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FRAMEWORK FOR ABORIGINAL CAPACITY-BUILDING IN THE FOREST SECTOR

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Framework for Aboriginal Capacity-Building in the Forest Sector

Introduction

It is widely recognized that capacity building is one of the key issues to be addressed in advancing the forest interests i.e. rights and values, of Aboriginal peoples, and enabling their effective engagement in the forest sector. Aboriginal capacity in natural resources management is a broad and multi-faceted concept, involving issues that encompass Aboriginal governance, institutional arrangements with other levels of government, and human resource development. After a long period of exclusion, Aboriginal peoples are seeking an enhanced role in natural resource management especially on the forested lands within their traditional territories. As well, they are seeking new approaches to economic development, ones that promote forest sustainability, contribute to their social and cultural well-being, and respond to major environmental matters such as climate change mitigation.

Today, most federal, provincial and territorial governments and non-governmental organizations, and many resource companies, take the view that no new developments or conservation decisions relating to forest management should be made without Aboriginal support (NRTEE 2005). This state of affairs is the result of major court decisions which have positioned consultation and the accommodation of Aboriginal and treaty rights, as pre-conditions to development and policy change in natural resources management. Achieving Aboriginal and treaty rights recognition has been an important first step, but now there is a need to invest in Aboriginal capacity building in the form of support to Aboriginal governance in natural resources management, focussed human resource development initiatives, and institutional reform to create space for Aboriginal engagement.

At the community level, capacity includes the broad abilities to design communal responses to environmental and natural resource management issues, seize the opportunity to improve community socio-economic conditions, and develop strategies to protect and enhance the community's varied interests – traditional or contemporary (NRTEE 2005). Currently, Aboriginal communities are faced with increasing demands from the forest (including referral processes, regional team membership, national and regional policy development, joint partnerships, forest audits, harvesting contracts and forest certification reviews, among others) and other natural resource sectors. However, most Aboriginal communities are poorly resourced and lack natural resource/forestry staff to respond to these requests, and as a result, significant opportunities are lost. The benefits of the Crown's duty to consult and accommodate, and the increased access to resources gained through land claim agreements, modern treaties and treaty land entitlement, cannot be fully realized if First Nation communities do not possess the necessary capacity (Standing Senate Committee on

Aboriginal Peoples). While Aboriginal community level governments are a key target for capacity-building, it is equally an issue for Tribal Councils, provincial and territorial organizations (PTO's), and national organizations considering the tiered approach to natural resource management in Canada. Engaging in the forest sector and natural resources management requires increased capacity at various levels consistent with the manner in which Aboriginal governance is evolving.

The purpose of this paper is to describe a framework for Aboriginal capacity building in the forest sector which will serve as a guide enabling community and regional level strategic planning. The framework provides conceptual approaches to Aboriginal governance and institutional reform and suggests that governmental programs be aligned so as to effectively utilize/maximize available resources enabling focussed initiatives in human resource development relative to the Aboriginal needs in the forest sector.

Transformation and Forest Sector Directions

The forest sector is defined as “all of the people and organizations that derive value and create wealth and well-being from our forests”. It includes the traditional forest products industries – pulp and paper, lumber and commercial logging, the value-added manufacturing and non-timber forest products industries and the forest management regimes of the federal, provincial, and territorial governments. It also includes non-consumptive users that benefit from recreational, spiritual, and wilderness activity and values. Most of Canada’s forests are publicly owned – 71% controlled by provincial governments, 23% by federal, territorial and First Nation governments, and 6% is privately owned. Canada’s forests encompass the traditional territories of approximately 500 First Nations – 80% of all First Nation communities are in forested areas – in which First Nations hold Aboriginal and treaty rights. Protection of the environment and the need to manage forest resources in a sustainable manner is recognized as an overriding objective of all in the sector.

