizen of Little Salmon Carmacks First Nation Senior Analyst, Natural Resources and Environment, Council of Yukon First Nations (Involved in implementing the Yukon Umbrella Final Agreement) It guarantees you those rights and it gives you that security to know that you can go out there and hunt, you can go out there and trap.

### DANIEL T'SELEIE

Negotiator, K'ahsho Got'ine Self-Government Negotiations, Fort Good Hope, Northwest Territories

### Modern treaties exist to better the social, cultural, political, and economic life of Indigenous people, and that includes you!

They override, or cancel, outdated rulings like the Indian Act, putting the power back into the hands of Indigenous communities, so you can make your own decisions about your future.



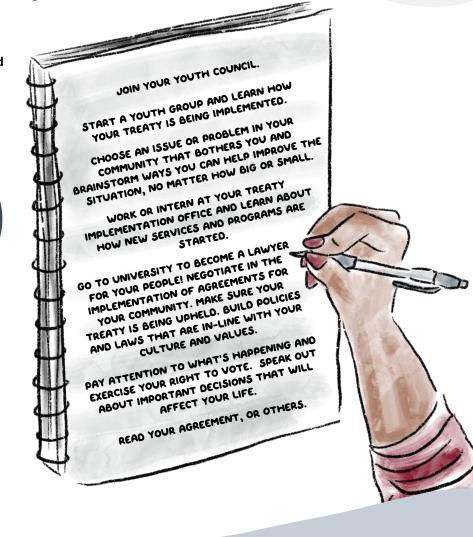
Getting involved in your community's modern treaty is an opportunity to become a leader and learn important skills to help your community move forward into the future.

As youth, there are many different ways you can get involved in the implementation of modern treaties.

### KRIS STATNYK

Citizen of Vuntut Gwitchin First Nation, Yukon Associate, Mandell Pinder Law Firm







HERE ARE SOME SUGGESTIONS FROM THE EXPERTS AND YOUTH JUST LIKE YOU...

Get curious, go to meetings, ask questions, offer to help.

### **ROBIN BRADASCH**

Citizen of Kluane First Nation, Yukon Negotiator, Kluane First Nation Final Agreement, Yukon Director of Governance, Crown Indigenous Relations and Northern Affairs

Explore your languages, explore your history.

JOHN B. ZOE

Citizen of Tłįchǫ Nation, Northwest Territories Negotiator, Tłįchǫ Agreement

Modern treaty holders and self-governing First Nations have youth

#### KIM SMARCH

Citizen of Teslin Tlingit
Director of Negotiations and Implementation,
Teslin Tlingit Council, Yukon

Start thinking about what opportunities are there for you and young people in your age group in five or ten or fifteen years.

### DANIEL T'SELEIE

Negotiator, K'ahsho Got'ine Self-Government Negotiations, Fort Good Hope, Northwest Territories

Doing practices, maintaining practices that maintain your connection to your territory, your lands and your relatives.

### KRIS STATNYK

Citizen of Vuntut Gwitchin First Nation, Yukon Associate, Mandell Pinder Law Firm Most importantly, I think they should talk to their parents, their grandparents, and see what they could acquire in terms of information about the specific treaties that apply in their territories.

### DAVE JOE

Citizen of Champagne Aishihik First Nations, Yukon Negotiator, Yukon Umbrella Final Agreement

Get involved. Start small, take baby steps if you have to. Start going to public community meetings if your community has some.

### JODY ANN ZOE

Citizen of the Tłįcho Nation, Northwest Territories Participant, 2020 National Treaty Simulation WE ARE THE NEXT GENERATION OF LEADERS AND WE NEED TO LEARN AND TO BE TAUGHT IN ORDER TO PRESERVE WHAT THE LEADERS BEFORE US HAVE FOUGHT SO HARD TO SECURE.

LAURA DRAGON

Citizen of the Gwich'in Nation, Northwest Territories

Participant, 2020 National Treaty Simulation

### SERIES 02: THE TREATY BASICS

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### LEARN

BEFORE YOU WATCH THIS SERIES ....



What do I already know about treaties, treaty history, or other treaty events?

Maybe you something about historic or modern treaties in general, or maybe you know something about your own treaty.

