

# Venture

open the door to new  
into a treaty world  
business opportunities

## **BC TREATY COMMISSION**

203 – 1155 W. Pender St. Vancouver, BC V6E 2P4  
Tel 604 482 9200. Toll Free 800 665 8330  
info@bctreaty.net. www.bctreaty.net

The independent voice of treaty making in British Columbia

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# Introduction

The absence of treaties in British Columbia is a major drain on the British Columbia economy.

At the same time, there are significant opportunities—before and after treaties are concluded—for businesses that can build relationships with First Nations.

But before these relationships can evolve, the business community and First Nation communities need to understand one another.

Recognizing the need for information sharing among BC business and First Nations, the Treaty Commission organized a one-day forum—*Venturing into a Treaty World*.

The forum, along with economic analyses on the benefits of treaties, fulfils the third part of a commitment made by the Treaty Commission in 1997 to provide British Columbians with an independent source of information on the historical, legal and economic reasons for treaty making.

In 1990, Price Waterhouse calculated the cost to BC of not settling treaties to be \$1 billion in lost investment and 1,500 jobs in the mining and forestry sectors alone.

## Opportunities through working together

The economic analyses we undertook over the past few months confirms that the absence of treaties is costing our economy every day, and that settling treaties will pump billions of dollars into BC.

We asked leading economic thinkers to offer their opinion on these studies. We also asked First Nation and business leaders who have been successful in joint ventures to offer their insights on what it take to get there.

This book documents the exchange of ideas at the forum. The content is derived from audio-tapes from presentations and discussion throughout the day. Those opinions are the speakers and do not necessarily represent the views of the Treaty Commission.

As promised, the economic studies—completed by Grant Thornton and Mustel Group—are now posted to the Treaty Commission web site: [www.bctreaty.net](http://www.bctreaty.net).

We hope this book, and the economic analyses, will provide you with as much insight as they have offered to us.

# Commissioners

## **Miles Richardson, Chief Commissioner**

Miles Richardson was appointed chief commissioner in November 1998<sup>1</sup> and reappointed in November 2001. Prior to this appointment, Richardson served three years as the First Nations Summit appointee to the Treaty Commission. Richardson served on the First Nations Summit Task Group from 1991 to 1993 and the B.C. Claims Task Force, whose report and recommendations are the blueprint for the treaty negotiation process. He holds a Bachelor of Arts in Economics (1979) from the University of Victoria.

## **Wilf Adam, Commissioner**

Wilf Adam was re-elected commissioner by the First Nations Summit in March 2003 to serve a fifth consecutive term. Former Chief Councillor of the Lake Babine Band and chair of the Burns Lake Native Development Corporation, Mr. Adam co-founded the Burns Lake Law Centre. Mr. Adam was born in Burns Lake and raised at Pendleton Bay. In 1985, he completed a course in Business Management at the College of New Caledonia in Prince George.

## **Mike Harcourt, Commissioner**

Mike Harcourt was appointed to the Treaty Commission by the Government of Canada in May 2003. Harcourt served as British Columbia's premier from 1991 to 1996 and as mayor of Vancouver for three terms from 1980 to 1986. His commitment to the treaty process is long-standing; as premier in 1992 Harcourt signed the agreement establishing the Treaty Commission. Harcourt is Vice Chair of the cities<sup>PLUS</sup> Project, Cities Planning for Long-term Urban Sustainability.

## **Jack Weisgerber, Commissioner**

Jack Weisgerber was appointed to a second two-year term in February 2004 by the Government of British Columbia. Weisgerber represented Peace River South in the BC Legislature for 15 years from 1986 to 2001. He became BC's first Minister of Aboriginal Affairs in 1988, and in 1991 he was appointed Minister of Energy, Mines and Petroleum Resources. His leadership was also key to the formation of the BC Claims Task Force.

## **Jody Wilson, Commissioner**

Jody Wilson was appointed commissioner in March 2003 by the First Nations Summit. Raised in the Comox Valley, Wilson is a member of the We Wai Kai First Nation of the Laich-Kwil-Tach K'omoks Tlowitsis Council of Chiefs. Prior to this post, Wilson worked for nine months as an advisor at the BC Treaty Commission and two years as a Provincial Crown Prosecutor. She holds a Bachelor of Laws from the University of British Columbia (1999) and a Bachelor of Arts in Political Science and History from the University of Victoria (1996). Ms Wilson has been an active member of the BC Bar since 2000.

1. Miles Richardson resigned as Chief Commissioner on March 10, 2004.



# Speakers

## Keynote Speaker

**Dr. John F. Helliwell**, Economist

John F. Helliwell recently finished a 30-year career as Professor of Economics for the University of British Columbia, where he focused his research on social, political and economic institutions. He is currently visiting special advisor at the Bank of Canada and recently published *The Contribution of Human and Social Capital to Sustained Economic Growth and Well-Being*. Helliwell holds a D. Phil in Economics from Oxford University.

## Speakers

**Charles Coffey**, Executive Vice President  
RBC Financial Group

Charles Coffey leads government relations and community affairs for RBC Financial Group. He was named an honorary chief for his support of First Nations economic development initiatives. He currently serves on numerous boards, including the Aboriginal Human Resources Development Council of Canada and the National Aboriginal Economic Development Board.

**Harley Chingee**, Chief  
McLeod Lake Indian Band

Harley Chingee, Chief of the McLeod Lake Indian Band, has been a driving force behind numerous economic development projects. The nation operates Duz Cho Logging and recently created Duz Cho Oil and Gas, which involves a joint venture with Marine Pipeline Construction. The two companies are exploring pipeline construction projects in BC, the Yukon and Alberta.

**Jock Finlayson**, Executive Vice President  
Business Council of BC

Jock Finlayson directs the Business Council of British Columbia's work on economic, fiscal, tax, regulatory, energy and environmental issues. He is a member of several BC government advisory bodies, including the Economic Forecast Council to the Minister of Finance, the BC Greenhouse Gas Forum and the Degree Quality Assessment Board to the Minister of Advanced Education. He also serves on the Expert Advisory Panel to the BC Progress Board. Finlayson holds a Master's degree from Yale University and UBC.

**Guujaaw**, President  
Council of the Haida Nation

Currently serving a second term as President of the Council of the Haida Nation, Guujaaw has worked for 20 years to promote land protection and sustainable use of resources on Haida Gwaii. He was at the forefront of the fight for protection of Gwaii Haanas (South Moresby), and now co-manages the area as a member of the Archipelago Management Board. He is a carver, political activist, teacher, medicinal practitioner, historian and performer.

**Calvin Helin**, President  
Native Investment and Trade Association

Calvin Helin, a member of the Tsimshian Nation, is President of the Native Investment and Trade Association, Vice President of the National Aboriginal Business Association and Chairman of Orca Real Estate Ventures Inc., a corporation specializing in the development of aboriginal lands in Canada. He is currently involved in developing a mix of residential, commercial and cultural facilities on Maori land with an estimated value of \$2 billion.

# Speakers

**Ron Jamieson**, Senior Vice President  
Aboriginal Banking, Bank of Montreal

Ron Jamieson, who is Mohawk from Six Nations, was appointed Vice President of Aboriginal Banking for the Bank of Montreal in September 1992. He currently chairs the executive committee of the Canadian Council for Aboriginal Business and is a member of the Conference Board of Canada's Council of the Corporate Management of Aboriginal Affairs. He previously chaired the Royal Commission on Economic Matters Affecting Aboriginal People in Canada.

**Jerry Lampert**, President and CEO  
Business Council of BC

Jerry Lampert, president and CEO of the Business Council of BC, successfully launched the highly effective BC Business Summit process. Prior to joining the Business Council in 1993, Lampert was a principal in a government relations and public affairs consulting firm offering strategic and tactical advice to private sector corporations. He served as chief of staff to two BC premiers, managed two successful provincial election campaigns and held many key political positions.

**Douglas McArthur**, Professor  
Public Policy Program,  
Simon Fraser University

Douglas McArthur is a faculty member of the Public Policy Program at Simon Fraser University. He previously served as Deputy Minister to the BC Premier and Cabinet Secretary, Deputy Minister of Aboriginal Affairs in BC, a chief land claims negotiator in the Yukon and as Minister of Education in Saskatchewan. He is currently an advisor to the federal government on the Human Resources Development Canada social policy review and on fiscal federalism and he advises the Tsawwassen First Nation on treaty negotiations and development issues.

**Dr. Judith Sayers**, Chief  
Hupacasath First Nation

Judith Sayers is the elected chief of the Port Alberni-based Hupacasath First Nation. As chief of her First Nation, Sayers has been involved in several economic development projects, including a woodlot, salvage operations, a micro hydro project and tourism ventures. She draws on her extensive background practicing law for 18 years, working in international forums, lobbying governments and other agencies for the promotion and protection of First Nation rights and title. She sits as a non-voting director on the Alberni Clayoquot Regional District as the Nuu-chah-nulth Tribal



# Opening Remarks

*Miles Richardson, BC Treaty Commission*

I'm the Chief Commissioner of the BC Treaty Commission, and on behalf of the Treaty Commission it's my pleasure to welcome you to our forum. We're really pleased that you could be with us today. I know many of you around this room we haven't seen for quite a while and we're at a really critical point in our efforts to build a new relationship here in British Columbia. And it's good to see you all. We acknowledge the Coast Salish people on whose traditional territory we're gathered here today.

Opening the Door to New Economic Opportunities is our theme, and we have an impressive list of speakers who will share their thoughts on the economic potential of treaty making in British Columbia. One of the primary tasks of the Treaty Commission is to provide public information and education about treaty issues. As part of that effort today we are hosting our fourth forum in the past five years. One legacy of these forums is a body of work by many generous presenters who are willing to share their views with us. For three of these forums we had the general title of "Speaking Truth to Power". In year one we had "Talk About Treaties"; that was in the year 2000, a forum we hosted in partnership with the Law Commission of Canada. Then in 2001 there was "Seeking Solutions". In 2002, "Self-Government, Options and Opportunities". And today we present, "Venture Into a Treaty World—Open the Door to New Opportunities".

One of our goals in public information is to present the compelling historical, legal and economic case for treaties. We think we've done a pretty good job on the first two, the historical and legal reasons for treaties. Now it's time to address the compelling economic case for treaties. We think people see the need to reconcile our interests to unlock the economic potential in this province. They are beginning to see that there are plenty of opportunities to improve the economic and social future for all British Columbians.

Our polling suggests, however, that not everyone is convinced that treaties will have a positive impact on the economy. In fact, 41 per cent of those polled three weeks ago believed treaties will have a positive impact on the provincial economy. Only 31 per cent believe treaties will have a positive impact on their local economy. Thirty-four per cent believe treaties will provide social benefits for all British Columbians. Fifty-six per cent do not believe treaties will provide social benefits for all British Columbians. And finally, 73 per cent of those polled believe resolving these issues should be a medium to high priority. Twenty-five per cent believe it should be a high priority of government and 25 per cent believe it should be a low priority. Everybody else is somewhere in the middle. So it is our hope that today we will add to our knowledge of the economic benefits of treaties and that the information will compel us to redouble our efforts to conclude treaties.

You're going to hear, I believe, a really compelling case, technically based on good information, and the commissioners and I are convinced already that, far from the debate we've been having on the costs of treaty making in this province, that the economic upside is huge. Not only for First Nations, for everyone in this province. And we need to get to that point, where we're reaping those opportunities. But all of this, in my view, depends on how we act now.

Between the governments of Canada, British Columbia, and First Nations in BC and each of our constituents, getting to that point of reaping those benefits depends on what we do now. After 11 years of treaty negotiations we have four agreements in principle before us.

And many more that are close enough, if we deal with the tough issues in front of us. Now, we have clear guidance that we agreed on over 12 years ago on how to get this job done. That's the British Columbia Claims Task Force and its 19 recommendations. The Treaty Commission is unanimous and very focused on urging and compelling and twisting the arms of the parties to simply live up to those original commitments that we made at the outset of treaty making.

And our ability to do that, particularly in relation to the four agreements in principle that are in front of us, and those that follow quickly after, are going to tell the story of whether we're going to be successful in our time in attempting to resolve this issue.

You know, Recommendation 1 of those 19 recommendations, to any reasonable person speaks very powerfully and very clearly: to build a new relationship based on mutual trust, understanding and respect, recognizing that on a government-to-government table you each have differing views, that you each have differing perspectives of how you get to that table and you're trying to build together a vision of where you want to get. One of the fundamental tasks in effective negotiations and achieving what's in front of us is what the Treaty Commission has referred to as mutual recognition.

Any attempts to effectively achieve the new relationship we all so much desire depends on recognizing that each First Nation, Canada, and British Columbia, even though they come to the table with different visions and different histories, has legitimate interests that must be dealt with and reconciled now, while we're going through this process. Mutual respect must mean nothing less. And you know, our experience over the last 11 years of negotiations has shown that we're too slow in this regard. We may be foreclosing options for the future if we don't pick it up on this front.

You know Recommendation 16 was specific about how to manifest that early. Interim measures: where competing interests are affecting the relationship—an obvious example is logging where a First Nation won't tolerate it—Recommendation 16 was crystal clear. Good faith requires that the governing parties sit down and work out an interim accommodation so that they have a good atmosphere for negotiations while they're negotiating the broader issues. We've seen some success on that over the past 11 years, but too little.

So the courts have prodded us. In the recent cases referred to as the *Taku* and *Haida* decisions, the courts have essentially said implement Recommendation 16. Crown, before you take an action that potentially infringes on an aboriginal right—and they set out standards for that - talk to them; consult them, and you have a legally enforceable obligation to accommodate those interests from what they tell you. This is just a restatement of Recommendation 16 that we agreed on politically over 12 years ago. It's time that we get on with it.

In that recognition, that mutual recognition, then we must find a way as we move toward agreement in principle, to come to terms with what's happened in our past. For 137 years in this province aboriginal issues have largely been put to the side. The legitimate aboriginal entitlement has largely been pushed to the side. The first formal attempts to address this have been through this treaty process. We need to find a way of coming to terms with the past and putting ourselves on a positive footing, going forward to the future. And I think it's within our grasp today to do that. We've seen efforts by Canada through their Parliament and British Columbia through last year's Throne Speech and other initiatives to begin that process.



But really, the only way that that's going to be done properly is to establish today a mutually acceptable solid foundation for a new relationship going forward. It does nobody any good to say, "I'm sorry for what happened in the past," and then continue it into the future. We need to find a way to establish a foundation for a new relationship today. You know, all through treaty making in Canada the Crown's policy has been to provide a little bit of land, or a lot, depending on your perspective; A bit of money, and now a bit of governance powers. Put that in a box, tie it up, and get it out of the way. It's called extinguishment.

Eleven years ago we rejected that approach and we've had a heck of a time getting to put in place how we're going to achieve certainty while rejecting extinguishment. But the parties over the past two years have done, I think, sufficient work to resolve that issue.

You know, if we take an approach that, on the land and resources side, we come to a modern interpretation of a land and resource entitlement without extinguishment, without release on the governance side of the treaty, we come to an agreement where, you know, if one party isn't willing to recognize the inherent right, we've got a lot of work to do in the meantime. And if it's not going to be recognized in the treaty on day one, we need to leave that door open. So that as First Nation institutions are built, as they're governance capacity is built, we can move forward on this agenda.

But the real challenge, and this is what will kill this notion of extinguishment, of let's recognize that on day one of any new relationship governments have scarce resources. That's a reality that is not going to go away. So we don't need to put everything in the basket, in the relationship, on day one. But we need a procedure, a mechanism where that relationship, built on this strong, solid, mutually respectful foundation, can evolve. And the Treaty Commission and the Principals have referred to that as an Orderly Amendment Mechanism, where, for example, things that weren't fully resolved in the treaty you can bring up through time according to agreed procedures.

Things that are given rise to, say through a court case, in the future, that there's a trigger that you can reconsider that in the government-to-government negotiations. Or things that you didn't even contemplate in the treaty; that you need a mechanism to bring those forward, a mechanism that allows the parties sufficient time to address it responsibly, but doesn't allow any one party to drag their feet and filibuster forever.

That's our challenge, I believe, in treaty making today at this moment if we, as First Nations, British Columbians and Canadians, are going to reap the huge upside, the huge potential benefit of treaty making and new relationships.

So I really wish each of you well in your deliberations and participation in today's conference. We have an impressive range of perspectives among our speakers today, and all participants will have an opportunity to share their perspectives later in the day.

# Keynote Speaker

*John Helliwell, Economist*

I've got a great slide show here but there's no screen, so you'll have to just take my word for it that it's a really great slide show. The book I really want you to read is one called "Globalization and Well-Being" which is even smaller than that other one that Mike [Harcourt] was talking about because it actually relates to what I'm going to be telling you about today. And I'm going to be shortcutting a lot of that material in order to try and focus the implications of that research on treaties and their consequences. And I've learned a lot in the six or so years since I had a little commentary on the paper you were hearing about this morning in a volume on this same subject. So I'm going to take you off in quite a different direction.

And my research over the last few years has been about well-being, what determines well-being. So I'm going to give you just a little bit of that, enough to then put the treaty negotiation process in some sort of structure.

The evidence from this comes from surveys, essentially, asking people on a scale of one to 10 how their life is going. And we have these data from 100,000 or more people from all over the world over the last 20 years. And as of the last few weeks I have now been analyzing with assistance a wonderful survey of Canadian data, 45,000 Canadians. The Ethnic Diversity Survey was run last year, in which we have asked a lot of these same questions about subjective well-being and its determinants. So now we'll be able to do a better job in Canada than really any other country. There's a corresponding U.S. survey that my colleague Robert Putnam has been doing of about 30,000 Americans, and we had a previous survey of 5,000 Canadians that we'd been analyzing.

So there's quite a strong empirical base for this and so the kinds of stuff I'm talking about are reasonably well supported.

I said "Eureka" when I first saw these data about three or four years ago because we were busy trying to analyze the consequences of social capital, which is, as you probably know, sort of the linkages that tie people together. There are often emphases on community groups but it's much more than that. It's family; it's the kind of relations that go on within the working environment. And generally speaking, when the social capital is of a good sort it generates trust, and that trust itself then feeds back and then generates social capital.

At some point in one of these talks I hum a little bar and say does anybody know it, but this is lunch and a very formal group so I won't try that, but the particular line is, and you may remember it, "the more we get together" —any of that ring a bell to anybody? Okay? See, well, that is the theme song of social capital, the more we get together the happier we'll be, your friends are my friends and my friends are your friends, et cetera. And that tells you something, and what it tells you is that in fact social capital and well-being are mutually interactive.

