


# NIGANITA'SUATAS'GL ILSUTAQANN

Canada 



Québec 

## ***NIGANITA'SUATAS'GL ILSUTAQANN***

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When important matters are to be considered and decided, Mi'gmaq prefer to enter into a process called *Niganita'suatas'gl Ilsutaqann*. In English, it means "the thinking before the decision", and in French, "*la réflexion avant la décision*".

*Niganita'suatas'gl Ilsutaqann* is a Mi'gmaq way of discussing and considering issues and concerns before agreeing on important matters. In the Mi'gmaq way, participants would actively share and exchange their views in a risk free, honest, open, respectful, inclusive and consensus building way. Each participant would be responsible to exchange views, to listen to and support each other, and to move forward together in an effort to arrive at a good result for all Participants.

These values are not exclusive to the Mi'gmaq, but the Mi'gmaq believe that there is a special spirit in this Mi'gmaq way that can benefit everyone involved.

### **Participants**

The Mi'gmaq, as represented by the Chiefs and Councils of Listuguj, Gesgapegiag and Gespeg, and their traditional assembly, the Mi'gmawei Mawiomi ("Mi'gmaq")

and

The Government of Canada, as represented by the Minister of Indian Affairs and Northern Development ("Canada")

and

The Gouvernement du Québec, as represented by the Ministre responsable des Affaires intergouvernementales canadiennes, des Affaires autochtones, de la Francophonie canadienne, de la Réforme des institutions démocratiques et de l'Accès à l'information ("Québec")

### **Recitals**

The Participants wish to renew and strengthen their relationship, in peace and friendship, to address the interests of each Participant.

The Participants agree that the preferred way to reconcile issues between the Mi'gmaq and the Crown is through negotiations, as recommended by the Supreme Court of Canada.

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### **Purpose and Objective**

1. The Participants agree to enter into the *Niganita'suatas'gl Ilsutaqann* as full and equal partners, with the common purpose and objective of identifying their respective issues and interests in developing a relationship of reconciliation and coexistence based on their long-standing relationship of peace and friendship, which is intended to result in a Framework Agreement.

### **Principles**

2. The Participants agree that their representatives will operate under the following principles to guide their work and the conduct of their discussions:
  - a. to abide by the principles of transparency, openness, inclusiveness and consensus building, honesty and respect;
  - b. to share to the extent possible available information, options, considerations and perspectives in good faith and to act in a spirit of peace and friendship; and,
  - c. to respect each other as full and equal partners.
3. Canada and Québec will do their best to take into account the unique circumstances and the ways and principles of the Mi'gmaq, as presented to them through the *Niganita'suatas'gl Ilsutaqann*, when developing mandates.
4. The Participants seek to achieve tangible results on a timely basis.

### **Process**

5. The *Niganita'suatas'gl Ilsutaqann* will comprise two Circles: *Gigto'qi Niqan'pugultijig* (Circle of Leaders) and *Mgnigng* (Circle of Delegates and Officials).

### **Gigto'qi Niqan'pugultijig**

6. The *Gigto'qi Niqan'pugultijig* is a forum for exchange, reflection and dialogue to better understand respective interests and, where possible, to work out differences through discussion.

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7. The *Gigto'qi Niqan'pugultijig* will be comprised of the three Mi'gmaq Chiefs or their nominee(s), a nominee of the Minister for Indian Affairs and Northern Development (Canada) and a nominee of the Ministre responsable des Affaires intergouvernementales canadiennes, des Affaires autochtones, de la Francophonie canadienne, de la Réforme des institutions démocratiques et de l'Accès à l'information (Québec). The respective nominees, if applicable, must be senior officials and not members of the *Mgnigng*.
8. The *Gigto'qi Niqan'pugultijig* will make best efforts to meet at least once a year. Its main mandate will be to assess the progress of the work of the *Mgnigng* and the effectiveness of the process and to try to resolve, through the sharing of views, issues that have not been resolved in the *Mgnigng*. The *Gigto'qi Niqan'pugultijig* will also provide direction through the sharing of views and discussion.

### **Mgnigng**

9. The *Mgnigng* will be comprised of the Mi'gmawei Mawiomi *Nutewistoq* (Speaker) and his or her assistant, the representatives for Canada and Québec and such other persons as they respectively deem appropriate.
10. In accordance with the Purpose and Objective outlined in section 1, the *Mgnigng* will identify common issues and interests and will work on addressing these issues and interests on a timely basis, which may include:
  - a) developing work plan(s), including identifying priorities;
  - b) meeting at least six times a year;
  - c) establishing side-tables, either bipartite or tripartite, on specific issues as appropriate, including to explore possible interim measures and any resources required; and,
  - d) developing a Framework Agreement.
11. For each side-table, the *Mgnigng* will:
  - a. identify its role, mandate and requirements; and,
  - b. determine, from time to time, whether its work, or some part thereof, will be considered consultation.