### CREATE

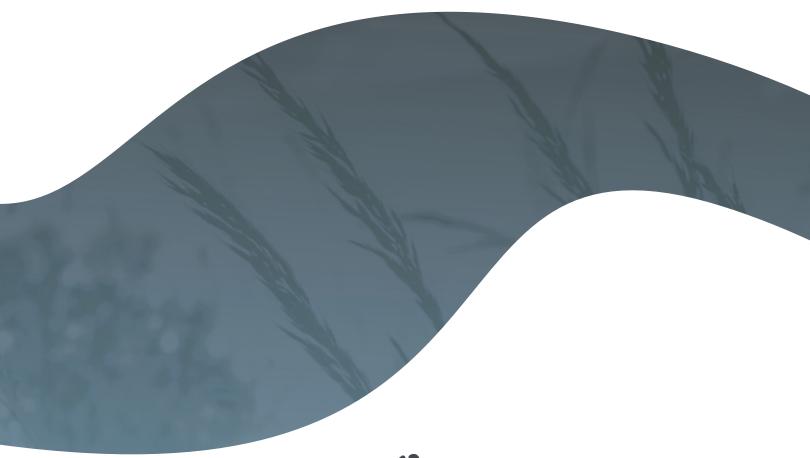
### AFTER YOU WATCH THIS SERIES ....



### What did I learn from these episodes?

List five facts or reflections. Choose one fact or reflection from your list and think about how it makes you feel about the past, present, or future.

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# TREATY 101

Treaties have a long history in the land now known as Canada. Many types of treaties were made between Indigenous groups before settlers arrived. Today, modern treaties are being negotiated across Canada between Indigenous peoples and federal, provincial, and territorial governments.



BUT WHAT IS A TREATY? AND WHAT IS THE DIFFERENCE BETWEEN HISTORIC AND MODERN TREATIES?

made with First Nations.

### Let's start with some basics about historic treaties.

Historic treaties were first made between settlers and First Nations to support peace, provide access to resources and to develop economic and military relations. They were then used to define the rights of Indigenous peoples and European newcomers and the use of lands. They were signed from early contact, which was around the 16th century, until 1923 – just over 300 years.



### And what about modern treaties?

Modern treaties are agreements between the Government of Canada, Indigenous peoples, and provincial and/or territorial governments. Unlike historic treaties, modern treaties are comprehensive and detailed, covering:

- Lands
- Environmental and social protections
- Economic development and financial compensation
- Education
- Local government
- Health and social services

Modern treaties are negotiated over a period of years rather than days, and all parties are represented by lawyers and professional negotiators. They define rights and obligations on all sides that create long-term, mutually binding commitments.

There was a plan to get us to where we are, but we changed that plan. We came back and said: 'No, you're not going to do this to us anymore. We're going to get our rights back, we're going to get our ability to think for ourselves again, we're going to create our own opportunities, we're going to create our own jobs.'

#### DANNY GAUDET

Citizen of Délįnę First Nation, Northwest Territories Negotiator, Délįnę Agreement At the end of the day, these agreements came at a high price, but I believe that they provide us with the foundation we need to build a successful future for our citizens and to allow us to take an equal role in Canadian society and a meaningful one in the governance of Canada. This overall is a good thing for all Canadians.

#### ROBIN BRADASCH

**Citizen of Kluane First Nation** 

Negotiator, Kluane First Nation Final Agreement, Yukon
Director of Governance, Crown Indigenous Relations and Northern Affairs

THE FIRST MODERN TREATY WAS SIGNED IN 1975. LET'S GO BACK A COUPLE HUNDRED YEARS AND INVESTIGATE A TIMELINE OF EVENTS AND ACTIONS THAT LED UP TO THE FIRST MODERN TREATY.

### 1763

In 1763, when Britain became the main European power, King George III put in place the *Royal Proclamation*.

This proclamation laid out protocols for British North America's relations with Indigenous peoples. It was the first public recognition by the Crown of Aboriginal rights to lands and title, acknowledging Aboriginal possession of lands not surrendered to or purchased by the Crown.

The Royal Proclamation of 1763 became the basis for the historical treaty making process. But, the British Government still claimed control over the land, and more than 78,000 settlers had already taken legal possession of land previously occupied by Indigenous peoples.



### 1867

The **Constitution Act of 1867** gave Canada exclusive legislative authority over Indigenous peoples and the land on which they lived.

Also in 1867, the Canadian government put the Indian Act in place. This act only focuses on First Nations in Canada, not Inuit or Métis. It gave the government power over First Nations' identity, politics, education, cultural practices, and other areas. It also codified the 'surrender of Aboriginal title of land' in its treaties.

### 1923

By 1923, 70 historical treaties had been signed between the Crown and 364 First Nations. These treaties were mainly designed to secure land for European settlement.

BUT, IN 1923, CANADA STOPPED TREATY NEGOTIATIONS...

In 1927, Canada passed section 141 of the *Indian Act*, banning Indigenous peoples from pursuing land claims and hiring lawyers. It was now illegal to pursue land claims, and all activity stopped. It was not until 1951 that this section of the Indian Act was removed.

When I was born, I was born into an era in which Indians couldn't vote, Indians couldn't go into bars, Indians could not own real property, Indians were forbidden to advance the land claim agreement, Indians were forbidden by the law to retain legal counsel for the purpose of advancing a land interest.