Now, it turns out some of the sources of well-being, like income, turn out to be negatively interactive so that the bulk of the benefits people feel from having a higher income in fact are having higher incomes relative to other people. But in terms of connections, social capital, it turns out the reverse is true. Education's kind of neutral in that regard. So that by and large when people become more integrated in their communities, or indeed simply more outgoing, more optimistic, in fact it generates affirmative responses from everybody else so you get a positive linkage. And in fact, communities get better off.



So we were told, Ron Jamieson said just before lunch, communication is it. When communication ends barriers start coming up. He's absolutely right and it's absolutely central in the human psyche that once these connections are made the motivations differ and people start looking for things that make both parties better off. While in the abstract you can only think about your own problems and you're much less likely to think about the other people's problems. Communication is critical; trust is critical.

People have higher levels of subjective well-being when these things are present in a high quality: one is trust; another is engagement. That means being involved, and you'll see how this will have implications back for treaty processes pretty quickly. A third is employment, not necessarily paid, and what's really poison is unemployment. Family, friends and neighbours. Some of these just sheer contacts; the better they are, the happier you are. Some of our next surveys are going to go back and say, well, did you enjoy those meetings with your family and did you—because everybody must have been back from some meeting with somebody that they were less happy when they were through than when they were started.

But on average these contacts have positive feedbacks to people. Good health, terribly important. High quality of government at all levels, and the closer it is to you and the closer you feel to it and the more local it is, the more effect it has on the quality of your well-being. An adequate income relative to expectations. So it depends what your comparative group is, but even in the richest countries, or especially in the richest countries, once people's income gets above the median there's no more subjective well-being after that. I have a note here that says "No TV", because TV is very destructive in two ways.

It helps explain a result that came up to me, when I was talking in Prince George on this a couple of weeks ago there was a long-time world expert on this field up there and he had a result that said people generally tend to, in moral terms, think they're better than other people. So you ask them: "Is it right to do something—would you do something?" And they said never. "Would other people do it?" They're much more likely to say other people would do this thing, whether it's going through stop signs or whatever, than they would be.

If you asked them what their income is relative to other people, they will underestimate their income relative to other people. And since their satisfaction from their income is based on relative income, you can see that's a double hit. And he thought it was a universal result, that people assumed that they were better off than other people from these moral questions, and I have all this evidence that says quite the reverse with respect to income.

Well, you can see the nasty hand of television coming in here. If you see what's on television, which is where most people get—especially the unconnected people—most of their information about other people from what they see in the media, read in the media, but essentially more and more see on television. Well, the average situation you're shown on television is bad people doing awful things to other people. So it isn't very hard to think that you're better than most people you see on television, because you can be pretty crummy and still be better than the typical person you see on the other side of the street.

The average person you see as a character, let alone the average person you see depicted in the advertisements, is a whole lot better off than the average person in society in material terms. So you see, people just take what they see and treat it as other people, and you can see that's pretty destructive.

Of course, television takes anywhere from one to four hours a day of a typical person's time, when they're not communicating with their family and linking with their community. And then they're getting these messages, which uniformly push them off in the wrong directions with respect to this well-being. You can see why we get a lot of results that show that the more people are directly involved with television the lower is their subjective well-being and the lower is their social capital, as measured by their contacts with the rest of their society.

There's a lovely study by Tanis MacBeth on this, of UBC, of two BC communities. One community got TV and the other didn't get TV at the same time because with all our mountains for a long time it was you didn't—it was pre-satellite, if you didn't have the cable you didn't have television. They were pretty well-matched communities—the one that got the TV, all the social engagement just collapsed.

And the gender stereotypes that people have automatically become stronger because they were now picking them up from television. So it was a beautifully controlled experiment of which there are too few.

All right, now I'm going to get back to the role of government because this is directly focused on the treaty issue. There's a very nice paper by Chandler and Lalonde, which picks up parallel results we have at the international level but studied them across aboriginal communities in British Columbia. First of all, I'd better tell you that when I give this well-being talk at various places around the world, somebody would always stand up at the back of the hall or put up a hand and say, if the Scandinavians are so happy—or the Swedes, they'd usually say, are so happy—it's true, they have the highest level of subjective well-being in the world, almost, Danes are highest. If they're so happy why are they always committing suicide? So I'd talk about long winters and things like that and after a while I said this is not good enough. I'm going to have to go away and do some primary research on this. So last year I went back to Oxford and spent most of a year becoming a suicidologist.

And so we took exactly—well, as long as you're prepared to be happy when you're still on the steep part of the learning curve and not feeling jealous of the people who are ahead of you, you can have fun doing this. It turns out that when you take the same set of countries and years that we use to explain subjective well-being, where all those variables I listed for you were important, exactly the same model fits for suicide. Now, you might not think so because, after all, typically suicide is an act of the most despairing form, while our evidence on subjective well-being includes people of all levels of life satisfaction. But almost exactly the same model with almost exactly the same coefficients—heavy belief in God is even more protective against suicide than it is productive of subjective well-being. Quality of government is more productive of subjective well-being than it is protective against suicide, but all those variables are coming in nonetheless.

And the only reason the Swedes have higher suicide rates, that are about average suicide rates as it turns out, is that a belief in God which is strongly protective against suicide is pretty low. They call themselves the failed Lutheran society in Sweden, and their subjective well-being is strongly determined by high quality of government and they're right off the top of those particular charts.

Back to Chandler and Lalonde, colleagues at UBC who studied suicide rates across BC aboriginal communities and they find exactly the same thing. Of course, one of the things they report, you know, you hear the statistics about how high suicide rates are in aboriginal communities, but what you fail to study, which is critically important, is what's the variation and what characterizes those



communities where it's a problem and those where it isn't. Half of the communities have no suicides over this five-year period in BC. But at the other extreme there are ones that have suicides at a rate of 200, 300, 400 times the national average.

They then looked across their 200 study communities. What determines the communities that have low suicide rates from those that have high suicide rates? Now, I don't have subjective well-being for all of these communities but I hope I have already convinced you that what is true for explaining suicide rates is probably going to be true for explaining subjective well-being of everybody else in that community as well. Of those that had self-government the suicide rate was 85 per cent lower on average; so a sixth as high in those communities. And they have several other measures.

And if you had all of these measures, which is cultural continuity, a Native cultural centre; local fire and police services run by the band and so on, the diminishing importance for some of the more mechanical things, but if you had all of them the suicide rate was essentially zero in all those bands that had all of these. These are elements of community structure.

Now, we were told this morning that aboriginals and us newcomers are really different. Really different in the structure of the societies, yes, and in the vision that is had of those societies traditionally, but in the determinants of what makes people happy they're very similar. These results are very similar to the sort of things that are coming out across the world and across communities and cultures that are very different. What is different is that the traditional features of aboriginal culture in fact embody a whole lot more of the well-being supporting things that we're talking about here than does the white society that has in some sense been imposing itself on these cultures over the years.

Now, when there are these cultural differences it means those of us who come along with our treaties and our contracts and our ways of wanting to get certainty and get everything written down on paper and having contracts, in many ways we have not got it. And because what matters is the engagement, what matters is the involvement, what matters is the continuity, all of those things speak to the determinants of subjective well-being and the structure of the underlying communities.

When people are forced to choose— well, first of all the Swiss results. Those people are systematically happier, in those Swiss cantons that have higher levels of direct democracy, direct involvement of the people. And it's true trust in government matters a lot for people, but it matters most when that government is local and close to them. So it is this locality. Some of you know I've done a lot of other research on borders and how much the nation state matters in the modern world, and the answer is a whole lot more than you think. But it's true of local communities, too. Distance matters much more than anything you read in the papers would lead you to suggest. So much more of people's lives, and hence their well-being, is determined by the contacts with the people very close to them, geographically very close to them, and of course culturally very close to them as well.

I have to report that all is not well in all of the aboriginal communities on average in the following sense, that the levels of trust of those in this large EDS survey I'm talking about—I've just got some of these results this morning so they'll need triple checking.

But on average the levels of trust of those in aboriginal communities of their own family, of their own community, or the broader world are in fact on average lower than for the rest of the population. So there clearly are some repairs in terms of community.

It shows up of course in a lot of these macro statistics that we know about, right? Because the unemployment rates are higher, a lot of the substance abuse rates are higher on average and so on, so it's not going to be a surprise. In some sense it's part of a consistent set of information. So it means if these land claim treaties, which are after all once only, more or less, right, the title I have for this talk is called "Getting It Right". It's much more important to get it right than it is to get it today, get it tomorrow or get it next year. Ten years is a relatively small fraction of the life of a tree. It's a tiny fraction of an ice age.

Communities can be destroyed very quickly. Trust can be destroyed very quickly. It takes a long time to build. Now, notionally, I mean, talking about some of these things a couple of weeks ago there was somebody who came along to me and talked about a project he'd proposed on alternative energy, which is one of my features—I'm not going to get enough time to give you all my examples so I'll give you a head note piece before I get yanked off by the hook—is that when we're looking for ventures and things that make sense for aboriginal communities and also in some sense gives them a place to stand, one of the natural ones in my book has always been alternative energy, because a very large proportion or a substantial proportion of our aboriginal communities are in fact off the grid.

Well, those places that are off the grid now have a narrowly defined economic advantage to going to a solar system. Brian Smith said I hope you're going to talk about solar power, and I didn't promise to but now I'm doing it for him. I would like to see a number of communities make experimental, innovative connections with the world wide industry that now sees where things are going to be going over the next hundred years, and naturally want to start in those communities where it makes economic sense right from square zero, and would be prepared to come in on a collaborative, cooperative basis.

Now, I know there are some bits that need to be put together, but that's where you should be starting, because the world's going to need a whole lot of experts in these things. It's going to need a whole lot of practice in these things. And what better, why not build up expertise in something that's going to be a technology of the future and not a technology of the past. And of course, the more remote communities can be at the forefront of the way things are done rather than, as it were, getting second best because they're not on the grid, they're not in the city, they're not in the loop. In the future there's no need for remote communities to be anywhere but where they want to be with respect to the technological curve.

So then the question is, choose two or three things in the relevant communities and that then would give us a Canadian advantage and give us a British Columbian advantage, it would give a community advantage. It's one of those win-wins where there's something in it for everybody. Do any of those kinds of ventures, and I've got another long list of the kinds of things that might be suitable for these kinds of involvement, do any of them require the immediate settlement of land claims? No. Do they require trust? Yes. Does that mean you have to be strategic whether you're an aboriginal community or a co-venturer in where you get started and how you do it? Yes. Can you expect to do it very big scale right from the beginning? No. Does process matter? Yes.

When talking in these terms in Prince George a couple of weeks ago, I had a frustrated project developer who had—I don't know how much to anonymize this, so let's just say it was a big alternative energy project in the Haida Gwaii area—who said he had this magnificent project that was turned down. And I said how far along had you got on this and did they really feel they had ownership of this project? And he said, oh, yes, they were going to have 25 per cent. And I said, you don't get it, do you?



In these terms, ownership has nothing to do with share of the profits. Ownership has to do with 'it's their project'. And having something as your community and your project from these well-being results is much more important than any dollar amounts whatsoever. So it's the things that build the contacts, build the trust, give the involvement of the individuals in the communities that create the well-being and create future continuity. It has nothing to do with the dollar. Well, it's very natural when you're coming in heavily lawyered and heavily layered with commercial complexities that you think it's the bucks that count, right? And if it isn't good enough for you you add a zero.

Well, I think that the more forward-looking of the conventional white enterprises have finally come to realize that that can be very destructive of the enterprise, and that to build two-way loyalty on a continuing basis you have to have a venture that people believe in. They have to believe it's trustworthy; they have to believe that everybody is tied together in a venture, not just of a financial value, but of social and personal value to those who are involved, right?

Well, that's all sounding like something you could be building already without those treaties in place. So basically I'm saying that when you talk about economic implications of delay, and we had some of these numbers about it and worrying about the present value, that's entirely the wrong way of thinking about it. This is a unique opportunity, a once-and-for-all opportunity to get it right.

To do these treaties, to evolve towards them, piecemeal, no cookie cutters, very much dependent on what's going on and what the situation is and what the capacity is in the different communities, at their pace, under their direction. But direction you see, when you have collaboration, direction is not a word, right? We're not talking power structures, we're talking joint ventures. Real joint ventures where all of it is shared so that it has to be done.

A number of people have been negotiators for communities. A conference I attended in Prince George was nice in a way because it represented people who were actually on the pit face in the communities and in the bands and so on. People who have gone to work in band offices said, here I did this wonderful negotiating position for them and they kept sending it back to me and back to me and back to me. And this was after he'd heard this sort of talk and he said, I only realized later on that what was up was not the details of the bargaining position, but it had to be their bargaining position and it was the whole point of developing something that was theirs, that was them, that represented them.

And so it isn't simply a case of you have to have 51 per cent buy-in or anything like that, it is that in fact the whole process has to embody the community and their values. Now, we've been quite a long way from that in conventional western corporate life, but there's now being a feeling that that distance has been purchased at a price and is going to have to be moved back towards. So whether we're talking about community structure, and I know the kinds of issues that Mike Harcourt is now involved with in this urban project are going to be critically dependent on that.

Well, these well-being results show that long commuting times directly suppress well-being. Communities that give people the options of having much more of their life together, not closing off far away options, but much more without pointless distancing, allows them to have the kinds of repeated contacts that build trust, that build neighbourliness, and make people happy. People are happiest when I shut up on timetable, which I'm about to do. Thank you.

I've been told that I shut up at the end of the allotted time before the program was adjusted so that I can talk for 10 more minutes, which I'm not going to do, but since I've stopped it now means you can ask some questions that I can try to answer, for a few minutes.

# Two Perspectives on Certainty

*Jerry Lampert, BC Business Council*

I want to begin by congratulating the BC Treaty Commission for organizing this forum this morning. I also want to commend each and every one of you for taking the time to be here today. This is important and this is worthwhile work, and my compliments to each of you.

I can recall speaking with Jack Blaney, the former president of Simon Fraser University and the inspiration behind this gathering place, at a time when this place was being built. And some of you may recall that on these front-pieces up here, one of them is actually Jack Blaney; I can't remember which one. They aren't all classical Greek heroes. In any case, I recall speaking with Jack and he had a vision for this place and that vision is very much alive here this morning. It was the idea of bringing people together to deal with difficult issues but to engage in a constructive dialogue. So I really commend the organizers of this event for choosing this particular special gathering place.

In his invitation letter to me, Miles Richardson wrote, "We feel it is important to hear from the business community on the need for certainty; the need to clarify land ownership and jurisdiction, to provide new economic opportunity, and to improve the investment climate in British Columbia." So I want to spend the time available to me addressing these important issues raised by Miles Richardson. A number of the economic implications will be dealt with by my colleague, Jock Finlayson, from the Business Council, in the session following this one.

The Business Council of British Columbia has a longstanding interest in the treaty process in British Columbia. We support treaty making. We believe that business and industry needs the certainty that treaties can bring. This certainty is required now and in the near term, not in the distant future. The Business Council has participated in many discussions relating to treaties, including some mentioned by Miles Richardson in his opening comments, including the gatherings of Business at the Summit; the Treaty Negotiations Advisory Committee; hearings on the Nisga'a Agreement in Principle, and numerous forums and round tables. We have also from time to time intervened in court actions relating to aboriginal rights and title where business interests have been affected.

Indeed, I can tell you this morning that the Business Council is in the final stages of producing a paper entitled "The British Columbia Treaty Process, a Roadmap for Further Progress." Now, this is the first significant work done in the business community on this whole question of treaty and treaty process since 1996, and we could look upon this paper, which will be made public shortly, as a positive, constructive, forward-looking document on our views on how to improve and move the process along. Our goal is to help ensure that the treaty process achieves its objective; the settlement of the land question in this province and securing certainty for the federal and provincial governments, First Nations, non-aboriginal British Columbians, and business interests.

The business community in British Columbia continues to be concerned with the glacial pace of treaty negotiation, the numbers of First Nations not in the treaty process or not engaged in productive negotiations, constraints and delays in obtaining licences, and the rash of court actions into which businesses are drawn without any ability to resolve these issues. All of this complicates doing business in this province. While we have been very frustrated with the treaty process, businesses have had some success in dealing with First Nations directly on business economic development activities. The successes we have seen do not solve the bigger problems but can help in a significant way to build awareness, to build trust, and to build respect.



I just want to share a couple of examples with you this morning. The Chief Executive Officer of Lignum, Jake Kerr, made the following comments during an October 3rd, 2003 address to the Vancouver Board of Trade, and I quote: “I should also mention that no speech on forestry policy in British Columbia would be complete without mentioning First Nations. I think all British Columbians realize that First Nations claims are a fact of business and that from the forest industry standpoint resolution needs to come creatively and urgently. While government must take the lead in this regard, industry has a responsibility to provide support, ideas, and commitment.” Jake Kerr went on to say, “I do believe that companies that operate in BC’s public forests have a responsibility to the people of British Columbia. Those people include those who are part of First Nations and those who live in small communities throughout British Columbia and who have a right to expect sustainability, both in the forests and their communities.”

In all the relationship building initiatives, Lignum and the First Nations have worked to separate business from politics. Now, this cannot be done entirely, but a conscientious effort by both parties has resulted in positive results. The specific products of this relationship have been four formal joint venture companies, several other business relationships, one formal protocol agreement, and increased building capacity through technical training, mentoring, and post-secondary education. In addition, Lignum utilizes its forest liaison workers to assist the First Nations communities in reviewing Lignum’s plans and providing input from the community before submitting the plans to the government for approval.

The relationship building has resulted in a positive experience for Lignum in working with First Nations on their traditional territories. This does not mean that they agree on all issues or the working relationships have always been smooth. But I want to point out, and everyone should understand this, that this experience is not unlike any business-to-business relationship that Lignum or any other company in this province might have on a day-to-day basis.

Another short example is EnCana. EnCana believes that its Greater Sierra lands, located east of Fort Nelson, contain the largest regional gas play discovered in Western Canada in the past decade. For the last four years EnCana has been steadily acquiring mineral rights and extended the productive area of this particular play. Much of these lands are considered to be the traditional territory of the Fort Nelson and Prophet River First Nations. EnCana respects the rights, culture and traditions of the First Nations and, as a result, the Fort Nelson First Nation and EnCana have become partners on a number of initiatives.

One of EnCana’s first experiences in dealing with the Fort Nelson First Nation in the 1990s was when it contracted with the bands heavy equipment construction company for a three-well program that consisted of building leases and access roads to the Greater Sierra area. The project was delivered on time and on budget. Since that time the business interests of the First Nation have grown with EnCana and EnCana is the largest employer on reserve at Fort Nelson.

On December 2nd of 2003, just a few months ago, EnCana announced an historic partnership had been entered into with the Fort Nelson First Nation: an \$8 million joint venture between EnCana, Ensign Drilling, and the Fort Nelson First Nation had been struck. And as a result Fort Nelson will own and operate an oil and gas drilling rig. Fort Nelson is the first First Nation in British Columbia to enter into such an arrangement.