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### **General Provisions**

12. Issues of interest to the Mi'gmaq and Canada which are outside of Québec's geographic boundaries will be the subject of other processes, as may be agreed between the Mi'gmaq and Canada.
13. The fact that the *Niganita'suatas'gl IIsutaqann* does not deal with a topic is not evidence that the topic is not a right of or of interest to the Mi'gmaq.
14. Nothing herein prevents the Mi'gmaq from benefiting from any program of Canada or Québec, subject to the criteria established from time to time for the application of such program, and to parliamentary approval of such program and funding. Recipients of benefits from an agreement reached under the *Niganita'suatas'gl IIsutaqann* and approved by the relevant authorities of each party will not receive duplicative funding for the same matter from other programs of Canada and Québec.
15. The *Niganita'suatas'gl IIsutaqann* does not preclude any other discussion or initiative, either trilateral or bilateral, between Québec, Canada and the Mi'gmaq, or any of the signatory communities of the Mi'gmawei Mawiomi, on matters of mutual concern or which may resolve problems encountered by any of the Participants.
16. This document and the *Niganita'suatas'gl IIsutaqann* do not create legal obligations binding on the Participants.
17. Notwithstanding section 16, the Participants agree that sections 17 through 29 of this document shall be legally binding.
18. This document is not a treaty within the meaning of section 35 of the Constitution Act, 1982.
19. This document and the *Niganita'suatas'gl IIsutaqann* do not infringe on the obligations or existing rights of the Participants. Nothing herein shall be construed so as to abrogate, derogate, define, limit or recognize any Aboriginal right, treaty right or any other right of the Participants.
20. The Participants expect that the *Niganita'suatas'gl IIsutaqann* will help to avoid resorting to legal proceedings. Nothing herein releases, compromises or otherwise limits any rights, actions or judicial avenues of redress of the Participants. For greater certainty and subject to sections 22 and 23, no provision of this document prevents the Mi'gmaq from asserting in a court of law or any other forums their claims related to Aboriginal rights or Aboriginal title.
21. The content of meetings, discussions, negotiations, documents generated or positions taken in or during the *Niganita'suatas'gl IIsutaqann* are without prejudice to the rights of the Participants and nothing in them can be construed as defining or changing the legal situation of any Participant or modifying the legal relationships between the Participants.

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22. Except for the purpose of enforcing sections 17 through 29 of this document or unless otherwise agreed in writing, the Participants agree not to tender or seek admission of this document as evidence in a court of law or before any administrative or regulatory tribunal or board.
23. Unless otherwise agreed in writing, the Participants agree not to tender or seek admission of the content of meetings, discussions, negotiations, documents generated or positions taken in or during the *Niganita'suatas'gl Ilsutaqann* as evidence in a court of law or before any administrative or regulatory tribunal or board.
24. The Participants will cooperate to oppose the use or attempted use by anyone not a Participant in a court of law or before any administrative or regulatory tribunal or board of this document or of the content of meetings, discussions, negotiations, documents generated or positions taken in or during the *Niganita'suatas'gl Ilsutaqann*.
25. Sections 21 and 23 do not apply in respect of the work of a side-table or some part thereof that has been determined to be consultation pursuant to section 11(b).
26. This Agreement exists in Micmac, French and English versions. The French and English versions are the authoritative versions.

### **Effective Date / Termination**

27. This document shall come into force and effect on the date of its signing and shall continue in force and effect for a period of three years, subject to the provisions of sections 27 to 29.
28. This document may be amended by written consent of the Participants.
29. This document may be renewed by written consent of the *Gigto'qi Niqan'pugultijig*.
30. This document can be terminated by any Participant upon ninety days written notice to the other Participants hereto. Notwithstanding any termination hereof, the provisions of sections 17 through 25 inclusively will continue in effect.

### **Resources**

31. Upon consideration of the annual work plan of the Mi'gmawei Mawiomi, Canada and Québec may provide certain resources, through a separate agreement, to the Mi'gmaq in order to assist in their participation in the *Niganita'suatas'gl Ilsutaqann*.

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### **Communications**

32. Subject to any overriding requirement of the applicable law and except as part of the Mi'gmaq community consultations described herein, the Participants agree to make reasonable efforts to consult with each other prior to making any public announcements concerning the *Niganita'suatas'gl Ilsutaqann*.
33. The Mi'gmaq are committed to engage in regular community consultation processes in which they will be keeping their members and communities up to date with issues discussed and options explored in, and the results and operation of, the *Niganita'suatas'gl Ilsutaqann*.