### DAVE JOE

Citizen of Champagne Aishihik First Nations, Yukon Negotiator, Yukon Umbrella Final Agreement

### 1969

In 1969, the federal government attempted to pass the **Statement** of the Government of Canada on Indian Policy, also known as the White Paper. This policy was created to eliminate the special status of Indigenous peoples in Canada and assimilate them within the Euro-Canadian society. The White Paper was withdrawn due to massive criticism.



In 1973, the Supreme Court of Canada made a decision in a case that would help usher in the era of modern treaties a couple of years later. This case had begun with legal action in the late 1960s by members of the Nisga'a Nation to prove their Aboriginal title had never been lawfully extinguished.

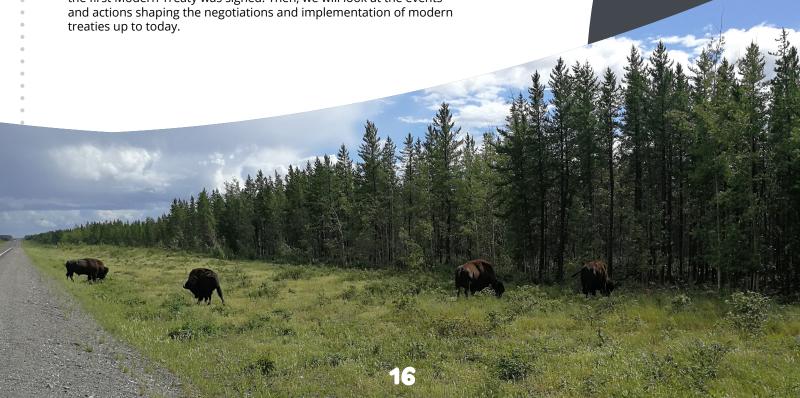
After the initial action was dismissed at trial, an appeal was made to the Supreme Court of Canada. While they did not win the appeal, the Supreme court acknowledged the existence of Aboriginal title – an important step that led to Canada beginning to address land claims.

Later in 1973, the *Comprehensive Land Claims Policy* was introduced. This policy guides the Government of Canada in the negotiation of modern treaties.



### WE WILL LEAVE OUR TREATY JOURNEY IN 1973 FOR NOW...

Tune in to **Treaty 102**, when we will jump back in at 1975, the year the first Modern Treaty was signed. Then, we will look at the events



## TREATY 102

Welcome to Treaty 102. We are picking up where Treaty 101 left off in the 1970s, then we will jump ahead to what is happening with Modern Treaties today.



LET'S RECAP. WHAT HAPPENED IN 1973 THAT HELPED USHER IN THE MODERN TREATY ERA? It was a decision by the Supreme Court of Canada that acknowledged the existence of Aboriginal title. After that event, Canada began to address land claims, leading to the development of the *Comprehensive Land Claims Policy*.

### NOW THAT WE ARE ALL CAUGHT UP, WELCOME TO THE MODERN TREATY ERA!

### 1975

The first modern treaty, the *James Bay and Northern Québec Agreement*, was signed in 1975.

Why did this treaty come about? In the early 1970s, the Government of Québec had begun constructing hydro-electric megaprojects in northern Québec without consulting the Naskapi, Cree, and Inuit peoples, whose land was profoundly affected. In 1973, the Cree and Inuit won an injunction to stop construction, which started negotiations. This pattern would be repeated many times in subsequent decades: treaty negotiations triggered by development pressures.

Comprehensive Land Claims Policy

WHAT DO YOU FIND MOST EXCITING ABOUT MODERN TREATIES? KEEP THOSE IDEAS IN MIND AS WE CONTINUE LEARNING ABOUT MODERN TREATY HISTORY. THERE'S LOTS TO COVER, SO, LET'S JUMP AHEAD TO THE 80s.

I think for the youth, for them it's about tomorrow. The past is important, of course, and certainly their traditional past is really important. All of that history is necessary to learn, only so we can learn from it to make sure we don't repeat the mistakes of the past. But going forward, the legacy, the constitutional legacy, the cultural ones, that we are leaving for our children and our grandchildren are broad, diverse, comprehensive and innovative. It's never been done before. Even our treaties and agreements on self-government are unique and have never been tested in a constitutional context in Canada. To me that's exciting, and it should be exciting for the

DAVE JOE

Citizen of Champagne Aishihik First Nations, Yukon Negotiator, Yukon Umbrella Final Agreement

### 1982

In 1982, the *Constitution Act* was passed. This Act moved constitutional authority from British Parliament to Canadian federal and provincial legislatures. Section 35 of the Act also provided important legal protection to treaty and Aboriginal rights.



### JUMPING AHEAD ANOTHER DECADE, AND WE'RE IN THE 90s NOW.

### 1995

In 1995, the Inherent Right Policy recognized the right of Indigenous groups to self-govern. It opened conversations on self-government within treaty negotiations. But, the policy was problematic because it said that Canada would not negotiate jurisdiction over some key issues and that inherent rights depended on negotiations with Canada.