There are other examples of successful collaborations. They should be recognized and they should be applauded.

No treaty issue has been as important to the Business Council since the beginning of the treaty process as certainty. In our view, the very purpose of the treaty process is to achieve certainty for British Columbia and all its citizens in terms of the effect of aboriginal rights and title on lands and resources.

In the Business Council's 1996 submission to the legislature's Select Standing Committee, we took the following position on certainty: treaties should bring certainty and finality with respect to the nature and scope of aboriginal rights and jurisdiction authorities; treaties should resolve current legal uncertainties regarding rights to the use of Crown lands and resources; treaties should ensure that stakeholders have the security and stability they need to manage their business and plan for the future. To avoid confusion and inconsistency, all treaties developed in British Columbia should include the same language around certainty.

The Business Council continues to believe that these principles need to be respected; however, we recognize that there has been some evolution on this critical issue. At an open Cabinet meeting on November 22nd, 2002, Attorney General Geoff Plant announced that the British Columbia Government was developing a new approach to certainty, one that rejected the extinguishment model. This would do away with the terminology of cede, release and surrender, use a new technique, and rely on the whole treaty to support certainty. The Attorney General said, and I quote:

“The fact is that First Nations have today constitutional rights they are not prepared to give up through treaty making. However, government also requires treaty arrangements that will allow it to proceed in an effective and in an efficient management of Crown assets such as forests, oil, and gas. As one of the other partners in this overall enterprise, business, to be successful, needs clarity about the legal and regulatory regime in which it must operate. Companies are not likely to invest in mining or forestry projects if they are uncertain about their rights, about government rights, or about how aboriginal or treaty rights will effect their operations. First Nations have the aspiration to participate in mainstream economic activity. Treaties need to recognize and give effect to that aspiration.”

The Business Council is now in a position to offer an expansion of our 1996 position on certainty and I'd like to share that with you this morning. There's been considerable debate over the legal mechanism necessary to effect certain and final treaty settlements. With the rejection of the cede, release and surrender model, new techniques have been sought. In the Nisga'a Final Agreement a new technique, modification of rights, was adopted. It had a cede, release and surrender backstop in case the modification technique failed. This backstop technique has not had the full endorsement of all parties in the BC treaty process.

The reality is that after 10 years of negotiations the parties do not now have an agreed technique. The Business Council is greatly concerned that the principals have not decided on an overall legal technique for achieving certainty. In our view, treaties must result in certainty, predictability, and a full and final resolution and reconciliation of aboriginal and Crown titles. The Principals in the BC treaty process must develop and agree on the legal technique for achieving certainty and, in our view, this technique must be used in all treaties to ensure consistent legal regimes and a stable legal environment throughout British Columbia.



Aside from the legal techniques, certainty in treaty settlements can be achieved by setting out in detail the rules for doing business post-treaty. That is, the parties can spell out in great detail the legal, regulatory, and management regimes to be established by the treaty. These provisions must be made available to the public and the business community in an understandable fashion so that we can know the rules by which we will be able to or not be able to engage in activities on and off settlement lands. More specifically, treaties must set out the requirements for consultation and accommodation, if any, on treaty settlement lands and on lands that were formally under claim by First Nations.

The Business Council understands and appreciates that treaty negotiation is a very complex process. Nevertheless, the parties need to find ways to keep the business community apprised of where negotiations are heading and receive input on the kinds of regimes that will or will not lead to greater business certainty.

It is clear that treaty negotiations take a very long time. Despite arriving at the point where we have four ratified agreements in principle, a great deal of work is required before anything actually changes in British Columbia. Even then the changes will come piecemeal through individual final agreements, and later still as final agreements are incrementally implemented. In the meantime, the business community is faced with no greater certainty with respect to the creation of tenures, management regimes, or rents. Businesses need to be able to make investment and other decisions within time frames that are much shorter than those which the BC treaty process functions.

The Business Council feels that what is needed is greater interim predictability. Interim predictability would include measures that the parties could agree on to govern day-to-day activities while negotiations are proceeding. Key issues that could be addressed would be consultation, accommodation, tenure transition, regulatory changes, and the development of First Nation capacity.

Recently, the provincial government has signaled its preparedness to move towards cooperative management with First Nations. In many ways, the recent resource revenue-sharing arrangements are a form of cooperative management. The Business Council's concern is that the extent and content of these regimes is not well known and there has been little engagement with the business community about them. This raises a number of important questions. For instance, how will consultation and accommodation be dealt with on lands that are presently within First Nations traditional territories but will be outside treaty settlement lands? Will there be a codification of the management regime? Will there be one model of cooperative management or will industry have to constantly learn and accommodate different regimes throughout the province? The Principals, with the assistance of the business community, should develop and make public the common elements for all cooperative management regimes to be established in British Columbia.

Finally, the Business Council is concerned that treaty negotiations, or even non-treaty negotiations between governments and First Nations, can get mired in issues that elude agreement. Irrespective of whether they are over major issues such as how much land, how much cash, or seemingly minor ones, how to describe a tenure regime, any disagreement that lasts can stop all momentum, build bad feelings between parties, and derail the negotiations. The BC Treaty Commission has a role in facilitating the negotiation process but only exercises that role when invited to do so by all three parties. In addition, the Commission's role is more related to whether the parties are meeting and maintaining the agreed process than intervening in substantive issues.

The Business Council would like to see a mediation body established for the treaty process; a mediation body to which the negotiating parties can refer questions on which they have failed to reach agreement. The mediation body could develop options that the parties could consider or attempt to find common ground among the parties. Where mediation fails, the parties should consider seeking an arbitrated decision.

The reconciliation of aboriginal and Crown title is an honourable endeavor. For 10 years there have been hundreds of meetings, negotiations and debates. There have been forward steps, and yes, a few retrograde ones. The business community in British Columbia has an abiding interest in the resolution of the many open questions arising from aboriginal rights and title. The unfinished business of aboriginal rights and title cannot remain unfinished indefinitely. The business community in British Columbia, in Canada, and even internationally, is looking for concrete signs of substantive progress and of an increasingly stable investment climate in this province.

We applaud the provincial and federal governments and First Nations for their renewed interest in treaty making. We encourage more First Nations to enter the process. We call on business and industry and First Nations to build the pathways to trust, collaboration and prosperity.



# Two Perspectives on Certainty

*Guujaaw, Council of the Haida Nation*

I'd like to first thank Leonard George and his people for the welcome and the prayer song. And their people are legendary for their generosity and their spirit of sharing. And I think that we can see the troubles that that spirit of sharing could bring to people.

I'm from Haida Gwaii, a little more remote than this and so the situation is quite a bit different for our people. I've seen it described in one eminent magazine as being somewhere between Oregon and Alaska.

On Haida Gwaii our stories actually recount two different floods and the ice age. And our beliefs are of the origins of our people of human beings beginning in that region and we have the stories to match it. And over the last few years the science has been kind of matching a lot of what had been considered myth as the floods had been considered myths only a few years ago. And our beliefs in the supernatural are alive today as they were hundreds of years ago; we believe in those things.

On Haida Gwaii we know from which places on the islands all of our people, who live in two villages today, come from, and their clans and their ancestry. And each of them carries with them the history of their people and how they came from those places. And that's a pretty important thing to realize when you start talking about treaty making and how you're ever going to come to terms with those issues.

I'll go to some of the topics that have already been touched on, and one is, you know, could you have a cookie cutter type of approach? No, you couldn't, and to show a difference is like downtown Vancouver compared to Haida Gwaii are quite considerably different situations and everything that it is going to take to make solutions in each place is going to be different.

Our people have gone into the treaty process I think with the same kind of enthusiasm as everybody did in the early days and enjoyed the struggle to get to that point. And I think a lot of people have forgotten why that process was really put in place, and it wasn't because of the goodwill of the provincial government or the goodwill of the business community, it was because the people were standing up and saying, "This is baloney," and they're going to put a stop to it. And there were blockades and trouble all over the province and a treaty process was put up to deal with these things. Miles [Richardson] had spoken of some of the principles involved in recognition of those titles that were so important to our people, and over the years I think all of us who have been involved in that process have been disappointed.

So the problems with it, I think, have been addressed partly by the Business Council in that their interests are so important that the certainty for them has got to be the top priority in this whole issue. Our people are broke now; they'll probably be broke for another hundred years. We could live with that, that's not the biggest issue to us—the doing business and being prosperous. And I really think that's real important that those principles are with our people. Everybody likes the things you can get with money as much as the next person, but there's few people that I know, but there are some, who would sell out those principles of looking after their land and looking after their people with their relationship to that land intact.

In our case, to try to resolve a treaty on the conditions that are laid out—not in the treaty process, the process is fine, but the conditions that come with some of the parties, particularly the provincial government. And you state that they've set aside the extinguishment clause.

As recently as two weeks ago we had the provincial government up in our area and they want to settle up with us, they want to do something with us and it has to be on the basis of fee-simple [land ownership]. Fee-simple is extinguishment and caving in to the authority of the provincial government. You know, fee-simple is a holding that requires people to pay taxes. We don't have any money to pay taxes to anybody. We'd lose that land in no time.

And further to that, one of the great offers that the provincial government - actually just maybe today's the day that their big offer expires - to give us 20 per cent of our land in fee-simple. Well, to surrender 80 per cent of our land with the bones of some of our families, and people would know whose relatives that would be given up in that other 80 per cent. So the constitutional rights that you talk about of existing title, existing aboriginal rights, I believe can remain intact over the full landscape of Haida Gwaii. And I think that applies for pretty much every region of this province. And I believe that it could remain intact and complete over the full landscape and there could still be Crown title, there could still be business, and every race of people living together as there is today. And that's a proposal that we have in front of the federal and provincial negotiators right now and that's something that we believe we could make work.

So we've undertaken certain things. We're going into court, of course. We're quite willing to sit at the negotiating tables at the same time. We're quite willing to talk to business leaders as we go. We don't expect that there's any one particular thing that's going to solve everything for us, but we're working through all these different components of it. And one such component is a land use planning process that is a little bit different than the normal kind of land use planning where they expected us to sit amongst the stakeholders, with the rod and gun clubs and the environmental groups and the chambers of commerce and all those things, and we rejected that notion. We're not stakeholders if that's what it means.

So we have a process now where the province and our people have set up a different process, which has an inclusive process similar to the stakeholder thing, and then the output doesn't just go to the Province, it goes to the Province and to the Haidas and we'll work it out again at that point. We believe that's going to be a big piece of the future for us, what's actually going to happen on the landscape. That's the real source of most of the disputes within our land, is the use of the land and the misuse of the land, in our perception.

Just to use a couple of examples, the seabirds that come in at night and nest right in the forests and the mossy trees, and some of them nest under the ground in the forest, miles into the woods that have been routinely logged over the years and that's not acceptable to us. You know, it might be a few million bucks for individual logging companies or contractors but it's an unbelievable thing for anybody. I can't see if a business counsellor or an industry or anyone could justify something like that, and yet the provincial government policy is that they would protect one per cent of the forested lands that support the nesting of these birds.

So we went into court with Weyerhaeuser and the provincial government because as we sat talking about interim measures and they said everything's on the table, all these things, the replacements of these licences which have been on our land already for 25 years were going to be replaced for another 25 years, they were coming up for replacement. We said that's got to be there on the table; they said it will be, they'll talk about it.



And then, in their wisdom, they decided that they would just replace it and we wouldn't leave because they're giving us money to sit at that table. And that's been the case of, you know, I think that the buying of the complacency of the political leaders of this province is starting to come back. And the villages are not accepting it any more.

I know a lot of these agreements in principle have been brought back by the people and examined and they found that they'd be worse off when they sign it than they are now. So in that case they decided to replace that licence. We went in, we lost one round. We went in to the Appeal Court of BC and we won quite a simple thing. And in the first court, although we did lose in that round, they found several things were true. One was that, well, there was a number of cases: one that said that they have to come back and consult with the First Nation of the region, they found that that was not occurring in any kind of credible way.

In fact, there was a process set up by the provincial government that was pretty much they'll tell you what they're going to do and then do it. The courts saw that that wasn't acceptable and added another thing to it to accommodate.

So in our case we were able to show them that even in the public domain there's enough evidence of our title around that they should be behaving as if there is title. So in that instance we established an encumbrance over all the licences in this province, and that's a pretty important thing to realize. In fact, the provincial government argued that while indeed they did say they could replace these licences over lands which are not otherwise encumbered, certainly they meant encumbered by other things, not by us. We didn't really count in that equation. But the court said yes, that is a valid and real encumbrance.

And so, you know, how seriously do they take us? I was just asked to come in and speak with some people in one of those agreement in principle areas and found that they had pulled back their negotiators and reexamined this thing and found that what was offered to them was just totally unacceptable. It is around one per cent. Across the harbour from them there was just a land sale given out that was several times what they had, to be held by one individual hockey player who purchased more for 12 million bucks than they were offering to these people. And the dollar component was 40 million bucks. I think that one of them mentioned that Big Country gets more than that in the year.

But also they just purchased a piece of land out in Surrey or somewhere, the Burns Bog, 75 million bucks for five hectares, and yet the whole territory of this they were offering them 40 million bucks over a long period of time. It would be, no matter what you say about it, it would be clear extinguishment of their rights to those lands. There doesn't have to be extinguishment of those rights. Those rights to hunt and fish and trap and do those kind of things are the basic aboriginal rights.

The other component of aboriginal rights is the right to make money off the land. In our land use planning process we tried to address all of those different—we have to consider all those different things. What lands would be protected, what lands are being protected for cultural use, ecological use, how will the creeks be protected. Since I can remember I've believed real strongly that there's a real conscious effort to spoil this world. And when you go down and try to figure out who's doing it, all the way along you find it's nice people spoiling this world. Whoever it happens to be working for these big companies, each one of us get used in some kind of way in that effort.

And I don't know who is behind it. I don't know if the Business Council is the ones who are making that edict or if it's the trilateral commissioner or who's sitting up there telling people, "Go spoil the world," but somebody seems to be doing that. Not you? Hope not.

We believe that in our land use planning, which is supported by the other people, I think where our population on Haida Gwaii is about 50 per cent Haida and 50 per cent other people, support the land use planning approach that we're taking. They're participating in it and in the end perhaps, if anything, there will be more lands protected than what we've laid out already, which could easily be close to half of the land base on Haida Gwaii. But also a mechanism for protecting each active salmon creek, and mechanisms for restoring those places that have been heavily impacted and in some cases spoiled already by logging.

So that court case that we won has caused an interesting situation and it created an opportunity for between now and the point of us proving title, which we intend to do, for several reasons we intend to do this. One is that when we went into court on the tree farm licence case, the position of the Crown was quite telling and probably really pinpoints what is the problem with the treaty process. And their position is that unless you prove title they don't owe us any duty to consult or negotiate or do anything with us.

So in fact all these motions that we've been going through for the last 10 or 12 years, we've been taken for a ride on this.

So now we're in the Supreme Court of Canada with this thing and included in that appeal is eight different provinces joining with BC. The Government of Canada has joined in with them to try to stop that, where there could be some progress in these relationships. But also the BC Chamber of Commerce, the Cattlemen's Association, the Council of Forest Industries, and the BC Business Council. Which leads me again to that point of how can we accept the nice words of the Business Council when in fact they are one of the obstacles in this case. If there was an intervention, anybody who has a mind to resolving this and getting on with business would be intervening on our side. And the interveners on our side, of course, include the [First Nations] Summit and the Kitimaat Village and I think the Squamish are intervening, but also the Village of Port Clements, which is a white community that lives closest to the issue that's going before the court and where most of the loggers live and work out of.

And that community pretty much depends wholly upon there being logging in that region and they've intervened on our side because they say their position that they're bringing to the court is that it shouldn't be assumed that industry or the provincial government represents the public interest fully, and that they should have something to say about this. And their statement is that they in fact throw their lot closer to ours where sustainability and the stability of their community is the issue that they want to support us for.

And so that case is coming up in a couple of weeks, I think on the 24th of March. And I want to talk to the Business Council sometime about what they're doing there before that happens. I'd like them to withdraw. Winnipeg withdrew, and I told John Watson [former Regional Director General of Indian Affairs for the BC-Yukon Region] if he's going to Ottawa to do what he's doing, he should get them to withdraw as well.



# Economic Analysis of Treaty Benefits

*Douglas McArthur, Simon Fraser University*

Thank you very much. I want to thank the Treaty Commission for the opportunity to be on this most interesting program today. Much important and useful information about treaties and land settlements and their relevance to British Columbia is being presented here today during the course of this conference. One of the questions that I try to wrestle with, both in my past work and in my advisory work, as well as in my teaching and university research is the question of what kind of arguments can we advance and what are some of the issues, public policy-wise, that support the completion of treaties and other settlements. And in my teaching I tell my students a number of things in this regard.

One of the things is that treaties are, at one fundamental level, about property rights and the rule of law. First Nations property interests in lands and resources are rooted in the occupancy and use of lands and resources prior to, at the time of, and after settlement and colonization. Common law recognizes this occupancy and use of land and resources as a property right, in keeping with long British and Canadian legal traditions, the special regard of the common law for property, and the associated right to possess and control one's property.

Of course, this is not always accepted by everyone in all cases. It is not unusual that those who do not have a property right object to those who do, as knowledge of history makes clear. In many respects that is why property rights enjoy the special respect they do in common law. But property rights have a long history as well and it is in many ways the matter of property rights that gives rise to the idea of economic benefits flowing from treaty settlements, something I'll come back to. But policy is not simply a matter of law, policy is also about morality, and clearly there is a powerful moral case for negotiating fair treaties. And policy is also driven by economic interests. And in some ways this is one of the more interesting questions for the larger population about the justification for treaties, that is to say, the non-aboriginal people of British Columbia and Canada.

A fundamental assumption of this conference is that there is an economic element to the case for treaties. Specifically, the proposition is that treaties are not just good for First Nations people but they are also good for the rest of the people who depend upon the economy for their well-being and support. If this is true, it is fair enough to seek a measure of that economic benefit or some indication, some confirmation, of the existence of such a benefit. And one would think, after all, that economic considerations should be reducible to some kind of benefit and cost calculation and analysis. And in principle this is correct. The exchanges in the economy are mediated through money and this provides a measure, a way that we should be able to get a handle on some of the benefits and costs of treaties. But there are a number of problems.

One is that if taxpayer dollars are to be used to get to these benefits, which clearly they are, many people will want to know who it is that will benefit from the settlements. Who is it in the larger economy that actually gets the benefits?

