

Breakout Session 1C: Implementation Policy: Successes and Challenges

February 25, 2025

1:15 PM -2:45 PM

Moderator: Katie Tucker, Counsel, Pape Salter Teillet LLP

Speakers:

- Colin Salter— Partner, Pape Salter Teillet LLP
- Mathieu Sargent— Senior Director, CIRNAC, Government of Canada

Colin Salter:

- Explains the need for Canada's Collaborative Modern Treaty Implementation Policy, emphasizing the complexity and detailed work involved in Treaty implementation.
- The Policy recognizes the role of Modern Treaties in the constitutional framework and their distinction for other agreements.
- The Policy requires federal officials to take a broad and purposive interpretation of Treaties and commits Canada to a whole-of-government approach.
- The Policy also recognizes that treaties are living agreements that need to evolve to meet changing times and includes tools to hold deputy heads accountable for commitments.
- Discussed the challenges implementing the Policy, including the need for accountability mechanisms and the recognition of Indigenous jurisdictions.
- The Policy includes a tool for Deputy heads to be responsible for specific commitments, ensuring that senior management is held accountable.
- The Policy also acknowledges that there are still many aspects that have not been developed yet, leaving room for future work.
- Highlighted the importance of the Intergovernmental Leaders' Forum and the Policy Circle as key tools for addressing implementation issues.

Mathieu Sargent:

- Reflected on the 50-year legacy of Modern Treaties, emphasizing the impact on Indigenous governance, economic opportunities, and cultural revitalization.
- Acknowledging the challenges in implementing Modern Treaties, including the lack of awareness and understanding among federal public servants.
- Canada has taken steps to address these challenges, including adopting a Cabinet Directive on Modern Treaty Implementation and establishing a sector dedicated to Modern Treaty implementation.
- Highlighted the importance of co-developing the Policy with Modern Treaty Partners and the need for ongoing engagement and collaboration.

Q&A (Summary):

- A session attendee raised concerns about the lack of awareness and respect for Modern Treaties among federal departments, particularly, DFO.

- A session attendee asked about the need for dedicated implementation coordinators and the impact of budget cuts on federal departments.
- A session attendee emphasized the importance of including provinces and territories in Modern Treaty negotiations and the need for independent oversight mechanisms.
- A session attendee highlighted the importance of relationships and the honour of the Crown in implementing modern treaties.
- Colin Salter discussed the need for culture shift in the federal public service to ensure Modern Treaty relationships are front and centre.
- The importance of the commissioner for Modern Treaty implementation as an independent oversight mechanism reiterated.
- The need for dedicated resources and implementation plans in key departments was emphasized, with a focus on assisting departments with significant Modern Treaty responsibilities.
- The role of the Department of Justice in providing legal advice that aligns with Modern Treaty obligations was discussed with a call for greater transparency and collaboration.