LEAPING AHEAD TO THE 21ST CENTURY, A LOT HAS BEEN HAPPENING IN THE 2000'S TO SHAPE THE WAY MODERN TREATIES ARE NEGOTIATED AND IMPLEMENTED.

### 2013

In 2013, the *Interim Policy* was formed. It contained new principles regarding modern treaties that were jointly developed by Canada and First Nations, Métis and Inuit leaders. These principles sought to renew Canada's approach to negotiating and implementing modern treaties. This policy has not been finalized yet.



In 2015, the Government of Canada adopted the **United** Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

### 2019

The Government of Canada is also exploring new ways of working with Indigenous peoples towards Indigenous self-determination and the recognition of Indigenous rights. For example, Recognition of *Indigenous Rights and Self-Determination* discussion tables took place in 2019.

OUR TIMELINE HAS CAUGHT UP TO PRESENT DAY. SO, LET'S TALK ABOUT MODERN TREATIES TOOM



A modern treaty is a comprehensive legal document that defines rights and obligations on all sides for various areas. It's organized into chapters such as land and resource management, wildlife, parks and marine areas, and includes a chapter about its implementation.

Modern treaties are also called comprehensive land claims agreements. They are usually signed where Aboriginal title and rights have not been dealt with yet. Modern treaties have been signed by Inuit, First Nations and some Métis. They are negotiated individually and differ from region to region. Each modern treaty represents a people with unique cultural, political, and economic priorities.





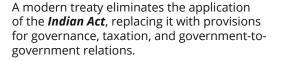
## ANOTHER QUESTION TO THINK ABOUT: WHY ARE MODERN TREATIES IMPORTANT?

For modern treaties, we set our own priorities, we determine what our goals are, we work toward those goals, we have the authority to pass legislation, people have to abide by that legislation. We determine our own destiny. We have the ability to control our own lives every day, as well as our

### KIM SMARCH

**Citizen of Teslin Tlingit** 

Director of Negotiations and Implementation, Teslin
Tlingit Council, Yukon





Modern treaties displaced the Indian Act. It displaced it and said, 'Ok, that doesn't apply here anymore, and we now have self-government here.' And our self-government was designed by our local communities. Our local communities developed their own local constitutions. They ratified those constitutions in a manner that said they would displace the Indian Act and this is our new system of governance that reflects our values, our beliefs, our customs and the way we have always done things. The land claims and self-government agreement, which can be coined as a modern treaty, was far superior, far, far more superior than the Indian Act and its limitations and its inconsistency in law and so forth.

### ED SCHULTZ

Citizen of Little Salmon Carmacks First Nation

Senior Analyst, Natural Resources and Environment, Council of Yukon First Nations (Involved in implementing the Yukon Umbrella Final Agreement)

Since 2000, all modern treaties have included self-government provisions. The right of Indigenous peoples to govern themselves is protected by Section 35 of the *Constitution Act, 1982*. Self-government agreements enable modern treaty holders to levy taxes and take responsibility for delivering programs and services, such as health, education, law enforcement and child welfare, in accordance with their culture and values.

Today over 120 comprehensive land claims have been accepted for negotiation. 26 First Nations and Inuit governments and organizations have signed modern treaties with the government of Canada and are now implementing those agreements. Currently, there are 22 self-governing Indigenous groups and two stand-alone self-government agreements on education.







NOW THAT WE ARE CLEAR ON THE "WHAT IS A MODERN TREATY?" THING, TUNE IN TO TREATY 103, AND WE WILL LOOK AT HOW MODERN TREATIES GET NEGOTIATED AND IMPLEMENTED.

# TREATY 103

Welcome to Treaty 103. We are here to find out how modern treaties are negotiated and implemented. Okay now, where were we? We jumped out of our historical timeline and got into what is happening with modern treaties today. And there is a lot happening, including those 120 comprehensive claims accepted for negotiation to date.



### But how do these really important modern treaties get negotiated?

Negotiating a modern treaty involves the Government of Canada, the Territorial or Provincial Government, and one or more Indigenous groups. It takes about 15 years on average to negotiate, but there have been improvements to shorten this timeframe.

Let's do a quick throwback to the 70s. Can you name the policy introduced in 1973 that guides the Government of Canada's negotiation of modern treaties? Yep, we are talking about the *Comprehensive Land Claims Policy*. It has been updated several times since 1973, and in 1993, British Columbia created its own treaty process.

The Canadian government currently settles two types of land claims. There are specific claims, which address past issues related to historic treaties not being fulfilled. Then, we have comprehensive land claims. These claims deal with Aboriginal title that has not been addressed by treaty or other legal means.

A big purpose of a comprehensive land claim agreement is to clarify the land ownership, but also to clarify land use and land access and how resources can be developed.