Another question is, well, will there actually be benefits or is it just theoretical? It is one thing to assert that the economy will improve, but it is another thing to come up with convincing evidence. And a third question that people ask is how large will the benefits be? Many people do not want simple generalized arguments they want magnitudes.

With regard to the distribution of benefits, the question of the distribution of benefits from an overall improvement in economic conditions, which is essentially where this argument goes in terms of treaties for the larger society, it's not easy to trace these, especially if taxpayer dollars are needed to bring about the improvement. One way of thinking about this is that benefits from an improved economy tend to find their way to those who work for wages and salaries and those who accrue profits roughly consistent with the historical distribution of wages and profits.

There's a kind of trickle down or trickle up effect depending on who gets the first initial benefits. There are other ways of trying to trace this, but I'm not going to take that on today.

Let me now turn to the next question, that of how we can determine whether there is an economic benefit from treaties. And clearly this is not the only question that arises with respect to even benefits from treaties and the issue of treaties, you're going to hear about those questions today, but I want to talk about this question of economic benefits from treaties as I've been asked to do.

Professor Steven Globerman from the Economics Department at Simon Fraser University set out to answer this question in a chapter he wrote in a 1998 publication of the Laurier Institution, edited by Dr. Roslyn Kunin, entitled "The Economic Impact of Aboriginal Title Settlements in British Columbia." And I'm just going to give you a little indication of what he has to say here.

He says that the main argument for supporting First Nation treaty settlements is that they will reduce the uncertainty about how resources on Crown lands can be used, and that this uncertainty is a significant barrier to increased investment. Risk and uncertainty are certainly relevant issues to investors. However, other factors are also relevant and should be incorporated in any analysis of behaviour. And he says one standard framework for doing this is the net present value rule, the capital theory rule, the principle of benefit cost, essentially. In applying this kind of capital theory through the net present rule, he states, as I show you here what he says:

"We can conclude that potential investors will be encouraged to invest by higher expected profits and lower expected risks. Because the risks associated with any investment are reflected in the interest rate that the investor must pay directly or indirectly to raise financial capital, we can say that the level of risk is one of the factors that determines financing costs."

And then he goes on to distinguish this important point between diversifiable and non-diversifiable risk, and says that investors can't protect themselves from non-diversifiable risk in the way of adjusting their portfolios through time and across portfolios, so they expect higher returns on such investments as a compensation for taking that risk. And this kind of non-diversifiable risk is associated with the consequence of government policies especially those that affect investors property rights. With respect to unresolved treaties or land claims he says:

"The possible effect of First Nation treaty settlements on risk, especially politically related non-diversifiable risk, has created a great deal of controversy. One theory is that resolving disputes will reduce the uncertainty of who holds property rights on Crown lands, which will then reduce the risks and uncertainties of investing in resource-related industries. The implication is that settlements will encourage investments now postponed by investors afraid of risk."



So that's the basic, roughly. Economists in the room will no doubt take issue with the simplification of some of it, but that's the basic argument that's advanced with respect to one important dimension of this question of economic benefits of treaties.

There have been a number of studies undertaken over the past few years that try to make estimates of financial and economic benefits to British Columbia from treaties. These include a Price Waterhouse study in 1990, a KPMG study in 1996, and a Grant Thornton study in 1999. And I might add that the Treaty Commission has asked Grant Thornton to update their 1999 study and a draft report has been prepared and my understanding is that while that draft report has not been put into final form, my understanding is that that report will be available from the Treaty Commission in a very short time.

That report essentially builds on the earlier reports and simply tries to look at more recent settlements, particularly the agreements in principle that have been negotiated and examines whether there's any fundamental change, and essentially concludes that there is no substantial change from the earlier findings.

Let me just show you—so there's two approaches that are taken in these studies, and you'll see I've got the 1996 KPMG study and the 1999 Grant Thornton study. One approach is to look at what's called the financial benefits to British Columbia, which attempts to track through government financial accounts and First Nation accounts and, by implication taxpayers, the flow of benefits that will accrue as a result of treaties. So you'll see that the first section deals with benefits to First Nations. Then we have another section below which deals with cost to other British Columbians. And then we'll get down to financial costs and net financial benefits.

So you'll see first of all that what this says is that these are billions of dollars, one in 1996 and one in 1999 dollars, but it says that with respect to First Nations depending on scenarios—but there's not a great deal of difference so I won't go into the scenarios here—depending on the scenarios in both cases these are non-discounted, non-present value benefits, for those who are interested in that dimension, over the 25-year period of treaty settlements that is projected, the total benefits to First Nations would be \$6 billion.

They then go on to ask this question, “Well, what about costs to other British Columbians?” And they come up with some numbers depending upon different assumptions, which I won't get into about the two scenarios, the first two columns are the 1996 study, the second two columns are the 1999 study. And you'll see that the cost to other British Columbians are in the range of \$1.43 billion up to about \$2 billion. And then there's an allowance made for the fact that—which I'll explain in a minute—taxpayers' share of net federal costs depends on some different assumptions about taxation, but these numbers don't change the overall results terribly.

Now, just to explain why this is here, as most of you know, a large part of the cash inflow from treaty settlements and the benefits therefore that flow to First Nations that are outlined here, flow as a result of payments through from the federal government. And so we have to recognize that in these calculations, these are made from the perspective of British Columbia and British Columbians, First Nations, and then other British Columbians and taxpayers, including the taxpayers of BC contribution through to federal coffers, but they are contained to British Columbia. And as I say, a substantial part of benefits come from a flow of federal dollars into British Columbia.

A question which certainly many people who do cost benefit analysis will ask whether that's a fair assumption, but from the point of view of British Columbians that's the way these reports have been directed to determine; that is to say, what are the benefits to British Columbians.

So we end up with, you'll see the two bottom lines, total financial cost to other British Columbians, and then the net financial benefits to British Columbia, and the totals come out something like this. In the 1996 study anywhere from \$3.9 billion to \$5.2 billion, depending on these two scenarios, which have different assumptions about certain things in terms of program costs, savings to government and taxpayer contributions, and for the 1999 study, \$3.8 to \$4.6 billion. So economists always have ranges on these numbers but you see the range of what's being talked about.

Now, another question that is asked is rather than the effect—oh, I should just point out for those that are interested, at the very bottom there, there is a note about what happens when you calculate net present values. That is to say, when you discount these, bring everything back to the present day values as sort of like what the capital account would be if you brought it all back into a financial account today, and the present value for the 1996 report, the total net financial benefits to British Columbia range from \$2 to \$2.3 billion, that's in the 1996 report, and for the 1999 report, \$1.8 to \$2 billion dollars.

So we got a range in there of net present value with a capital value to British Columbia of \$2 billion.

Now, remember, as I say, some considerable amount, a very large part, comes from the flow of dollars from the federal government. Now, another question to be asked, and I'm not going to take a long time on these, but another question to ask is, well, what about the impact to citizens, participants in the economy, not just looking at government accounts but looking at First Nation citizens and citizens in the economy which are related to the financial flows but you now try to look at the income benefits, if you like, for citizens and organizations belonging to citizens. And so this is what the next section of the report attempts to do.

And the 1996 study shows that incomes for First Nations would increase in the range of \$5.46 to \$7.66 billion when all settlements are made and the other report said \$5.35 to \$7.4 billion. There is no significant different between the two reports. So we've got this range of \$5.5 billion to let's say \$7.5 billion depending on how certain things work out. Then they look at the income benefits to other British Columbians, and some of these are negative, like resources which now transfer to First Nations and so no longer accrue to British Columbians in terms of tax revenues and employment revenues and business revenues. There are community infrastructure projects which are stimulated by the settlements. There are business opportunities as funded by First Nations settlement funds and something I'm going to touch on in a little bit more here, this item of increased certainty.

What those results show—so this is the income impacts to other British Columbians, and again non-discounted—is that for other British Columbians the range is, in the first study, the range is between \$1.27 and \$3.74 billion. In the second study it ranges from \$1.63 billion to \$4.11 billion. Why these big differences?

Well, you'll see if you look up above that the differences come from a number of places. They come from exactly what happens in terms of the transfer of resources, in terms of other citizens, the exact outcome with respect to First Nation investment funds and what returns those bring, and this last one touches on what Globerman was talking about, the increased certainty factor.



And what you have here is numbers—the range is \$300 million to a billion—that are based on some old information and some assumptions. They're more based on guesses and assumptions than anything else, about what will happen to private sector investment as a result of this increased certainty that I talked about a few minutes ago in terms of capital theory.

And you'll see, let's take the 1999 study for a moment now. And the difference in these two is that the authors of the report, the people working the report, say that there would be about a \$30 million per year increase in investment as a result of increased certainty and that that would start having its effect relatively late. It would be relatively far down the road, maybe 15 years after the first settlements were settled.

The second assumption says that the investment benefits would be a billion dollars over the period of the settlements, and that's larger than the \$300 million because the investment increases that come from increased certainty start much earlier, start about five years after we start settlements so it'll be starting very soon now, and are larger in yearly amounts. They're roughly in the range of \$60 million per year. I'm not going to try to defend those numbers here but the questions they raise are important because they have an important effect on the final outcome.

The overall results show that—let's just stick with the 1999 study—the income benefits to British Columbia from treaty settlements range from \$6.98 billion to \$11.59 billion over 25 years. These are cash flows without any concern about the time that they are achieved and therefore no discounting because some of them come in the future and we put less value on them. These are just straight income flows throughout whenever they occur, treated as they are, except that there's no inflationary factor per se in it.

Now, the authors' reports go on to say that we can talk about the fact that because some of the income benefits will come later, because those come later they're not worth as much to us, just like if we want to save money we have to have a larger premium down the road because we want a return for saving. Well, that leads us to, well, what's the discounted value? And the 1999 report, the total increase in provincial incomes in net present value ranges from between \$2 billion to \$2.9 billion – large, significant numbers. A substantial part we should recognize—just going back to the undiscounted, if we take the most optimistic scenario of \$7.48 billion going to First Nations and \$4.11 billion going to the rest of British Columbia to give \$11.59 billion, you know there's well over half of the benefit—well over half, it's almost two thirds more—of the benefit is to First Nations and the other third is to the rest of the citizens of British Columbia in terms of increased incomes to British Columbians. And that net present value of \$2.0 billion to \$2.9 billion you could divide that up between First Nations and other British Columbians in roughly the same proportions.

Well, that's the kind of basic methodology that's being applied by financial analysts and authors to try to get a hold of some measure of what the economic benefits from treaties would be. And these economic benefits are admittedly pretty attractive. They look pretty good, as stated here. One of the problems with these studies, getting back to this question of the increased certainty from investment, that's a very important part of the difference, particularly with respect to the benefits to the rest of British Columbia, other than First Nations. That makes a very big difference with respect to the results that are achieved as far as benefits to British Columbia.

And one of the problems with these studies, as I already mentioned, is that they deal in only a very limited way with the issues raised in Professor Globerman's paper, because on that factor, about the increased investment, there's nothing really said about the number or how you get the number, what the number's about. There is reference to a 1990 study which is very, very dated and which they themselves raise a lot of questions about. And therefore we're left with this question remaining as one that we don't have very much answered and we don't get much insight through the studies that I've just shown you.

Now, the studies themselves are very long, very complicated, all these different assumptions that lead to these different scenarios are in there. They are available, or the Treaty Commission can make the new report at least which summarizes these studies but in quite a bit of detail, available to you if you're interested in following up on exactly what's being said here.

Now, as I say, but we've got this question of what about the increased investment coming from increased certainty, with certainty having been discussed here, and certainty certainly being one of the important objectives, from British Columbians generally at least. And from that you can assume there's some expectation that this increased benefit through certainty is somewhat as it's being suggested here. But how can we get a better fix on this? Well, this is a hard question and I want to say right off that some of what I'm going to say here now, in which I'm going to turn and address some comments and show you a little bit of information with this, what I'm going to show you and what I'm going to talk about is in many respects food for thought. I'm not claiming scientific—I'm not coming here to tell you that what we have here is perfectly fully complete sound social or economic science, but rather information which I think you may find interesting.

It's information that has arisen because the Treaty Commission, much to its credit, decided to try to see if they could delve into this question a little bit further. And after a lot of debate and discussion about what way, if there was any methodology to do this, decided, with the understanding that it is about trying to develop more food for thought and to help us understand, decided to retain a reputable research firm here in Vancouver, the Mustel Group, to get some idea of what's going on here by trying to look at, examine and get information, on actual behaviour. And they did it through a survey.

And I want to say right off again that undertaking this kind of survey is not easy. But the approach has been to survey a group of corporations, not nearly all, in fact a small part, of the corporations doing business in British Columbia. And this, if you want to call it a sample, this group of corporations that were picked out for the survey, was distributed across different sectors of the economy but it was weighted more heavily to resource sectors in particular and to some degree other resource-using sectors.

Surveys of this sort have their shortcomings, obviously. They are subjective because there is no standing database of investment projects that objectively determine that someone can turn to the record book and test to see whether they've made it across or failed to make it across this net present value of this capital theory line that I talked about. Rather, company officials, informed officials, are asked to state their understanding of deferred investments as a result of the uncertainty and the higher finance and the higher costs of unsettled claims.

I also should note that the results represent what might be called counter-factuals, they're not about examining and getting data on what actually happened within the economy but what might have happened had circumstances been different.



And so there is necessarily imprecision to these kinds of questions.

The results of the survey, it's a relatively substantial survey with a lot of data and information in it, and the results of the survey, I know the Treaty Commission have said, will be available to anyone who wishes to review the data, the results, the work that has been done, and who wishes to confirm or challenge or question or discuss any of the observations or conclusions that I'm going to draw. I think the only restriction would be, which I have no access to either, the actual names of the companies, the identity of the companies themselves, would not be available. There's a confidentiality undertaking, as one would expect.

So let me discuss the survey very briefly. There were, in the end, 143 respondents, all of them doing business in British Columbia or having an interest in British Columbia, I guess doing business in some fashion. And 118 have head offices in BC and 24 outside of BC. So, you can see that there's thousands of companies doing business in British Columbia; it's a small grouping. There was a series of questions asked. The first series of questions undertook to test the essential propositions of the capital theory that Professor Globerman outlines in his paper with respect to non-diversifiable risk.

And so the respondents were asked to assess the importance of government policies which create non-diversifiable risk for investment decisions including tax rates, labour-business relations, labour standards and laws, environmental and other business regulations, and unresolved First Nation land claims. They were also asked to estimate the impact on investment about unresolved land claims over the past five years and over the next five years. And they were asked whether they would increase investments in BC over the next five years if claims were settled and by how much. And they were also asked to state their overall investment intentions within BC. This is in real capital, in land, buildings and equipment, in BC over the next five years.

Let me highlight just quickly, I said there's a tremendous amount of material and information in these reports and I'm just going to take a few minutes now to highlight some of the results.

Okay. Here's one part of the results. The respondents were asked to state whether or not these factors, which I identify, were important or not important to investment decisions, and of course we've got them to compare. And all of these are—we put a very high standard against which to test land claims because these are the kinds of factors that are identified in the literature as being expected to have a very, very large and significant impact on investment decisions by most testing.

So, here's what we ended up with. These are the percentage of the respondent companies that found these things important as opposed to not important, by sector.

The three groupings of sectors I should say are: the resources, the manufacturing and trade sectors; the financial, real estate, and insurance sectors; and the transportation and utilities sectors. Tax rates: 92.5 per cent rated it important for the first sector; 85.7 per cent for the next sector; and 92.9 per cent for the third sector. Labour business relations: 88.7 per cent; 88.6 per cent; and 80.7 per cent. Labour standards: 90 per cent; 88.6 per cent; and 82.1 per cent. Environment and business regulations: 91.2 per cent for the first sector; 77.2 per cent for the second, and 92.8 per cent for the third sector. And land claims: 74.5 per cent for the first; 54.2 per cent for the second; and 57.2 per cent for the third sector. So I'll leave this to some degree for you to interpret, and recognize again these are subjective.

But just let me just make some observations. First of all, we can see that land claims don't rank as important in this ranking as the other factors. There's something I want to comment upon. Secondly, land claims do matter, are important to 75 per cent, however, of the companies in the resources and manufacturing and trade sector, over 50 per cent in the financial, real estate, insurance sector, and 57.2 per cent in the transportation and utilities sector. It's not surprising that it would be more important in the resources, and transportation and manufacturing sector, given that we know the uncertainty affects more closely and more significantly resource inputs and resource using firms. And so we expect it to be higher.

What do we make of the lower level placed on the importance of land claims? Well, again I remind you we deliberately put these to a very high test. We did not put other questions in which would be of a different category. Let me just make a couple of points about this. One is that all the factors that are above land claims affect virtually all firms universally and across the piece. And so you'd expect that there'd be a higher ranking with respect to those because all firms, maybe with some variability depending on the firm, but they affect all firms across all sectors and across the piece. Less so with land claims. Land claims is more selective with respect to situation and so on.

Another observation that I think we should make is that these are nevertheless relatively high, the rankings for land claims, there is a significant importance placed and one would, if we had other kinds of more trivial kinds of cases, of course then land claims would be made to look very good, but we didn't want to do that. But that's just one set of results I'll just touch on.

Another point I just wanted to touch on was within the category of importance, the respondents were able to rank Very Important or Somewhat Important. And this is the ratio of Very Important to Somewhat Important just for two categories: environmental business regulations, and unresolved land claims. And we'll see that with respect to environmental business regulations, the ratio of Very Important to Important was higher than for land claims; 1.7 whereas with respect to land claims, 1.0.

With respect to financial, real estate, insurance, they were not greatly different although somewhat higher. And with respect to transportation, utilities, they were higher. Now, of course, environmental regulations are also affecting resource inputs and so this is setting a relatively high test again.

The respondents were also asked to rank the importance of a non-policy driven variable, or not directly policy driven variable, which is cost of capital. And you'll see here that with respect to the resource, manufacturing and trade sectors and the land claims sectors, 82.4 per cent put cost of capital as Important or Very Important, and 75 per cent put land claims. So land claims begins to approach cost of capital in terms of importance in the respondents' views, which again I think is a matter worthy of noting, and it does suggest that we're more or less right in suggesting that one way of looking at the impact of land claims is in terms of—is treat it the same way conceptually and operationally as a cost of capital.

Well, my time is running out; I'm going to move on. One of the questions we asked was a question with respect to investment foregone for the past five years as a result of unsettled land claims. And this was restricted to firms who confirmed—the results here are taken from firms who confirmed that they had reduced investment. Not all firms had reduced investment, only some had. And we see here that the total for the past five years is \$387 million, and is broken up largely in the resources and manufacturing, trade sector, \$302 million; \$66.5 million in financial and real estate; \$53.2 in the transportation, utility sector.



Another question asked was additional investments that would be made if land claims were settled over the next five years, or in other ways, investments that would be foregone if land claims were not settled over the next five years. And here we see the numbers are larger than they were looking back five years. Looking forward we see that for all the sectors \$606 million over the next five years of investment that it is suggested will be foregone as a result of unsettled land claims. And it's heavily concentrated again in the resources, manufacture and trade sectors with \$554.5 of that from the manufacturing and trade sectors. And this maximum is just the maximum size of investment noted as foregone.

One of the questions we asked these respondents is—I'll just use this to summarize some final conclusions—we asked them also what were their investment intentions? Overall, after they take out the foregone investment, what are their investment intentions over the next five years? And you'll see that for all sectors it is \$7 billion. For resources and manufacturing it is \$3.6 billion; financial, real estate and trade is \$1.45 billion; and transportation and utilities, \$2.89 billion. So this gives you some basis for, if you like, that \$606 million and how it compares to the overall, and the \$554 million and how it compares to the overall. And in terms of percentages I think the \$606 million is obviously less than 10 per cent, about 8 per cent, and the \$545 million is about 15 per cent of the investment that is what they state is foregone as a result of unsettled land claims.

Now, one of the questions, and this can't be and I don't want to make any claims to statistical representation here, but one of the questions is, well, how big was, in the group that was surveyed, how big was it relative to all corporations? How much did we leave out? What proportion of firms would be left out, because obviously the ones left out would also have some intentions to invest and might very well be affected by unsettled land claims. And so here we have taken from the investment intention surveys done by StatsCan, in the first two columns and then the five years—well, the second column is a projection from the first column and the third column is from the survey that we did. And we'll see that the projected investment intention over the next five years for all companies is about \$57 billion dollars in British Columbia.

And the amount for the group was \$7.6 billion. So, obviously some gross up should be done with respect to foregone investments. We didn't get near to them all because we only had a grouping. So those are the results from the survey that I wanted to summarize for you. It gives you some things to think about with respect to what are the benefits and impacts in economic terms from land claims settlements and lack of settlements, and from the uncertainty associated with them. And I look forward to discussion about these results.

# Economic Analysis of Treaty Benefits

*Jock Finlayson, BC Business Council*

Thanks very much. I'm pleased to be here today and echo the words of greeting from Jerry Lampert, who's my boss, and who's now conveniently left so I can perhaps slightly contradict him on one or two issues if the need arises.

I'm going to really follow up on some of the comments that Doug made and build on a few of them, but also offer a slightly different perspective. I'm going to start with a bit of an economic background, which I think is important to keep in mind in assessing both the need for treaties in British Columbia and the benefits they can bring, but also some of the challenges that our land and resource-based economy has been going through over the past 10 or 15 years. I will make a few comments on the report that Doug referenced, the updated Economic Financial Impact Study from Grant Thornton. I won't cover exactly the same material as he did, and if time permits which is doubtful, I'll deal with a couple of other issues, particularly the economic status of First Nations communities and the need for human capital development.

Well, at a sort of a broad level I think everybody would agree that the economic implications of unresolved aboriginal claims have clearly been negative for the British Columbia economy. I think it's very difficult to really quantify that in a way that one can have confidence in, but we do know that it has hurt us. It has depressed economic growth in the province. And there are really three main areas I think that are relevant here.

The first is it has clearly impacted new investment and business activity in what I call land-based industries; primarily resource-based industries that require access to Crown land in order to operate. Because those industries are a big piece of the economic pie in British Columbia, for example resource industries account for roughly three quarters of our merchandise exports, we can further say that that problem concentrated in the land-based component of the economy has spilled over to depress overall economic growth—output growth, employment growth and export growth—in British Columbia, although I think it's very difficult again to put hard numbers around that.

A third cost I think that we have born, and this one is even less quantifiable and I actually mentioned it on the chart, is what I call the reputational impact. And those of us, like myself, who spent some time dealing with credit rating agencies and investment bankers located outside of British Columbia, in Toronto and New York or elsewhere, who are coming through town, have known for quite a few years that this problem, this issue of unresolved aboriginal claims, is on the radar screen of people outside of BC, particularly business decision-makers. They don't really understand it; they're not sure what it means. They know it's something that we're grappling with domestically, but it leads them to put a bit of a question mark over the future of certainly the resource-based economy of BC and to some extent the economy as a whole. So there's a reputational cost there.

The background for the treaty process that we're now engaged in is that the resource-based economy in British Columbia, outside of the energy sector, has been in decline. It's certainly been in relative decline in the sense that it accounts for a shrinking proportion of economic activity and employment, and indeed, some parts of the resource economy, for example the mining industry, the coastal forest products industry, the fishing industry, are three that come to mind, have actually been in absolute decline in the sense that the value of what they're producing and the number of people directly employed in those industries have both been declining over the past number of years.



And that's clearly been felt quite acutely in the regions of British Columbia outside of Greater Vancouver and the Capital Region on Southern Vancouver Island especially.

We also know that another aspect of the decline has been the poor returns on capital employed. In many parts of the non-energy resource economy, not all parts of it, and not every company has experienced that, but broad segments of the resource economy in British Columbia have seen relatively poor returns on capital invested. And that of course has dampened enthusiasm for investing in BC in those industries, whether we're talking about investing in existing facilities to upgrade and retool the capital stock or indeed to establish new greenfield operations. We've seen relatively little of both of that outside of the energy sector within the BC resource-based economy for the past dozen years or so.

And at a broader level the capital stock, in other words the equipment, the machinery, the buildings and the infrastructure that businesses use to produce goods and services, has actually been eroding in large parts of our resource economy because many resource firms have not been investing even at a level required to keep pace with annual depreciation. So the competitiveness, if you will, of our resource industry infrastructure in many cases has been deteriorating, which certainly is something we worry about.

We've done a little study of structural change in the British Columbia economy that we'll be publishing soon, and one of the charts I lifted from that is shown here. We've indexed the value of economic production or gross domestic product in different pieces of the economy and asked the question: How have they changed from 1990 to 2002? The red line here, which shows a slight decline, includes forestry, mining and fishing added together. It does not include the energy sector. And the green line includes all industries. The yellow line at the very top includes the rest of the BC economy minus forestry, mining and fishing.

And you can see a rather stark difference between overall growth that we've seen in industry in British Columbia, which is charted near the top, and the stagnation and modest decline in fact in the value of gross domestic product that's been coming out of forestry, mining and fishing added together. And that's one indication of this decline I refer to in the resource-based economy in British Columbia. We can also see it on the employment side, which is obviously what most people are going to care about, rather than gross domestic product. In the primary segments of the non-energy economy, primary forestry, fishing and mining, there's been a noticeable drop in the number of direct jobs since 1990. But there's been a slight drop in wood manufacturing and pulp and paper as well. And that again has primarily hurt the many communities across BC that are heavily dependent on resource-based industries to generate income and employment in their communities.

Notwithstanding that decline of the resource-based economy, at least most parts of it in British Columbia, it still looms very large for our province as a whole, and in 2001, I mentioned before, resource-based industries were generating a little over three-quarters of British Columbia's international merchandise exports. About 70 per cent of our so-called manufacturing shipments, 70 per cent of what we manufacture in BC is actually processed resource products rather than equipment or machinery, for example. And about three-fifths of what we sell to other provinces in Canada also comes out of the resource-based industry. So they loom very large still today in the economic pie in British Columbia, even though they have been struggling and have been declining over time.

We can see it in the lumber industry. This just shows what's happened to BC's lumber production as a share of the Canadian total over the past few decades. It's actually picked up a little bit since 2001 with the wrapping up of production in some of the more efficient sawmills in BC. But we've lost market share, if you will, in the lumber industry relative to other provinces in Canada during this period.

The mining industry, one that we're doing a little bit of work on at the moment, has also declined in terms of its absolute size in BC. And that of course is an industry that depends critically on access to the land base and is significantly affected by the rules and regulations and laws that govern access to the land base for any particular business. The industry has basically fallen in half in terms of the number of significant operating mines. Exploration and development spending have trailed off over time quite significantly. And there's a whole series of reasons for this but issues around access to land and the need for some assurance that if a mining company finds an economic deposit there's a good chance it will be able to develop that into an operating mine. Those are real concerns in that industry and remain so today.

Just a comment on the regional economies of BC: if the whole province has suffered from the uncertainty arising from unresolved aboriginal claims, the regional economies in BC have really borne a disproportionate share of that overall burden. In other words, it hasn't affected so much metropolitan Vancouver or the Lower Fraser Valley or the Victoria area. The impact has been much more significant on the communities in the regions that are more based on land-based economic activity. And those non-urban areas, as I call them, in British Columbia, if one looks at where income flows are generated, where does the income that households depend on to function in those communities come from, the largest part of it actually comes from the public sector today, which includes both the government jobs and transfer payment programs.

But forestry, mining, tourism and oil and gas, agriculture and fishing are also significant industries. The technology sector is significant as well, but that's heavily concentrated in the Okanagan area and Vancouver Island. And just to quantify that, this shows the average income dependency of 63 local areas outside of Greater Vancouver in 2001. And if you look at the bottom you can see public administration actually being the biggest source of income for all those regions of BC other than the Lower Mainland, followed by government transfer payments and then forestry, and then a variety of other industries. So again, what's happening in the land and resource-based industries tends to impact disproportionately the communities outside of the Lower Mainland and outside of the Greater Victoria area.

I mentioned forestry and mining as two industries that are affected by any uncertainty about access to land and resources, and certainly the survey that Doug referred to shows that the level of concern, or the impact if you will, of unresolved aboriginal claims according to the survey results is greater in industries like forestry and mining than it is in other industries. These are the things that the forest industry says it needs to create a more attractive operating environment in BC, and a number of those requirements bear directly on land-related issues, including aboriginal land claims. So forestry wants to secure the forestry land base and this may be more of a wish list perhaps, but they want a modernized forest practices requirements; that's happened. They'd like to see the annual cut stabilized or grown. Whether that's possible or not, people can debate. Enhanced tenure and improved timber pricing is another.



And then the mining industry has its own list of the top five policy areas where they need change in order to increase their investment and presence in British Columbia. Shown here is the top five out of the Mining Association of BC's annual report.

Well, let's switch over to the Grant Thornton report and this whole question of the economic impact of unresolved aboriginal claims. The fact that most of our resource industries have been in decline for quite a period of time, at least notionally to me suggests that the uncertainty, the legal complexity, and the higher costs associated with unresolved Native claims have taken an economic toll on BC, although again I think it's very difficult to quantify that.

I would add, however, that there are a lot of other factors that impinge on business investment and other kinds of corporate decisions, and I think in some casual conversation that we see in BC over the last few years, I think the impact of unresolved aboriginal claims may sometimes be exaggerated relative to all these other factors. But certainly for the resource-based industries that I'm familiar with, things like commodity prices, external competition that we face and the markets we sell to, the labour and other operating costs, tax policy and other fiscal charges, environmental regulatory regimes, market access issues particularly vis-a-vis the United States, and of course recently a much higher profile has been given to the Canadian dollar and the U.S.-Canada bilateral exchange rate.

These are all very, very important factors in business decisions and investment decisions and it would be a mistake I think to assume that the decline that I talked about particularly in the forestry and mining industries in British Columbia can really be attributed in a major way or an overwhelming way to unresolved aboriginal land claims. Yes, they have played a role in it, but in my view there are a lot of other things that have impacted it as well. Trying to isolate the independent effect of unresolved aboriginal claims on what's been happening in these resource industries is difficult, but that has not stopped a number of brave consultants and academics from trying, including the ones who produced the report that Doug referenced in his brief presentation.

The Grant Thornton study, which really is a review of three earlier pieces of work that tried to measure the financial economic costs and impacts of treaties in British Columbia, is an important piece of work. I read it just a couple of days ago. I think it will receive some important attention when the Treaty Commission releases it. And it sets a good framework for debate and discussion of these issues going forward. There is a critical separation that occurs in the report and in other kinds of reports like this between the financial benefits and costs, as Doug mentioned, versus the wider economic impacts. The financial benefits and costs are measured in this particular study, and the other ones that I've looked at, from a perspective of British Columbia. Not from Canada but from our point of view here as BC residents, governments, First Nations, business, households, et cetera.

And that financial perspective really flows from an assessment of the cash payments that will flow to First Nations as a result of treaties, and the share of those cash payments that come from BC taxpayers versus Canadian taxpayers. The transfers of land, the associated revenues that will be foregone to the provincial government from transferring land to First Nations as part of settlements. Settlement implementation costs which are sometimes under emphasized but are quite important in the overall picture.

The question of the tax treatment of aboriginal communities post-treaty, and any changes in government program costs if they flow as a result of negotiating and implementing treaties. The economic impact of treaties really takes more of a macro perspective. It starts with the financial costs but then looks at what happens to incomes, employment and investment in a post-treaty world. Anybody doing that kind of work has to make assumptions about things like how much money will flow into establishing and building local businesses and infrastructure versus consumption. The returns on that investment, resource harvesting activity, the use of First Nation resource revenue and a whole host of other variables. Like any economic model, a whole bunch of assumptions have to be developed and plugged in, you hit the button and the results come out. It's useful work that's important in moving along discussion and debate and understanding, but the realism of the numbers at the end of the day depend on the realism of the assumptions that go in to the model. And that's a chronic problem with this kind of work.

Very hard in my view to quantify the affect of reaching a significant numbers of treaties on the broader investment climate in BC. And here there's a misprint. I've said, "even though treaties should lead to greater uncertainty in the resource and land based industries." The correct word of course is supposed to be "certainty." Sometimes it's hard to keep your uncertainties and certainties straight in preparing these presentations. The leader survey done by the Treaty Commission did indicate that the absence of treaties has reduced investment, especially in the resource-related industries, transportation and utilities. And our view in the Business Council, based on some work we've done, is that BC as a whole will gain economically from treaties resulting, as Doug emphasized, because the cash transfers will come disproportionately from Ottawa rather than from BC taxpayers because the expenditure of the funds that flow to First Nations communities will take place largely in British Columbia, whether it's consumption expenditure or investment and business infrastructure; that will benefit the BC economy as a whole.

There is a potential for increased investment and business activity, hopefully in a world where we have more treaties in place. And not least, there should be more economic opportunities and greater opportunities to improve living standards for First Nations themselves. If all of these things happen, the economy as a whole in British Columbia will clearly be better off in the future than we are today or have been in the past. And that's why we think treaties are a positive way to go for British Columbia.

There are other issues that have to be considered in the context of this discussion. To the extent that the BC Government is transferring land to First Nations as part of settlements, which it certainly will be, there will be resource revenues foregone to the provincial Crown as a result of that. There will also be some dislocation of existing business interests and jobs as a result of transferring that land, and those have to be taken into account. But in my view they would be more than offset at an aggregate level by the economic benefits that BC will reap from treaty settlements. And the overall effect I think of putting in place a substantial number of treaties in BC will be positive for economy-wide output, income and employment in BC although modest rather than dramatic.

And let me just—I won't go through the other elements of the Grant Thornton study because Doug has already covered that. The benefits will be modest, in my view, because of the long time period over which treaties are going to be implemented.



The Grant Thornton study looks at a period of up to 20 years or more, so those numbers that Doug showed you on the economic benefits need to be thought of in terms of flowing over a period of two decades.

BC's economy is about \$130 billion worth of activity in any one year, and treaties will probably generate, if we're fortunate, maybe an extra billion or two a year added to total output in the province. So that's welcome. We certainly don't want to stare that in the face, but it's not going to transform British Columbia overnight as an economy, although it certainly will be beneficial to a lot of the First Nations communities who will presumably get a significant part of the benefits.

How these settlement funds are used, that are transferred as part of treaties, I think is a critical issue. How much will be invested in local aboriginal community businesses and the success rate of these ventures obviously bears heavily on the long-term economic effect of treaty settlements. I mentioned before the mix between investment versus consumption that will play a role. There will be some limits, probably in treaties, on new economic opportunities. In the Nisga'a treaty there are some restrictions, for example, on new forestry and fish processing facilities. Some analysts believe we're moving into a world where there's going to be a large excess supply of lumber on world markets, particularly as Russia enters global forestry trade in a major way. That means that only the most cost competitive operations in a high cost jurisdiction like BC will be successful in world markets where you have that kind of condition of oversupply.

And outside of the resource-based sector, I think new business opportunities will come into play for First Nations but they are going to be limited, particularly for a lot of the smaller First Nations in more rural parts of BC. So one does need to be realistic about that. Nonetheless, the economic and hopefully social impact of treaties on aboriginal communities will be significant and positive. But as I mentioned before, the effects on the wider BC economy, although positive, will be mitigated if you will because they'll be implemented or felt over a very, very long time period, numbering in the decades. And treaty economic benefits will be, as I mentioned before, just a small fraction of the total value of economic output in the province in any one year.

The issue of certainty that Doug talked to is important. It's thrown around a lot in the business community. It's a difficult thing to get your hands around analytically. What does it really mean from a business perspective to talk about the uncertainty that we allegedly face? Well, it has to do with a few questions. Who owns the land and resources of the province? Relatedly, who has the jurisdiction to regulate their use? Thirdly, what processes will be used to sort that out and put in place approval regimes and decision-making regimes around the use of land and resources? What cost is attached to those processes? And what time period is required to arrive at decisions? That's a critical, perhaps the most critical, aspect of uncertainty in the business climate in our province. And the fourth element of uncertainty, as I think about it, is really the possibility of legal action arising because of all of this is unresolved for the most part at the moment. Those are the sorts of elements that we're dealing with in the business community I think that come under the broad heading of uncertainty.

Thank you.

# Economic Analysis of Treaty Benefits

*Ron Jamieson, Bank of Montreal*

Thank you. Elders, chiefs, Mr. chief commissioner, ladies and gentlemen, members of this forum, thank you very much for the invitation to be with you here today. I always welcome an opportunity to come to beautiful British Columbia.

I'm not quite sure, I must say, when I received the invitation from Miles [Richardson], I'm not quite sure why Miles chose a Mohawk banker who lives on the Six Nations Reserve in southern Ontario. I can only assume that Miles knows that our own land claims at Six Nations do not extend this far. It only includes all of Ontario, basically. I want to make a couple of comments, if I could, before I get into the meat of what I have to say. And I will be brief, because I certainly realize that I am the only thing standing between this forum and their lunch.

And I want to thank Leonard George and I want to thank Bill Wilson, who has stepped out of the room at the moment, for bringing something back to me that I grew up with and I'm very familiar with and which they both alluded to. The Iroquois Confederacy, of which the Mohawk people are part of, bases their relationship with the broader Canadian society on something we call the two-row wampum. The two-row wampum is a sacred agreement between the Iroquois Confederacy and the broader Canadian society. It is a white background with two purple rows that run down the edges of this piece of wampum [beads]. And what it represents, ladies and gentlemen, is really the native population and the non-native population traveling down a river, each purple row representing people, the different people, the native people and the non-aboriginal people. But they're traveling down a river in the canoe, their own canoe.