#### DANIEL T'SELEIE

Negotiator, K'ahsho Got'ine Self-Government Negotiations, Fort Good Hope, Northwest Territories Modern treaties are intended to empower First Nations to take their rightful place in Canada. The treaties should provide tools, resources, authorities and recognition that support First Nations to make their own decisions and decide their own fate. I don't think we can ever really be compensated for what we've lost, but I do think that the only people that can determine what our future should be, is our own citizens.

#### **ROBIN BRADASCH**

Citizen of Kluane First Nation

Negotiator, Kluane First Nation Final Agreement, Yukon
Director of Governance, Crown Indigenous Relations and
Northern Affairs



## Negotiating a modern treaty is a big task with many pieces. Various questions are asked to guide the process:

- What self-government powers will the Indigenous group have and how will those powers fit with the powers of other governments?
- What rights and duties to lands, resources and other areas will the Indigenous group and other governments have?
- What rights and duties will other Canadians have on land the Indigenous group owns?
- How will lands and resources be managed, and by whom?

Modern treaties are negotiated over a period of years rather than days, and all parties are represented by lawyers and professional negotiators. They define rights and obligations on all sides that create long-term, mutually binding commitments.

### WHILE IT IS A BIG TASK, THE MODERN TREATY NEGOTIATION PROCESS IS ALSO VERY SPECIFIC. WE BROKE IT DOWN INTO SEVEN STEPS...

(Keep in mind that British Columbia has their own process).

The first step is the Submission of the Claim. An Indigenous group prepares a description of the land claim, identifying the general geographic area of their traditional territory. In British Columbia, the First Nation submits a statement of intent to negotiate a treaty.

Step two is the Acceptance of the Claim. The Government of Canada reviews the claim and informs the Indigenous group if it will open negotiations. Note that this step does not occur in BC.

The Framework Agreement happens at step three. This is the first stage of the actual negotiations, when parties agree on issues to discuss and how to go about that discussion. The parties also set a timeline for reaching an Agreement-in-Principle.

Step 4, the Interim Measures Agreement. At this stage, parties may agree to temporary measures for the territory while the negotiations are happening. These measures could include interim land withdrawals, pre-screening processes for land, and water and resource management decisions.

On to step 5, the Agreement-in-Principle (AIP). During this step, parties negotiate all the items in the Framework Agreement from step 3. The negotiations lead to the completion of the Agreement-in-Principle. Completing the AIP is usually the longest part of the negotiation process. The AIP will contain major elements of the Final Agreement, but that's step 6.

Here we are at step 6: The Final Agreement! The Final Agreement is the outcome of land claim and/or self-government negotiations. At this point, negotiators will resolve any final legal and technical details in the agreement. The Final Agreement must be ratified (approved) by all parties.

Okay, the Final Agreement has been ratified! Now what? Well, we need an Implementation Plan - that is step 7. Implementation is the process that makes sure the details of the Final Agreement are carried out. An Implementation plan is prepared by the negotiating parties to help guide this process.

To me, implementation is simply about making the agreements work. It's about the relationship that the parties have, using the agreement as a foundation to do our best to realize and put into place the things that were negotiated. We need to understand it was not possible to get it all right - we did not know everything, so some things worked great and others did not. Implementation is about the parties getting into a room and making sure the things that can happen, do happen, and that the things that are problematic, are worked out.

### ROBIN BRADASCH

**Citizen of Kluane First Nation** Negotiator, Kluane First Nation Final Agreement, Yukon Director of Governance, Crown Indigenous Relations and **Northern Affairs** 

NEGOTIATION ESTABLISHES THE TERMS OF THE RELATIONSHIPS BETWEEN MODERN TREATY PARTIES, AND NEGOTIATION TREATY IS SIGNED, IMPLEMENTATION MANAGES THOSE RELATIONSHIPS FOREVER.



At the end of the day, implementation is about solutions. It's not about more process, it's not about dragging stuff out. It's the same thing with the treaty – it was about creating solutions that helped your communities. That's the whole reason why any of us are in this, to see real solutions on the ground that improve the lives of our people.

### BRIAN MACDONALD

Citizen of Champagne and Aishihik First Nations, Yukon
Assistant Deputy Minister of Aboriginal Relations, Yukon Government

### An Implementation Committee is usually in charge of the work.

They will meet three to four times each year. The committee discusses issues, monitors progress, and develops communications and implementation reporting.

The beginning of implementation, for us, was moving from an Indian Act Band, where we had very few people working, who were just delivering Indian Act Band programs and services to a self-governing First Nation. So, as part of that implementation, all of a sudden you went from five people working as an Indian Act Band to maybe 20 people setting up a Lands and Resources Department, or a Health and Social Department, and even our area of governance for the First Nation. We went from not a lot of government jobs to all of a sudden, our little town was booming with government jobs. So, as part of implementation, there was that setting up of the government, building the government, just to get the people and the positions in place.