And that's where the distinction becomes very important because what the tradition speaks to is that, although all people are traveling in the same direction through time, one people does not interfere with the other people. I say that to mention the fact, and it speaks more to cultural, traditional, language, et cetera, but the key message here is that really all people in this country are traveling in the same general direction. And that is the whole premise of my comments here today and that's one of communication.

And I want to touch briefly on the obvious I think to many of you in this room, private sector needs, the corporate needs if you will. But I also want to talk about two very real examples that have just taken place in this country, which I think and hope that the BC Treaty Commission can take some comfort in first of all, but secondly some learnings from, hopefully.

The private sector needs a stable government. And we're all very fortunate that we live in a democratic society here in Canada, a wonderful country. So we're not going to be faced with the sort of issues that unfortunately are happening, for example, in Haiti at the moment. So we do live in a democratic society. But the private sector demands, prior to investment, that they have the comfort of a stable government; that they have favorable tax treatment; that the corporate taxes surrounding their investment and their prosperity going into the future are not onerous. They would like incentives for investment.

And I know we're talking about major issues here around the settlement of treaty issues, but many of the corporations that we're thinking about are global in stature. Other countries around the world are in the process of offering them not only very, very favorable tax treatment, but also actual incentives, tax holidays and such, to invest. So that's where our corporations in Canada are forced with making decisions on where they invest, and it need not just be in Canada.



They need a stable, well-understood, easily maneuvered, regulatory environment. And leaving BC aside for the moment, we have a regulatory environment in Canada, which is very, very difficult. We can't even have cross-province trading in some cases.

And finally, and key to corporations, is access to skilled or trainable employees. So taken as a whole, corporations just plain don't like uncertainty. And as I reviewed the information on the questionnaire, with all do respect to my previous speakers, I would have to say that the land claim issue in this province, from where I sit and as I understand it, is a huge hurdle to corporations.

Notwithstanding my co-panelists, and I think in fairness, Doug, I think it's the sample size. Because I really believe that it's a huge impediment to investment going forward by the corporations. So having said that, let me move now to two very real examples which anyone in this room—it is all public information, are certainly welcome to check. The first one is Voisey's Bay Nickel—long way from here to Voisey's Bay on the north coast of Labrador. And you'll recall I think when the Inco discovery was found and Inco paid the discoverer a huge amount of money to access Voisey's Bay Nickel, and then they went to negotiate with the Province of Newfoundland and Labrador. Then-Premier Brian Tobin said, "If you don't process the nickel in this province then there's no deal." In essence he said, "It's my way or the highway." And I know Brian and I have a lot of respect for him, but in essence that's what he said.

At the same time that was going on, the two prime aboriginal groups in Labrador, the Innu people and the Inuit people had gone to Voisey's Bay Nickel and said, "We're open for business. We want this to happen." So they had circumvented, if you will, the provincial authority and said, "We want this to happen. Our people need these jobs and we need this economic opportunity." And they in fact sided in very many ways with Voisey's Bay Nickel against the provincial and federal regulatory environment, to try to make this thing happen. And I think history shows that once the premier of the province was changed to Roger Grimes, who's not there anymore either, that the deal got done.

There was something behind the scenes that didn't come out and something that I was intimately involved in called a protocol agreement, and I'm going to come back to that term so just remember it for a moment—a protocol agreement. The second example is not that far away, it's in the Northwest Territories with the aboriginal pipeline. This is the pipeline that's going to come down the Mackenzie Valley and crosses 27 aboriginal groups, some similar, some not so similar. And it's very interesting to note that this, and I was pleased that Jerry Lampert, who's also stepped out of the room, mentioned EnCana because they were also involved in initial work on that aboriginal pipeline group.

I was asked to come in and represent these 27 aboriginal groups up and down the Mackenzie Valley as an advisor to the process, which I was very pleased to do. And one of the things that I was saying to them was that we should all get on the same page. Let's not go and negotiate with the private sector if we're all on a different song sheet, let's get on the same page and let's do that in the form of a protocol agreement. And I'm going to come once again to that comment in just a moment.

Finally, after a lot of negotiations, it's very interesting to note that that has been agreed to, that the aboriginal pipeline will go down the Mackenzie Valley although at some years from now. It's a huge construction project. There's about \$700 million right now needed of equity to back up the aboriginal groups, but I'm confident that they will be able to obtain that.

It's very interesting to note that the aboriginal pipeline group right now which has an office function and an infrastructure function, there's a president and vice-presidents, et cetera, is all being funded today by Trans-Canada pipeline. And why would you say that they're doing that? They're doing that so that they can form a lasting partnership, one that is based on communication. So let's deal with that tool.

And I want to leave this tool with this forum, and if people in this room would like to receive direct information on this tool I'd be pleased to provide it. And it's called simply a protocol agreement. Now, many around here would be saying do we need one more agreement, agreement in principle, et cetera, et cetera, the various hurdles that we all have to go to solve some of these things. But a protocol agreement simply says that the one, two, three, four, five groups, how many are involved, it doesn't matter how many are involved, that they definitely agree to communicate. The biggest problem I find in doing business today is lack of communication.

And we developed at the Bank of Montreal, within Aboriginal Banking, this concept of a protocol agreement over 10 years ago. So when we go in to an aboriginal community to begin to do business on a reasonable scale, we put in place a protocol agreement. And that as an agreement doesn't commit us to do anything and doesn't commit the aboriginal group to do anything for us or even with us. But it does commit one thing, and that is that there is a commitment with designated people identified to carry this out that they will communicate throughout the whole process. My experience after many years in business is when the communication between people whether they're red, white, yellow, it doesn't really matter, but when the communication breaks down between people of differing views and values, when that breaks down the walls go up. And when the walls go up trouble is soon behind.

The protocol agreement I can tell you has been so successful for us that the Westpac Banking Corporation, which is a bank in Australia about the size of BMO Financial Group, are importing it all the way to Australia. In fact, they're taking our whole aboriginal banking program, but this was key to it, was the protocol agreement and the whole concept of it. And I can tell you that our aborigine brothers and sisters in Australia are far behind our own, although limited progress here in Canada, they're far, far behind us.

Many years ago I had an opportunity to—in fact it's 10 years ago now, it doesn't seem quite possible—I had an opportunity to chair the Royal Commission on Economic, the Roundtable on Economic Matters Affecting Aboriginal People in Canada. Obviously the settlement claims was very much part of that discussion. We produced a publication called "Sharing the Harvest". I like the sound of that. This country has got vast resources in not only people, but vast resources in general. The Government of Canada spent \$57 million dollars on the Royal Commission, which is in Ottawa gathering dust, like so many other things that the federal government undertakes. I sincerely hope that I don't have to chair another Royal Commission on Economic Matters Affecting Aboriginal People. So my suggestion is that we get on with the work, that we get on with the communication, that we open that communication up so that, and I'd love to be invited back, but I don't want to come back and discuss this issue again. I hope that I'll see the end of it in my lifetime.

Thank you very much.



# Building a better economy

*Calvin Helin, Native Investment and Trade Association*

Thank you very much for the introduction. Unlike our distinguished speaker during lunch, I earned my PhD by going broke in the fishing business, early eighties, when interest rates went up to 24 per cent, and have mostly been involved in looking at the economic side of issues relating to aboriginal people. And I have a PowerPoint presentation, which I'll be going through as I speak.

What I'm going to talk about is how we got to where we are. I'll try to give a brief overview of that. And how we got into the situation that I call the welfare trap. I'll talk about something that I've termed the demographic noose; the impact of all these things on the aboriginal population; the aboriginal train crash, what we can do about it, and what are the opportunities. Looked at in a traditional or a longer-term perspective there's been evidence in BC in particular of continuous occupation of certain areas for at least 10,000 years. And the question that I wondered about when I started thinking about all of this stuff is that if we've sailed along for almost 10,000 years, what happened in the last 300 years that has caused all of the social problems and so on that aboriginal people find themselves having to deal with.

The situation was I think created initially by the kinds of policies that came out of England. In the Victorian era there was a legacy of enlightened colonial policies predicated on the idea of assimilation as a solution. And the emphasis at the time was on separating aboriginal populations from mainstream society, as well as paupers and certain underprivileged groups, and giving them special limited status. And the idea was to let them develop in a protected way until they could be, in effect, vended back into mainstream society. And these ideas found their way into the Canadian Constitution in the form of the Indian Act. And they, to some extent, are still with us in Canada. We still have to deal with the Indian Act.

And what they resulted in is the isolation of aboriginal people in usually remote areas and residential schools, and for the most part separate and discriminatory treatment. At the time when a lot of this legislation was introduced, language and culture was suppressed under the threat of violence and imprisonment. And in BC, aboriginal people didn't get the franchise until 1951, and federally until 1960. Land and resources were taken away. Even reserves that were given to communities in BC were illegally expropriated. And these are some of the issues we're trying to sort out today. I think it's created a culture of expectancy based on government handouts and it's led to a situation I call the welfare trap. In a lot of cases aboriginal populations have been socialized into thinking that welfare is normal.

In eastern Canada they refer to the idea of the transfer payment syndrome in relation to the Maritimes, that is, the Maritimes have been conditioned so long into getting government support that it's now a syndrome. And I think something like that exists with aboriginal people. And the current situation is both economically isolating and I don't think will ever lead to self-reliance.

So, the way that aboriginal communities have been isolated economically is in most communities the transfer payments come from the federal government and they go into the aboriginal communities. And because there isn't generally too much of a business community most of the monies go right back out of the communities. So when you contrast this to mainstream society, the wealth in mainstream society for the most part, 90 per cent of it comes in the form of wealth generated by the private sector.

So the question is, from my point of view, how do you bridge this situation that's existed? In another way what it's created is a leadership focus.

Whereas if you look at the mainstream society, the non-aboriginal communities focused on business, because that's what's generating the wealth to be able to create the kind of society that we live in.

The aboriginal population is the fastest growing ethnic population in Canada. Reserve populations are expected to double by 2015. This is a little chart from the Royal Commission on Aboriginal Peoples. The population is expected to double from three per cent to six per cent by 2050. And in some provinces, particularly Saskatchewan and Manitoba, by that time, based on current growth trends, the populations are expected to exceed 50 per cent aboriginal in those provinces.

And if you look at this little graph, the yellow bars are the non-aboriginal population and the blue bars are the aboriginal population. You can see in the numbers underneath from zero to four, five to nine, are the age groups; so you can see from up until about 25 years of age there's a huge aboriginal baby boom compared to the mainstream population. And for reasons, which I will discuss, you can also see what happens on the other side of 25; aboriginal people generally don't live as long as everybody else in the different age groups.

In general, the aboriginal population is 10 years younger than the non-aboriginal population and growing at a rate of one-and-a-half times. So whereas 34.2 per cent of the mainstream population is under 25 years of age, 53 per cent of the population in the aboriginal community is under 25 years of age. And this has very, very important implications for everybody. It's exacerbating problems that already exist in communities.

We have been in an era of fiscal restraint. There has been a little bit more money in the recent budget for aboriginal issues. But even if the government wanted to keep up the per capita payments to aboriginal people as they now are, they would never be able to do it. The population is just growing far too quickly. So at the end of the day what this translates into is less money for services to deal with the growing problems and numbers. So the question is how do we deal with this?

Another interesting side of this question is the general demographics of the Canadian society. I've heard that in the next five years there's estimates of between three to five million skilled workers will be leaving the Canadian workforce. The question is how are we going to replace those workers? Who are we going to replace them with? And everybody is looking at the aboriginal population, which will have a working age population of almost a million by 2006. And the question is, how do we turn a lot of those individuals into productive, skilled workers, basically to keep Canada, as a country, not only productive, but competitive internationally?

And if you live in either Saskatchewan or Manitoba these problems are particularly acute because, as I've pointed out earlier, 50 per cent of the population by 2050, over 50 per cent will be aboriginal.

So we've heard, and you probably know all of the impacts on the aboriginal population relating to incomes and unemployment, life expectancy and so on. And we've heard all of this discussion and it was an interesting luncheon presentation, and I think the question of well-being for aboriginal people boils down to one question. And the question is, do you feel in control of your life? And I think for all of these reasons, which I've just briefly discussed, I think most aboriginal people haven't. And I think as well that the type of economic situation that exists is the reason that more than 50 per cent of the aboriginal population now live in urban centres rather than communities.

So from the point of view of the aboriginal community, I think it's resulted in a loss of confidence. In some cases it's spawned a lot of dysfunction and corruption and a lot of substance abuse.



And my uncle told me a story called the Indian crab story. And the way the Indian crab story went was he was walking on the dock, and I'll use Port Alberni for an example, and he saw a non-native fellow with his bucket of crabs. And when he set the bucket down a crab climbed out. And when he went to chase the crab and brought the crab back to his bucket a couple of other crabs climbed out. So he's running around in a panic.

He went further down the dock and there was a native guy with his bucket of crabs. And he was smoking on a cigarette. And my uncle looked up the dock at the non-native guy and he looked back at the Indian guy and he said, "Aren't you worried your crabs are going to get out?" He says, "No, not these ones." He says, "They're Indian crabs. As soon as one tries to crawl out the rest pull him back down." And that's been a syndrome, I think; that type of attitude is a syndrome of the sort of colonial situation that aboriginal people have been through. And I think there's been an inward focus on our problems. And I think some of that is very well justified.

When you've had a serious problem, for example like your culture being smashed and all these problems, there's a purpose to being in a period of grievance. Grievance allows you to adjust to some very traumatic thing that has happened. And I think aboriginal people have been in this stage for quite a long time. And the way I sort of describe this is it's like a train crash. The aboriginal train has been going down the tracks and it crashes, and all the dysfunction and so on that I've talked about has occurred.

But what we've been doing is we've been looking inward and the question we've been asking is who are we going to blame for this? And it's I think a useful question from the point of being in a period of grievance, but at the end of the day the only real question that's going to get us anywhere is what are we going to do about it? And I think we have to start from looking inward and looking outward. And I think we have to do as the luncheon speaker suggested, we have to take ownership of the problem. No one else is going to sort out our problems. We have to sort them out. I think that's a good place to start. And this is being done in various places across Canada. And I think it's time to switch from grievance to development mode. And I'll explain what I mean by that.

So what can we do about this? I think that having our own institutions is a start. From a private sector we've started the National Aboriginal Business Association and Native Investment and Trade Association. And I also think we also have to look at our asset base, and I'll talk specifically about treaties once I go through a part of this presentation.

If you look at the asset base, aboriginal people own a tremendous amount of land. It's estimated to be about 6.5 million acres of reserve land in Canada and another 560 million acres has or will pass to aboriginal people as a result of treaty settlements. This is an old map of lands either owned or controlled by aboriginal people. I made a presentation similar to this in New Zealand and I wanted to try and illustrate how much land that was, and it's a land mass about the size of BC which is about three times as large as New Zealand. So you're talking a fairly significant asset base.

There will be cash; I've heard all kinds of discussion about that. There's also a lot of public sector spending in the aboriginal community, which can be focused on as a way of generating revenue for aboriginal communities.

There's also resource development, and one area where I've had a little bit of experience in is energy and resource development.

There's a big aboriginal involvement likely in the gas pipeline from Alaska and through Mackenzie Valley; Alberta oil sands; the Hydro Quebec; and Cree in Manitoba have huge hydro projects; offshore oil and gas activity in northeastern BC. The diamond industry, I've been involved in negotiating some agreements for some of the aboriginal groups in northern Canada. And the key to elements that have arisen to workable deals were also alluded to, I understand, this morning by some speakers as talking about communication. But as just an understanding on the part of both parties as to the position that each party is in and what each party has to deal with and a mutual respect for those issues. There are some very good examples in Canada. I don't think there's any necessity to reinvent the wheel.

One of my good friends in northern Alberta is Dave Tucaroo. He's president of their local business association, and there are huge projects taking place up there. The Athabasca oil sands project is now the largest oil sands project, I believe, in the world. And I asked for permission to use this slide from one of the presenters from Shell. And what it does is it shows what I think the luncheon speaker was talking about in the relationship between trust and transparency. The more transparent you are, the greater trust I think that it engenders in a community. And that certainly has an application in relation to treaties in BC.

Another important question, which I won't go through, is separating business from politics. In the oil sands in this last year, the aboriginal businesses will have done over \$400 million in business. And it's been a huge impact on aboriginal people that's been very positive up there. What it's meant is that people have very good jobs, in some cases highly skilled jobs and mostly very well paying. And some of the aboriginal companies up there are setting the standard when it comes to human resources and performance and so on. And if that money were going into those communities in the form of welfare I think you would have a lot of problems. In this case it's coming in, in the form of, if I'm able to use the language of the luncheon speaker, ownership from the aboriginal businesses. And they are basically doing some really tremendous things. And anyone that wants to see a good model, that's a good place to start.

The Ekati Diamond Mine is the first diamond mine in northern Canada. I assisted the four Dene communities in Yellowknife in negotiating the agreement. And they were initially looking at trying to get as large of a royalty out of the project as possible. It turns out that wasn't very possible, and the real benefits for the communities were in the form of business contracts and employment. And so we structured the agreement so that we could try to maximize those benefits for them. And last year in the Ekati Diamond Mine, which is a huge project, it was actually fairly difficult for me to imagine that at the time that there were diamonds in Canada and how big these projects were, but last year they generated over I think \$100 million in aboriginal contracts on that one mine. They have three or four more going in. And this one mine has used up a lot of the employable aboriginal people in northern Canada. So for the most part they've been very beneficial.

Another kind of arrangement is an example I'm aware of, is the hydro project in northern Manitoba. The aboriginal company has an opportunity to own up to 33 per cent of the project, and they started from a point where it was just assumed there would be aboriginal participation. And the aboriginal people I think rose to the challenge.



So how does all this relate to treaties? I think the number one issue that has to be looked at in terms of treaties, even though the history of treaties imports a whole host of ideas and discussions and concerns and emotions surrounding rights and everything else, the most important thing, in my opinion, is how are you going to be economically self-sufficient as a result of this. Because I don't think its money in itself that's the answer to aboriginal issues. If that were the case, I think Mike Tyson should have been a very happy guy, but he isn't.

So money is not the issue, it's a question of attitude and a question of building based on a very well considered strategy. And the problem that has occurred in a lot of cases has been that when these treaties are negotiated, everybody is taking a position based on rights and other issues with no real thought for how to build an economy out of these assets.

I was in New Zealand and a very distinguished Maori scholar, Sir Tippiny O'Regan was the negotiator for a tribe in the southern island in New Zealand, the Ngai Tahu people. And he said that what happened was his people were like the Vietnamese who had been at war for 50 years. They were very good at it. Negotiating these treaties was a bit like going to war. And they were all prepared for war, but what they weren't prepared for was what do you do when peace breaks out? What are you going to do with all of these assets now that you have them? And Billy Diamond said a similar thing.

And I think it's absolutely fundamental to the success of these future treaties and negotiations that a lot of thought, and possibly resources, go into determining what kind of economic strategy you're going to have. Because at the end of the day if you have a lot of assets and they're not improving the lives of the people in the communities, the question I ask is why do you have them?

And one of the most important things is education. There's a recent UNESCO study out that basically said that investing in secondary and tertiary education and not just primary education pays rich dividends. Access to secondary and tertiary education is the key to building skilled and knowledge-based workforce. Now, there are scales of development and so on that have to be considered when you're talking about communities, but I think the results of this study are fairly applicable to aboriginal communities. I think wealth creates opportunities of itself; generated wealth. You've had to organize yourself and your communities to be able to get into a position where you're generating wealth. It leads to more stable employment, more individual income, and like a lot of the people that I know up in Fort McMurray, the Cree and Metis people, more income has led to all kinds of opportunities, more opportunities for higher education.

So I think whatever economic strategy is developed you have to have emphasis on your population and education because that's the most valuable thing; or the most valuable commodity that you have at the end of the day is people. And one of the things that this study concluded is that education is increasingly considered as an investment in the collective future of societies and nations, rather than simply in the future success of individuals. And I've noticed in New Zealand, which is a very small place, they have distinct Maori tribes, some of the tribes put a huge amount of emphasis on education. I mean, to a very, very high degree. And those are the tribes that are doing extremely well economically and every other way.

So I think in terms of treaties, treaties can be, I think, a huge benefit for aboriginal people. I think you have to pay very close attention to developing a sound economic strategy. And at the end of the day I think you have to be very proactive about what you do.

So on that note, thank you very much for the opportunity to present.

# Building a better economy

*Charles Coffey, RBC Financial Group*

Thank you very much for that introduction. Elders, my aboriginal brothers and sisters, Mr. Premier—once a premier, in my mind, always a premier—special guests one and all. I'm honoured to be here in the shared territory of the Tsleil-Waututh, the Squamish and the Musqueam Nations. I come to you from the traditional territory of the Mississaugas of the New Credit, known to some as Toronto. And I am absolutely honoured to be here. A friend of mine often reminds me of this, and I'll start with this comment.

People may have forgot what you have said, people may have forgot what you have done, but people will never forget how you made them feel. And I want each and every one of you to know through your invitation to me here today you have made me feel very proud and a particularly proud Canadian to be here talking about such strategically important matters as treaties.

So we're going to talk about opening doors to new business opportunities, and yes, we will venture into the treaty world as well. And for me coming from Toronto it's tremendous for me to be amongst so many champions. Guujaaw, who was here earlier, the President of the Haida Nation, who spearheaded and won the Haida case establishing the need for companies to consult with communities. To Harley Chingee, my friend Harley Chingee, Chief of McLeod Lake Indian Band, a very successful leader who has developed a strong economy for his people and for others. And needless to say there are many, many other champions in this room today: Judith Sayers, Ed Wright—Ed, good to see you here; Maynard Harry and Ralph Dick—and I would like to be able to name each and every one of you, but time and the Chair will not permit me to do that.

But there is one other champion I want to acknowledge and she is a colleague of mine. Her name is Gail Murray. Gail represents the face and the voice of Royal Bank and First Nation communities and the aboriginal community in BC. And I want Gail to know, in front of her clients and in front of potential clients, how as I sit in my office on Bay Street in Toronto and I look out at what she is doing, I want Gail to know how incredibly proud I am of what she is doing on behalf of our organization, but as well as what you are doing in support of your people. Ladies and gentlemen, Gail Murray. Gail, thank you so much.

I also appreciate the fact that I am speaking to you in what is known as the Twilight Zone. We had a very nice lunch, a very stimulating speaker, but I do appreciate about this time of day, at least my personal experience has been, I tend to wander. So feel free, I won't take it personally if you have to whatever.

So let me just begin our discussion of building a better economy by reaffirming what might appear to be the obvious. And that is the foundation of a healthy community is a sustainable and diverse economy that generates wealth for community members, for businesses, and all those who interact within the community. That wealth provides income earning opportunities for members, contributes to the quality of life, makes the community an attractive place to live, and I believe reduces poverty and crime, thereby achieving a vision of what I describe as a healthy community.

The connection between these elements forms what we refer to as the circle of prosperity. In the circle of prosperity there is a direct link between community vision and economic activity. A community develops and builds a vision with the financial resources provided by a sustainable economic base. And that base, as you know, is made up of economic drivers and economic supporters. And I would argue both are necessary for a balanced economy.



Economic drivers are new wealth generators or businesses that bring new and sustainable wealth into the community by providing goods and services to customers outside the local area. Examples of economic drivers include tourism and export-oriented businesses that sell regionally or internationally.

The wealth from these economic drivers increases the money available in the community and is shared with the following: other businesses, through local purchasing and the strengthening spending capacity of residents. Calvin mentioned what's going on in Fort McMurray, a great example. Also through residents, and that of course is through wages and job creation and their associated positive social impact, and through organizations responsible for providing local services and amenities.

Economic supporters are businesses that circulate money within the community, either from the sale of goods and services to members or as suppliers to other businesses. The market for these supporting industries typically grows in size and strength as a result of the wealth generating economic drivers. And examples of economic supporters include retail and construction businesses. Organizations that provide services and amenities such as schools, recreation groups, and health care, these health care agencies, are also considered economic supporters because they provide the infrastructure and services that businesses need in a particular community. They also contribute to the quality of life that attracts a skilled workforce needed by all businesses.

RBC, my employer, is a proud partner to many of the communities within BC and throughout Canada. We have proven to be a leader in supporting the assertion of rights and title, but also to work with communities in a true partnership way. We're very proud of our record, and in BC alone 43 per cent of all First Nations communities are our partners. This says a great deal. It says a great deal about what Gail Murray is doing.

We have a critical role to play in terms of understanding community needs and developing proactive ways of addressing the needs and visions of the communities we serve. Again—and let me repeat with feeling—we recognize aboriginal rights and title and we support the assertion of aboriginal rights and title. We are simply not prepared to finance any large resource development if it fails to consult and accommodate the First Nations whose territory resources are being extracted from. Failure to support rights and title places our funds at risk so it is simply not an option.

Historically, we have focused on identifying programs that address the critical need for housing, education, and the like. We have some very progressive programs that bring great benefit to aboriginal peoples. However, we now need to move forward and think about addressing the overriding issues. If we step back and look at the community as a whole, I believe we'll see that housing programs, et cetera, are more like a stopgap solution. In other words, a strong economy will precipitate housing because if the majority of the community members are working housing shouldn't be an issue.

In BC we're now beginning to look at ways of working with communities that will assist in the formation of community development plans. For our part, we'll provide our financial expertise in identifying ways of maximizing cash flow and investments, while following locally produced community development plans. If we, if business can help create strong economic drivers, I believe the community will begin to prosper through capacity development, support industries, and overall economic opportunities.

The bottom line is that economic measures are required in advance of the treaties.

For example, revenue sharing agreements are allowing communities to begin to address infrastructure needs and the overall needs of the communities in a way that allows First Nations to play an integral role in the decision-making process.

Let me take a look at and walk you through nine goals in building a community economic development strategy. I'm going to put them into four buckets.

And this is—in fact most of you could be up here sharing these thoughts. This is Community Development 101.

In the bucket of Community Leadership:

1. Business, political, and community leaders that commit to a clear economic vision, act consistently, and focus on priorities;
2. Well-informed decision-makers who improve the community and look to the future, not constantly looking in the rear-view mirror.

In the second bucket, under Excellent Foundations:

3. A business-friendly environment that welcomes and supports business;
4. A focus on economic drivers that generate new and sustainable wealth.

In the third bucket of Quality Infrastructure:

5. A highly skilled and talented workforce;
6. Physical infrastructure that connects businesses to their markets;
7. Unique features that contribute to the quality of life for people and for business.

And in the fourth and final bucket, that I call Positive Image:

8. A positive attitude about the community among the community members; and
9. A positive reputation for the community outside the area.

At RBC Financial Group we are very concerned about the level of business and of public awareness of the importance of aboriginal participation in the economy. One of our goals has been to stimulate a public discussion on this issue. We have done this in part by emphasizing the social and economic consequences of the status quo. In other words, we have said the status quo is not an option. We're aware that many business people don't always grasp the business benefits of relationships with aboriginal peoples and with your communities. For us the business benefits are clear.

We see significant and expanding market opportunity. The rapid increase in the aboriginal population represents new customers. Hello. Land claims represent increased economic and financial clout. The aboriginal business sector, which has grown at a dramatic rate in recent years and is steadily moving the aboriginal population towards economic self-sufficiency, is in fact generating wealth and creating jobs. The benefits, as you well know, of a strong aboriginal community also bring incredible benefits to the mainstream business community.

The business reasons for building good relations with aboriginal peoples go beyond market opportunities alone. Aboriginal peoples are becoming an important source of new entrance and new skills for the workforce.



A slight digression, but I can tell you that we at the Royal Bank have learned a great deal from our aboriginal peoples about consensus building, about the importance of the circle, about the importance of cultural identity. So not only RBC, but many companies are benefiting from having long-term, stable and reliable employees.

So it's clear to me that the potential business benefits of relations with aboriginal peoples and communities are aligned with our underlying business objective of creating value for our shareholders. I believe other businesses would arrive at the same conclusion if they took the time to look at a similar assessment.

And we continue to step back and remind ourselves that our business relationships with aboriginal peoples and communities—our banking, lending and other financial services—are in fact a part of a holistic set of relationships where education, training, employment, partnerships and community relationships work together to form the basis for mutual benefit and sustained results.

We are ourselves building relationships with aboriginal peoples that lead to market opportunities for our services and skilled employees for our workforce, both now and in the future.

So as I wind down let me ask: What will it take for corporate Canada to become more committed to building business relationships with aboriginal peoples? We see progress in the number of companies making commitments and introducing initiatives. More and more businesses are recognizing the need to hire aboriginal people and to capitalize on market opportunities. And more and more businesses are contracting with aboriginal-owned companies for the same reason. The fact remains, however, there are simply not enough businesses doing this. And there are costs associating with failing to act. As I've often said, there is a cost to doing nothing but there is also a cost to not doing enough.

So how many businesses in Canada are looking at themselves and asking: Are we removing the barriers? Are we solving the problems? Are we creating solutions in consultation? And are we providing the opportunities that will enable aboriginal peoples to become full participants in our society and our economy? My personal goal is to ensure that every aboriginal person from coast to coast to coast takes their rightful place in Canadian society.

There are practical ways to proceed. Best practices are becoming better understood. Many ideas are being shared at this conference. I was quite interested in your comments on our focus on treaty and I hope you might want to be tuning me up too about that. But I hope we can talk about that.

And those businesses, the ones that are more experienced and knowledgeable, those that have begun to see the business benefits of constructive relationships must continue to speak up, continue to speak out, and share these success stories. Convince others they have a role to play and much to gain from building relationships. Have we at RBC achieved our goals? Not yet. Do we have a distance to go? Absolutely. Do we believe we are on the right track? We believe that we are.

It is in the national interest to do more and it is a business imperative to do more. RBC for its part will maintain our course and will continue to make the investments we need in order to make a difference in your eyes. In many ways our investment here speaks to our investment in the Olympic Games. We believe the games will benefit all of Canada from the perspective of economics, sustainability, cultural activity, tourism, and the recognition of the role that First Peoples have played in the creation of this country.

The Olympic Games are a part of my heritage, they're a part of your heritage and our history. We have been with the COC since 1947 and we expect to be a major supporter for Vancouver 2010 and beyond. RBC Financial Group will continue to be there for aboriginal peoples, too. It's part of our heritage, it's part of our history, it is simply who we are.

I would like to conclude my formal remarks by revisiting a quote from one of my speeches in March of 2002. I found it interesting that I saw it reprinted in the BC Treaty Commission's paper, *The Business Case For Treaties*, dated November 20th, 2003. And what I said, and the quote is, "We've learned it's possible for corporate Canada to create wealth with aboriginal peoples and for aboriginal peoples. In fact, there are unlimited possibilities."

I'm often, in closing, I'm reminded of what a Cree elder from northern Manitoba once said, and I'm going to take her advice now, and she said, "Mr. Coffey, listen or your tongue will cause you to become deaf." Listen or your tongue will cause you to become deaf. Now it's my turn to listen to you.

Thank you, Mr. Chairman.



# Building a better economy

*Harley Chingee, McLeod Lake Indian Band*

Thank you. I'd like to thank the Coast Salish nations for inviting me into their territory; and special guests, chiefs, elders and other delegates.

Today I heard comments about trust. Anyways, a friend of mine was telling me a story of the seventies. His wife sent the husband off to the store to get a loaf of bread. He came back two years later, went into the house. "Oh, I forgot the bread," he said. She was still there.

Anyways, my dad used to mispronounce certain terms in the English language. So in the mid-eighties we were looking for the lawyer back at the band level there. He came back and he said, "Let's go see that liar."

Anyways, treaty benefits I want to talk about today. We signed a treaty in March of 2000 and got approximately 55,000 acres; 95 per cent of it is in timbered lands which have a value today of \$700 million. We have an annual cut of about 100,000 cubic metres a year, of which we've just finished the first year of operations. And which was all done by First Nations because of the tax benefits on the reserve. But we set our own stumpage, which is equivalent or higher than the provincial average. I think it was around 43 bucks or something. So we did very well for the first year of operation.

And initially when we signed up in 2000 I think we got \$43 million cash. And one of the benefits of that was Canada gave us \$10 million, which we distributed to our members. And 80 per cent of the people got the money, spent it well buying vehicles, houses, paying bills, building cabins, doing good with it generally; investing. And the other 20 per cent went and blew the money. Had a party, whatever they did for, I think for nine months it was still going. Anyways, I think the 80 per cent were in there with them, though.

And anyways, the economy of Prince George was just booming at that point and I recall—I wasn't the chief at the time, but I recall people thanking me later for—this one hotel actually knew a lot of my band members by first name, on a first name basis, because they stayed there and did whatever. But anyways, they had lots of fun. I went to this one house at the end of the ninth month. This is one of those DIA houses that has four rooms, a bathroom, and a living room and whatever. Anyways the boys showed me this room full of 24-packs, you know. So the tenth month came around, I went back to the house, all the bottles were gone. They had run out of money so they had to go and sell the bottles. And they made \$330, they told me.

I think in terms of benefiting communities, individually we did a very poor job of teaching our younger people how to spend money and respect money. But on the other side of the coin, I look at it; we've still got all our money. We've got our trust fund set up that's run by a board of trustees. I think today it's worth \$37.5 million, of which we only use the interest for operations, such as running the band office, job opportunities, economic involvement, training, all that good stuff. And every few months we always get a request for a payout similar to the one we had in 2000. And I'm dead against that today because I saw the effects of it; its lingering affects of handouts.

So instead of doing that today we have a logging company that's fairly successful, that's currently grown to, I think it's three times the size it used to be back in '99, 2000. We log a lot of wood, I think close to a million cubic metres a year. We make a lot of money and we have a policy of dividends every year for our members, you know, just for being a McLeod Lake Indian Band member. Initially we started out at \$500 per man, or per adult I should say. You know, just to give them incentive, to do things right. A lot of them still do things the right way. Every time we make money the whole community benefits, not only the local economy, but Prince George and Mackenzie, our surrounding communities.

And we're going into oil and gas and looking at other ventures. There's always a downside to things but I think it's called risk. And Indian people are very, very cautious when it comes to money, but when you have the money we have, it makes them even more cautious because we've got to think of our future, the future generation, even though we have a renewable resource. It all evolved from a generation or two ago as to why we manage our money so smartly. From my father, who was the chief prior to my cousin, stressed education extra, extra heavily. Worked every day, went to work.

He told us a story one time. We were loggers, just young guys. And he said one Friday morning, I think it was pay day, it could have been pay day. We were all excited anyways; got up pretty early. And he said, "You know, you guys, you don't have to work," he said. "There's something in life that's easier than this," he said. "You could drink every night. You could party every night. You could watch the 'Late Show' every night," he said. So he left it hanging with us for a week. We're getting all excited, jeez, we might have to not work at all, you know. So finally we popped the question to the old boy and we said, "Remember you were talking about that stuff last week?" "Oh," he said. "You know what it is? Welfare," he says. And we all got mad and went to work. So that was the extent of my old man's expertise, but he really stressed that and it's really reflective of our community today because we've got people with all kinds of degrees. We've got a Supreme Court judge in our ranks, a disc jockey that makes big money, logging managers, silviculture contractors that are arm's length away from the band. And of course, me as the lowest paid chief in Canada.

So you know—and it all goes to a matter of respect for one guy, one person. You know, I'm just carrying the torch further. And today I stress education to the students. This report came out here a couple months ago about this education levels in society at large. I said, "We toasted that." We've got 80 per cent of people graduating. And a very successful program because we give students incentives to not miss school, to go to school, to get straight A's, because at some point in our lives somebody else is going to take the torch and keep going. And they're going to be smarter than we are, I think. And I think that's the focal point of our community is getting the education and learning and being responsible.

There's also a downside to things, you know. The day after we signed the treaty there were about 300 non-native people who came around with business proposals. Some of them thought we were born last night — some thought we were born that morning—that said, "We'll put a dollar in, and you put a million in." You know, that kind of stuff happens, still happens today, and I just thought of Manhattan Island when they came around. Anyways, that's still happening today. They're still trying to tap into our money.

But we're very prudent businessmen. We've got a board of directors that run all our companies. It's the Duz Cho Group of Companies, it's called. We fool around with a little bit of everything. We create lots of work. And I think we have between 60 and 80 per cent employment within our ranks. No such thing as welfare on our reserve. If there's an application, I'll find you a job or we'll create a job somewhere. Even if it's cutting wood for the elders, you're working, you're getting back into the workforce. You're benefiting yourself, your family, and all those along with you.

And we also like to say to the non-native community, don't take it that we were born last night, because we've also got a lawyer in our ranks, so I'm ready to fight at any time, too. And everything we do we do in writing. It's not word of mouth; it's not verbal agreements. We don't do that any more. We're learning the tricks of the trade. We're getting involved in the non-native game. We'll do it their way.



And other challenges. People are always calling down the governments today. I call them down. The day the pictures and newspapers and guys went away the governments forgot about us. They got their pictures in the paper. Today we're still fooling around with implementation issues, four years later. Who's to blame for that? We're partly to blame because we didn't push hard enough. We were so excited we had a bunch of money. But the governments to this day, the provincial and federal government, are still dragging their feet on certain issues that have to be implemented.