### KIM SMARCH

**Citizen of Teslin Tlingit** 

Director of Negotiations and Implementation, Teslin Tlingit Council, Yukon

While implementation work has its high points, it is often said that it is the hardest part of the modern treaty process. There are many challenges involved, and often adjustments must be made.

When a modern treaty enters the implementation phase, the treaty government begins the long process of merging the obligations from the treaty with the reality on the ground – in the communities. One of the most common implementation problems is lack of resources to implement the obligationsprogress, and develops communications and implementation reporting.



This is not a fast process, it takes time, it takes a lot of patience. Quite often, you'll start at one path and you'll have to go over here, then you'll have to go back over there, and you'll have to try something different or take a different approach. Sometimes you have to wait until somebody gets out of a job, so you can figure out to how to solve the problem with a different perspective. There's a lot of different starting and stopping in implementation.

### BRIAN MACDONALD

Citizen of Champagne and Aishihik First Nations, Yukon
Assistant Deputy Minister of Aboriginal Relations, Yukon Government

Implementation is ongoing. It doesn't end.
They're still implementing confederation, and they will not stop implementing confederation.
And for those of us in our communities who by majority decided to go with this framework, we will be implementing our relationship within

#### ED SCHULTZ

Citizen of Little Salmon Carmacks First Nation

Senior Analyst, Natural Resources and Environment, Council of Yukon First Nations (Involved in implementing the Yukon Umbrella Final Agreement) Implementation is kind of tricky. Since each treaty is different, it is important that the ongoing implementation of modern treaties is done with the "spirit and intent" of the agreement in mind, not just the legal obligation of the parties.

Unfortunately, information about the intent behind an agreement can be lost over time. Everyone may have different interpretations of the original obligations in the agreement. Ongoing discussion and relationship-building are necessary to ensure proper implementation.

With the challenges of implementation in mind, the Federal Framework for the Management of Modern Treaties, known as the Implementation Management Framework, was created in 2011. This framework helps ensure that Canada fulfills its treaty obligations in a timely manner.

While Implementation is an ongoing process, this document is not! We are at the end of Treaty 103, which closes our three-part series

We took a journey from historical treaties to modern treaties, and now we have completed our quest to learn about the negotiation and implementation of those modern treaties. What happens next in the journey is up to you.



### SERIES 03: THE TREATY SIMULATION

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### LEARN

BEFORE YOU WATCH THIS SERIES ....



What do you want to ask the Experts at a Treaty Simulation?

### CREATE

### AFTER YOU WATCH THIS SERIES ....



### What did I learn from these episodes?

Want to participate in a Treaty Simulation or host one in your community? Head to <u>understandingourtreaties.com/experience</u> to find out how you can get involved.

After experiencing a Treaty Simulation, take some time to reflect on your journey. Use your phone, computer or pen to record your reflections in a creative way (see page 2 for ideas). Submit your creative reflections to the Community Gallery on the understandingtreaties.com site.



# TREATY SIMULATION EXPERIENCE

At the simulation, you will be guided by experts as you experience what it is like to negotiate and implement a modern treaty. It is a unique and exciting learning opportunity. You will problem-solve, work in teams, and learn how to negotiate.

I found it a very cool opportunity for us to take turns being in each of the roles and trying to understand where these people are coming from and who they represent.

#### GERI-LEE BUYCK

Citizen of the First Nation of Nacho Nyak Dun, Yukon Participant, 2019 Yukon Regional Treaty Simulation

The simulation will get you interested in your treaty, help you build skills as an emerging leader, and create connections with the experts and fellow youth.

As soon as we started practicing our negotiations, it was so fun to see everyone go into their roles and role play.

TAMARA TAKPANNIE

Urban Inuk – family from Nunavut Participant, 2020 National Treaty Simulation

It was quite the experience to see and take part in the process of negotiations, where sometimes not everybody agrees.

### RIANE PETERSON

Citizen of Tetlit Gwich'in First Nation, Northwest Territories
Participant, 2020 National Treaty Simulation



# YOU WILL START WITH THE NEGOTIATION SIMULATION.

Each participant will be assigned to a team representing one of the governments involved in treaty negotiation.

These teams are the federal government, provincial or territorial government, and Indigenous government. The goal is for all the teams to reach an agreement on a section of a Modern Treaty.



Once you get your team assignment, your government will provide your team with a mandate letter from your leadership.

A mandate letter clearly states what your team is expected to achieve in the negotiations on behalf of the government or community.

You and your team will review the letter and prepare a proposal for what your team wants included in the treaty. Then, you will write a short opening statement to present your proposal at the negotiation meeting.

I know what you're thinking:
"But I don't know how to write a
negotiation proposal or an opening
statement!" Perfect! That's why
experts will be there to help.

These experts have years of experience in this work and are there for you. We will also provide plenty of background information and additional materials to help you prepare.