It's a crying shame that we have to always refer to our injunction that we had in 1986. We still put their feet to the coal when we have to. That is still in place today. That's not good business but it's the only recourse we've got.

Another issue today is still an outstanding overlap with other First Nations that hasn't been fully resolved. We're still fighting with our cousins, brothers. We're learning to be very patient, though. The governments' biggest problem is they keep changing people all the time, every few months, then we're teaching them again how to do the game. I think we're creating a trade there, of teaching consultants. We should be charging for it and yet we're spending our own money.

Another problem, government has no policy in place for treaty bands; no such thing. That's a big problem. So if there's no policy we can do whatever we want, is what we say. Open season. Section 35 rights, big problem. Collision course with our business ventures all the time. Anything that's going to collide we always go with the band member. If we have to log a block and it's colliding with our band member, we go with our band member. It's always been that way there.

One of the most serious problems that we ever had that we'd never thought of when we first started negotiation, was the softwood lumber agreement. Today logs can be exported exemption free. Our lumber can't be exported. We have to go through the same route as the non-native licensees that export lumber. We're still working on that; that's a big problem for us because it gives licensees incentive to go out and say that it's got an exemption of that. We don't have that; we're working on it. Get the run around from the *federals*.

And I think the biggest item of all is revenue sharing on oil and gas and timber revenues. We should have included that in our agreement, but everyone wanted to take their picture so fast so they cut it off at the knees and did the agreement. Everybody got their pictures taken; everybody's happy. We're still left hanging today. Talked to the Premier about it the other day and I told him I expect on an annual basis between zero and ten digits annually. "There's common ground in between there," I said to him. He said, "That's a smart political answer, son."

Anyways, that's the gist of mine, what I just reiterate what my old man said, "Get an education because you got the resources." We've got the resources, all of us First Nations. We get better deals, hire good lawyers, because the governments are not your friends, First Nations, I can tell you that.

Thank you.

# Building a better economy

*Judith Sayers, Hupacasath First Nation*

I want to acknowledge the Tsleil-Waututh, the Squamish and the Musqueam people for their lands that we are on. And it is always a great privilege and an honour to come to what is one of the most beautiful cities in the world, next to Port Alberni. Just kidding.

As First Nations people we draw our strength from the land, the water, and the resources. And in any discussions on economic development we do it and we say we do it in a sustainable way. And anybody who wants to do business in our territory has to have high environmental standards. I think one of the best descriptors of the economic conditions of First Nations, at least the majority of them, has been pittance management. We are given transfers from the governments to run our communities. And when you have small nations it becomes even harder. And we're tired of pittance management. We want to move into wealth.

The Hupacasath territory is in the beautiful Alberni Valley. We have 232,000 hectares within our territory, and .0001 per cent in reserve land. And the reason the reserve commissioners gave us such a small land base was because they promised us forever we'd access the rivers and the oceans and all of those resources, which of course today we have a very limited access. Our population is 250, and most of the time we have a 65 per cent unemployment rate, but during the spring and summer we usually employ more than our members. And with what we have planned we know that we will be able to employ every single person in our community and move into the Alberni community.

Everything we do is for our children. For our council, that is our first priority. We're not planning for today; we're planning these children's future. And we're encouraging them to get an education, to get training, to reach for the stars, to do what they can do so they can come back and make Hupacasath again what we once were: a mighty people who used every corner of our territory, who were wealthy, who were happy, and who knew who we are. And that's what we're working towards.

Economic independence, two words but they mean so much. We don't want to rely on transfers from the government. We want to be able to use the lands and resources as we always did to make our own wealth. We want freedom from poverty. I'm tired of seeing our children living on welfare. I'm tired of them not having what they need. And I'm tired of having to say no at the council level because we don't have the money to do it. I want all of our people, now and in the future, to have meaningful and long-term employment in every aspect. And when we're talking now we're saying, "You know, you can be the janitor, or you can be the CEO of our new power corporation, and anything in between." And that's how we're talking in our community now, and it's exciting.

How can we achieve economic independence, freedom from poverty and meaningful employment? We developed an economic development strategy and now we're implementing it. We have a mission statement. We want individual self-sufficiency. We want community self-sufficiency. We want to use all our talents, all our people. We want to reinvest our money. And we have all kinds of goals. What about individual businesses? We want a combination, we want to be interrelated, we want to help one another. We can't work together unless we're all together, standing together. It's just I don't want to get into a lot of that.

Right now, the businesses we are in, we have a canoe tour operation that does tours on the Somas River and the Sproat. We have a gift shop with a salmon barbecue. We were recently finalists in the Vancouver Island Business Excellence Awards. Last year we received an award of the Chamber of Commerce in the Alberni Valley. We're making a difference.



We have a woodlot, a salvage operation and silviculture operations. We now have a 20-year contract with BC Hydro—an electricity purchase agreement. We're hoping to build that project this spring.

We're in the process, in conjunction with the lease the city gave us, in developing a first class tourist facility to stop the one million cars that go to the west coast that don't bother to spend time in Port Alberni. We want to share our culture. We want to share the history of Port Alberni. We're involved in an aggregates project. We now have all the permits that we need from British Columbia from *Environmental Assessment*, *Mines Act* and *Land Act*. We're now working on the California end of things. And this is going to sustain our community for 117 years. We're also involved in the Island Corridor Foundation, which is trying to take over the rail line on Vancouver Island at this point in time. We'll see whether or not we make it a go, but we're certainly trying.

We have a dream and we have a vision. We want more green energy projects. We have other ideas for tourism, forestry, manufacturing, and environmental technology.

How would a treaty help with our plan? It would give us lands and resources. It would give us the cash for equity and development. This could include revenue sharing. I can get into a bit of the struggles that we're having in some of our businesses a bit later. We could have licences, whether it's recreation licences or shellfish licences or forestry licences. It would give us certainty. You talk about certainty, we need it too.

We need management of our resources. When I talk about forestry, we want it done in our community according to how we'd like to see forestry done in a sustainable way. We'd like to be able to pass our own laws. Historically, all of our territory was taken without any compensation or provision for the future. I told you we have .0001 per cent of reserve lands. And we have no access to any resources. The *Indian Act* has been a burden on all of us—very minor law passing ability [over things like] keeping dogs, bees, really inane things—that has not been at all helpful.

Everybody has become rich off our lands and resources except us. We can sit by in our living room and watch lots of logging trucking trucks go by. We've seen the gold being taken out of our territory. We have seen so many things and nothing has come back to us. Today as we sit here, 11 years into the treaty process, we have seen so much of our land being given away in leases and licences. And we see it at an increased pace and we ask ourselves, is there really good faith on this government to settle with us, when they're alienating everything that's possibly left as fast as they can possibly go?

It's hard. It's hard after 11 years to believe that something is going to happen. And we are trying to do, in our community, what we can. A lot of First Nations are succeeding, even in light of all of these problems. And I just named here the Squamish and the Osoyoos as the first two but I could have named a whole lot more. Developing partnerships, developing good relations is happening and it needs to happen more.

How many of you here are involved in a joint venture with First Nations? Anybody? A couple. How many here have, as a company, First Nations policies or consultation protocols? How many would like to have relations with First Nations? A few more hands, okay.

What are the barriers to good economic development? Right there. Not enough lands and resources; equity, capacity, some of the laws, finances, restrictive laws and uncertainty.

I'm going to talk about these. As we're trying to pull together businesses we've got federal stacking rules that say, oh, you can only have a certain percentage of federal money, and after that—so I mean, the fact that we can go out and lobby and put proposals in, we're only allowed to access a certain amount of money. I think that's got to change.

We have to incorporate companies or societies for all the reasons people do, but we also have to pay tax on it. And for First Nations who are trying to start off in business this is really hard. And of course we get as good accounting advice as everybody else does, but I think in light of section 87 of the *Indian Act* that there could be some changes that would allow us to have that opportunity, as all of us now are trying to take off on an economic development platform, it would help us so much more to be able to do that. Some of the programs that are available to us, and we appreciate them, but you need to have equity to get an equity match from the federal government.

So where do you get the equity to match the equity? It's kind of a vicious circle. And it's a reality. If we had some of the money from a treaty settlement it would help us to be able to deal with some of these types of things. And some of it is just really time consuming. We recently have received two, we were really lucky to have two, proposals approved in the softwood initiative, but it's the last money in, you know, and so that's supposed to help you? You know, they're good programs but when it comes right down to it, if they really worked with the communities they'd find out they could make it a lot more advantageous to us.

I told you how small of a land base we have. And we have no land left that's buildable. And it takes three to eight years to get an addition to the reserve. And INAC will not acquire lands for economic purposes; they'll only look at residential purposes. And I think this is a policy I hope we can look at because we need to be able to do some economic development on our own lands, and pass that message along through the ranks of Indian Affairs because it is an important one to us, because it is restrictive.

The bylaw making capacity isn't as good as we have. We have none when we have to use fee simple land. And one of the other challenges we face is in provincial legislation, we can't even hold land in the Hupacasath First Nation's name; we have to use my name in trust for the Hupacasath. We have to form a company. So we go to the banks and we say, okay, well, we have this piece of property but it belongs to this company and so it's not really in our name. And so that's some of the basic issues right now that are plaguing us.

I talked about uncertainty. For 12 years we had a sales agreement to be able to sell our fish and the Mayor of Port Alberni is here and he can tell you what kind of economic impact that it's had in Port Alberni. With seven days' notice it was cancelled. We figure it was a loss of \$300,000 to our community and probably triple that in Port Alberni. That's the kind of uncertainty that we have a hard time living with. Our people are going to go out and get boats and nets and mortgages to buy those? How can they rely on an agreement that can be cancelled in that short of a time period?

I want to say that I really appreciate the efforts of the Province. I remember in the early days of beginning to negotiate when the provincial negotiators couldn't say the word "compensation". They used to do this *cuh-cuh-cuh-cuh*, type of thing, you know. It was the big joke around the table. And now they have moved; they've opened the door a crack. But we need to kick it open. They allowed economic measures to take place, which were something that was a benefit to First Nations communities. But this year they're not doing it. They said they're going to do revenue sharing.



In the forestry sector they've offered 30 to 50 hectares per person, but it's not enough to make a business of it when you're a small community like ours, 230 people. It's a formula for loss. And as far as revenue sharing is going it's based on per capita. It has nothing to do whatsoever with the size of our territory. And I told you we had 232,000 hectares of land. And they've taken a billion dollars out of our territory in stumpage since they started logging in the forties, fifties, I don't know what year that would be.

A billion dollars, and they're offering us \$113,000. It's hard for us to be able to say yes to that when we know the kind of wealth that they're getting out of it.

But the government has made a step; they've made a step forward. We just have to get them to, as John Helliwell described at lunch, let us take ownership of it. Don't come to us and say we're paying you \$500 a person, we're giving you 30 hectares of land, of forestry. Let's develop a formula that's suitable to all of us. Then you'd have us signing on the dotted line. That's the kind of attitude that has to take place when we're doing consultation. Don't come to us with something you've already put together. Do it together. We need something that's long term; we need something that's sustainable. Otherwise why would we do it? As business people, why would you do something that's not going to make good economic sense?

And we need to talk to the province about this. We want economic independence. We want to be key players in the economy. We want enough lands for now and in the future. And that's been one of the fatal flaws of this treaty process, is the negotiators won't look to population in the future. They want to give us enough lands and resources for the populations we have now. But when we take over the treaty and we take care of our citizenship, we know that our population is going to double immediately. But we can't have lands and resources for that population doubling.

We want sustainable management of all our lands and resources. You know, and I thought about this, what do other people want? What does the government want? They want economic prosperity. When the Liberals came in that was their number one platform, a new era for British Columbia. The Liberals were going to take this province by storm. Hasn't done it. And I think they left a key component behind, and that's the First Nations.

Everybody wants certainty, sustainability, healthy lifestyle, no loss of jobs, no increase to tax, equality. When you look at what I just went through for First Nations and you look at what everybody else wants there are a lot of things that are similar. We want to work together for today, for tomorrow. We want to prosper together. We will no longer sit on the outside and look in. We need to resolve the past inequities because, until we do, nothing is going to move forward in British Columbia.

Treaties would help bring certainty as to who owns what, who has access to what. What role does a First Nation play in the management of our territory? A treaty would resolve all of those things, legal, moral, ethical issues. In our hall, in our community centre, there's a picture of my grandfather in 1922 and all the Nuuchahnulth chiefs standing with him. And what were they doing? They were negotiating treaties. So maybe 11 years isn't really correct. Maybe we're getting closer to 100 years of treaty negotiations. Is there willingness? I'm not sure.

A treaty was intended to provide us with lands, resources, and money to ensure our future. I remember one time sitting at the treaty table and hearing the provincial negotiator say to me, "We're not here to meet your needs, we're just here to give you a start."

And I was really shocked because I thought that's what we were there to do: to maintain a way of life, to provide a future for our children. We need to be able to use these resources to move ahead. We need to think of those who are coming up in the next generation, these children who are important to us.

Are there going to be treaties in British Columbia? Because if there aren't, as First Nations we are going to use the uncertainty to the maximum degree. When and if the Supreme Court of Canada definitively says, what is the duty of consultation with government and third parties, we might have an answer. I don't know, the Supreme Court of Canada hasn't been too clear in many cases, and even when they do governments don't implement what has been said at the highest courts of the land.

I don't want to say this in a threat; I'm just saying this is the reality that we live with. People come into our territory, they use our resources, they ignore us to the last possible minute, and they get rich. They might offer us a job. It's not going to happen that way any more. There has to be respect, there has to be recognition. I was really happy when I heard the Royal Bank get up and say, "We recognize your title." Weyerhaeuser in various agreements says, "We recognize your title." We need more of you in business to stand up and say, "We recognize First Nations rights and title, and government you sit down and you negotiate." Because the silence is deafening.

We have a paper coming out from the Business Council of BC, but business has not been aggressive enough in this province. The people of this province have not been vocal enough. Sometimes it's because they don't think that there's any rights to First Nations. But every time they lose a job, from the 20 per cent take back, when they settle a treaty in their area, they lose more jobs, they think they're losing land. They're going to understand that there are deep ethical, moral, and legal obligations that need to be decided, that need to be resolved.

It is frustrating after 11 years not to be any further ahead; in fact, we're behind where we were. And we are going to proceed in every way possible. In my community we've implemented our own land use plan because we wanted to provide certainty to some of the businesses that want to do business in our territory. And the areas we think cannot be developed. The areas we think can be developed. The areas where we put special conditions for development. We wanted to do that. We asserted ourselves in our government because we thought it was necessary, and it was our way of moving towards certainty.

This is our staff. We were on a team building exercise. This is the canoe we used in our ventures. We have a new facility in our community. My community is moving ahead and we're not moving ahead by ourselves. We have the City of Port Alberni that supports us, we have the Regional District that supports us, we have a lot of business people, because they see that our door is open, we're willing to talk, we're willing to work together, that they know that when we benefit so do they. A treaty has benefits not only for the First Nations, but for the governments, for the people of British Columbia and Canada; it's not a one-way thing.

And when people talk about losing jobs, there may be jobs if you're working with a First Nation. There will be economic benefits that will flow from those relationships that you build. We are going to move ahead from pittance management to wealth management with or without a treaty. It would be a lot easier with one, but we are determined. We are here, we have always been here and we will continue to be here.

Thank you.



# Summary of Discussion

This forum brought together a diverse group of people at the Morris J. Wosk Centre for Dialogue to discuss economic opportunities—those opportunities that can flow from treaties and those that will be realized in advance of treaties.

Participants share the view that there are many more business opportunities for First Nations than was the case even a decade ago. Business wants to minimize uncertainty over land and resources to maximize investment and to end the current discount for doing business in British Columbia. First Nations want certainty, too, through greater say in land use decisions and a share in the profits from resources within their traditional territories.

One participant noted that when we talk about certainty we should consider the concept of “manageable uncertainty twinned with robust trust.”

Two views emerged on the purpose of treaties. The view advanced by several First Nation participants is that treaties should provide a sustainable future for aboriginal people in their traditional territories. The alternative view was that treaties should set First Nations on a path towards a sustainable future that would be developed over time. Full participation in the mainstream economy was cited in both views as the way to a sustainable future. Business leaders were urged to forge relationships with First Nations so that both parties can benefit now and in a post-treaty economy.

## Business wants to minimize uncertainty over land. First Nations want certainty too.

Good relationships among First Nations, local, regional and senior governments and business were seen as essential to economic development and completing treaties.

As one participant noted, “You don’t need a treaty to begin a relationship. And those relationships will transcend the agreements, in fact, will maybe help define them before they’re even ratified.”

Another participant suggested we may have strayed too far from the original intent of the 19 recommendations that established the BC treaty process and it is now time to look again at the recommendations to build the new relationship that was envisioned in the 1991 BC Claims Task Force Report.

There continues to be frustration with the treaty process for being too slow.

One participant said the time frame set out for completing treaties is not realistic when you consider the complexity of the issues and the time it has taken British Columbians “to get in the situation that we’re in.”

There were concerns raised that the mandates of the governments of Canada and British Columbia are not sufficiently creative or flexible to reach agreements.

One speaker cautioned participants, “Not to, perhaps, mistake a lack of agreement with a lack of mandate.

“We will always come, as all parties come to a negotiation, with our own interests. And sometimes those interests mesh very nicely and sometimes the issues or the interests don’t. But I don’t think that’s ever prohibited us or slowed us down from exploring new ways. And I think that if we take a look at all of the four agreements in principle that are currently ratified, each one of them has probably broken new ground and new ideas and new areas.”

Many participants appear to agree that there should be a mediation process in place to help the parties when they do reach an impasse. Several participants took the view that the Treaty Commission should have the authority to send in a mediator to break an impasse at a negotiating table. One participant noted that treaties are one way of trying to define a new relationship, and as such, should not be static documents. If there is disagreement around the interpretation of a treaty in the future there should be a dispute resolution body to deal with any disputes.

## You don’t need a treaty to begin a relationship.

If there is going to be widespread support for treaties, one speaker said the governments of Canada and British Columbia need to do a better job communicating with the citizens of this province.

Another concern raised by several participants is the costs to First Nations of negotiating and implementing treaties. In effect, this means that First Nations are paying a high cost in the form of loans for achieving recognition of their rights, and while Canada is prepared to forgive loans to Third World countries, it is not prepared to do the same for First Nations.

There appeared to be consensus that a prosperous and healthy future depends on our willingness and ability to build lasting, and mutually beneficial, relationships across aboriginal and non-aboriginal communities.

A view that many participants seemed to share was articulated in song by luncheon speaker economist John Helliwell, “The more we get together the happier we’ll be.”