# It's time to negotiate!

All the government teams will come together and decide who is hosting the negotiation. You will also need to select a notetaker to document the final agreement.

The hosting team will start with their opening statement, followed by the other teams. After opening statements, you will go through each other's proposals and negotiate until you come to an agreement.

It is a negotiation, so there will be times when you do not agree with the other governments' proposals. You can call a 'caucus,' which is a break where your team takes a time out to discuss and determine next steps.

After you reach an agreement, you will reflect on the experience with the other participants. You will share what worked well, what was challenging, and what you learned.



### But it does not end there! Time permitting, you will also participate in an Implementation Simulation.

You will be assigned to a different government with different team members and receive a new mandate letter that offers direction from your team's government or community. This time, the goal is to *implement* a section of a *completed* modern treaty. You will need to reach an agreement that meets the needs of all the parties. At the end, you will get a chance to reflect and share about your experience.











### WHY IS IT IMPORTANT TO LEARN ABOUT YOUR TREATY THROUGH A SIMULATION?

Treaty negotiations has a life beyond just setting the parameters of what authorities we might have, how much land you might have, what programs and services you can deliver yourself—the governance piece—those things still need a lot of work, and it's going to continue to work. But in the meantime, how do we engage? That's the question. And part of that engagement is to simulate what was discussed at those tables, what the intents were, and what the envisioning for the future was. To share that with the youth and mentor them through a simulation of negotiations

JOHN B. ZOE

Citizen of Tłįcho Nation, Northwest Territories Negotiator, Tłįcho Agreement, Northwest Territories

# START NEGOTIATING

Every day we negotiate at home with our family, in school with our friends and teachers, or at work with our colleagues.

There are even times when we negotiate at gatherings with fellow community members or our leadership.

Negotiation is an important part of our lives, especially when it comes to modern treaties.



### What is a negotiation?

Basically, it is a discussion between people who are trying to reach an agreement. Now let's bring it into the context of Modern Treaties. The negotiation of modern treaties determines relationships between Canada and Indigenous groups in this country.

For many Indigenous groups, negotiation is an important part of their history and their current reality. Many Indigenous communities and organizations are in negotiations or are preparing to negotiate on important issues. These issues might include land claims and self-governance, fiscal arrangements, natural resources, co-management agreements, and business partnerships – just to name a few.

### Why do we negotiate?

Imagine an Indigenous group wants to develop a modern treaty. They may be considering rights in terms of land, governance, economic development, harvesting, conservation, and the list goes on. To determine those rights, the Indigenous group, the federal government, and the provincial or territorial government must come to an agreement.

The parties involved often have different perspectives and priorities, so coming to an agreement is not an easy task. Negotiations are what get them to a finalized modern treaty.

### What goes on in negotiations around Modern Treaties?

Negotiations usually take place in a closed room with tables and chairs. Each party at the table will have a few negotiators and a lead negotiator. They are formal meetings that are closed to the public.



Some days it's really boring, some days it's really animated, some days it gets heated to the point where people are yelling and you feel your chest pounding, and you all have to agree to just take a ten-minute break. Because the people you're sitting with represent governments, and they're people, and they can be good people and you can like them, but you still end up getting upset or angry sometimes with the position they bring to the table.

The way Canada and Canadian governments—provincial and territorial—organize these negotiations is to take everything and put it into little boxes, and they usually call these 'subject matters.' A subject matter is a thing like education, taxation, housing, local services, and each of these subject matters will be a chapter in the agreement.

Before every negotiating session, the chief negotiators will all email around with our teams and to each other, and we'll agree on an agenda. A lot of times that agenda will include the different subject matters that we're discussing at the upcoming negotiation. What happens day to day at a negotiating session really depends on that agenda. Depending on what the actual subject matter is, it's going to impact the nature of the discussions on that particular day at that particular negotiating session.

DANIEL T'SELEIE

### Negotiations are often compared to flying an airplane; there are hours of boredom broken by moments of sheer terror.

As you will see in the Treaty 103 materials, treaty negotiations take a long time, sometimes decades. Negotiations require patience and preparation. Negotiators work long hours, and for many years. They spend 80 to 90 percent of their time learning more about their party's interests and limitations. Negotiators from the Indigenous groups also spend time with their leadership and community to understand their needs. 360 TOATO

You will get lots of practice negotiating during the Treaty Simulation. How will you prepare? We have some ideas for you, but first, we will hear from Danny Gaudet, Chief Negotiator for the Déline Agreement. The Great Bear Lake community of Déline is located in the Northwest Territories. It is the first self-governed community in Canada.

> When we all started, how do you negotiate? You learned as fast as you can. We didn't have cell phones and Google at the time, so you talk to the Elders. They encourage you, they support you, they advise you. And so, that was basically your google - your Elders provided you all the information. Then we had lawyers that supported us along the way, and very good staff. It would have been a lot

### easier if we knew how to negotiate on day one! DANNY GAUDET

Citizen of Délınę First Nation, Northwest Territories Negotiator, Déline Agreement

### SO HOW CAN YOU PREPARE FOR NEGOTIATING AT THE TREATY SIMULATION? HERE ARE SOME TIPS...

My advice, three pieces of advice: first, prepare, prepare, prepare; know your stuff. Be creative; you know that you can't straightjacket, there's no perfect solution. Manage your team. By that I mean, listen to all of your team, be respectful of all their views and perspectives. Try to incorporate their perspective into a position that you are going to articulate.

### DAVE JOE

Citizen of Champagne Aishihik First Nations, Yukon Negotiator, Yukon Umbrella **Final Agreement** 



- At the Treaty Simulation, you will receive a mandate from your leadership or community. Take the time to understand their long-term goals and the vision, values and principles behind them. Develop a strategy for how you will achieve the goals.
- Get to know your team. What skills does everyone bring to the table? What roles will everyone play? Are there any gaps in your team? How will you communicate? Does everyone understand the goals in the same way?
- Do some research and learn all you can about the other party and their top issues. This preparation will help you develop negotiation strategies. Think about the other party's priorities. Where do you think they will compromise, and where will they refuse to budge?

I always find it helps to try and boil things down into as simple a concept as you can. Keep your issues fairly straightforward and simple.

#### BRIAN MACDONALD

Citizen of Champagne and Aishihik First Nations, Yukon Assistant Deputy Minister of Aboriginal Relations, Yukon



- Make sure you know your own team's goals and options before you start negotiations. The preparation may be difficult. Start by tackling smaller pieces, one at a time. Determine the areas most important to you.
  - Are there areas where your team is prepared to compromise? If so, you can plan to use those as leverage to achieve your higher priorities. Make sure you also decide where you are unwilling to compromise.

Before you get there, make sure you and your team are equipped with some negotiation strategies. Here are a few negotiation strategies that we found...

- Be confident. Remember that you are doing this for your leadership or community, and you have their support. To help you stay focused, remind yourself of your own objectives. Power is a matter of perception.
- Be positive and professional. The first impression is truly the lasting impression. If you start in a positive way, the other party is likely to be more cooperative, and an agreement may be reached sooner.
- Establish a connection with the other parties early in the negotiation by identifying areas where you all agree. Eventually, the signed treaty will define the terms of an ongoing and long-term relationship between the parties, so you will need to learn to work together.

Regardless of what party you are working with, when it comes to these agreements, you're in for the long haul. We also understood that and learned over the weekend, that it is quite a process, it could take years and years. So, if you're in for the long haul, celebrate the small victories along the way.

### RIANE PETERSON

Citizen of Tetlit Gwich'in First Nation, Northwest Territories Participant, 2020 National Treaty Simulation



- Remember to ask open-ended questions. Use phrases such as "Tell me more about...?" and "What is your biggest concern with...?" Your goal in the early stages of negotiation is to find out more about the other party's real needs.
- Don't talk too much. By listening more than you talk, you will learn information and attitudes that can help you understand the other party's concerns and interests.



As you prepare for this stuff, be thinking about what the other people are going to say. Then, when you are at the table, you listen. You actively listen to what they are saying. Don't think of your counterarguments. Don't think about how they're not doing this or they're not doing that. Listen to what they are saying. It's hard to negotiate if you're not listening to the other party because they are saying something that is important to them and you need to be able to appreciate what's important to them and their values and interests to be able to try and find that place in the middle where you're going to get to a deal.

### BRIAN MACDONALD

Citizen of Champagne and Aishihik First Nations, Yukon Assistant Deputy Minister of Aboriginal Relations, Yukon Government

- You will also want to listen for verbal leaks that give away important information. For example, someone who says she does not "have much more room," likely has a bit more room left.
- Repeat others' statements in your own words this gives them an opportunity to provide clarification or correct misinterpretations.
- Watch for meaningful body gestures and be aware of the messages you are sending with your own body
- Never negotiate when you are angry. Be aware of your own hot buttons, and do not react if someone pushes one of them. Similarly, help the other party stay cool.
- Clarify any issues and evaluate the nature of the disagreement before exploring solutions.
- Bring materials that support your position.
- Beware of a stall. If the other party seems uninterested in finalizing the agreement, they might think a delay will improve their bargaining position. Ask what additional information is needed for a final decision to be made.



Did I listen enough?

Did I paraphrase statements from the other party?

Were options explored well enough?

How much did the outcome meet each party's real needs?

Is there a respectful and productive relationship between the parties?

**ONLINE ABOUT NEGOTIATING -**CHECK THEM OUT! YOU CAN ALSO **GET GUIDANCE FROM EXPERTS** INVOLVED IN THE SIMULATION.