The transformation that is occurring in the forest sector reflects a shifting of national forest management priorities. Governments in Canada, jointly through the Canadian Council of Forest Ministers (CCFM) acknowledge that the traditional forest industries have lost their competitive advantage and that the current industry downturn is more than cyclical. It is a symptom of the broad transformation occurring as a result of changing global economics. Borrowing from CCFM documents, “commodity producers will continue to contribute to the country’s economy”, but “maintaining a prosperous and sustainable future for the forest sector will mean taking advantage of new and emerging opportunities” including bio-energy, bio-chemicals and non-timber forest products and services – such as pharmaceuticals, foods and industrial enzymes. It is also expected that there will also be

new markets to capture ecological goods and services and that forest management will play a major role in mitigating climate change. Forest conservation, considered to be the best option in mitigating climate change, is a priority of most governments resulting in the establishment of new protected areas, and “market based conservation” has taken root in the form of carbon markets where forest carbon sequestration projects are a predominate feature. Over time, climate change adaptation and mitigation strategies and policies will guide all forest sector and natural resource management activities.

Governments in Canada are relying on research and innovation initiatives to encourage the forest sector develop a new generation of forest products and new technologies to help ease the pain of transformation and to address forest carbon management. The Federal Government alone has committed \$billions for research and development, industry support for energy efficiency, market development, and community adjustment. Considering the increasing demands relative to forest land use and recognizing that forests are not only a source of timber – but also provide minerals and energy resources, and host a range of other land uses, all with an ecological footprint – the integrated management of natural resources found in forests is now the forest sector priority.

Institutional reform is needed to support the change in forest management objectives and to meet shifting social demands. The most important institutions influencing forest land management are the provincial forest tenure systems which allocate resource rights and responsibilities and prescribe forest practises. In recent years, several provinces have released reports acknowledging that their tenure systems are in need of reform and some have committed to action in this regard. Forest tenure systems, to the extent they enable Aboriginal engagement in forest land management, will greatly influence the rate at which Aboriginal communities and organizations develop capacity in forest and natural resources management.

Institutional Frameworks

The major barriers to Aboriginal capacity-building in the forest sector can be found in the forest management regimes of provincial governments. The industrial tenure systems have failed to recognize the forest interests of Aboriginal people and have imposed conditions which have served to effectively exclude Aboriginal people from participation in forest land management and forest based development (see M. Ross and P. Smith, Accomodation, The Need for an Aboriginal Forest Tenure). The legal principles articulated by Canadian Courts in the duty of the Crown to consult and accomodate, have to this point in time, not been actualized in forest policy and other institutional arrangements. However, emerging trends and drivers of change in the forest sector have strengthened the position of Aboriginal peoples in the forest sector. The recognition of Aboriginal and treaty rights by

the courts has led some provincial governments to implement consultation policies requiring the Crown to address the interests of Aboriginal peoples in land and natural resource use. This broad direction is gradually changing the relationship between Aboriginal peoples and provincial governments, fostering greater Aboriginal involvement in strategic decision-making, policy development, and in operations and forest practices. For some First Nations, it has led to the negotiation of forest stewardship agreements, Aboriginal land use planning processes and discussions on appropriate approaches to forest-based economic development. This is being done within the context of existing forest management regimes, requiring Aboriginal communities to adhere to industrial forest tenure arrangements.

The strengthened Aboriginal position in the forest sector is also a result of:

- Increased forested land base: The amount of forest land owned or managed by Aboriginal peoples, as a result of land claims settlements and modern day treaties, is steadily increasing and currently is greater in size than the total land base of Nova Scotia (55,000 sq. km.). As treaty making is advanced in BC and land claims are resolved throughout the country, a doubling of the Aboriginal owned and managed forested land base within twenty years may be a realistic estimate.
- Commercial opportunity through provincial tenure: First Nation interests across Canada hold provincial tenure representing access to an annual harvest allocation of approximately 11.7 million cubic meters of timber (6.4%) of the 2006 Canadian total). Within the past two years, several provinces have committed to increasing forest resource allocations to Aboriginal communities through existing tenure arrangements and through specifically designed arrangements.
- Forest product and forest management system certification processes that open markets for sustainably produced forest products require that Aboriginal involvement be a key element of the certification process.
- Incremental Tenure Reform in several provinces is leading to increased forest management responsibility at the community level to address shifting forest management priorities and Aboriginal forest issues. The notion of an Aboriginal forest tenure is gaining support through forest research.
- Corporate Social Responsibility: Investor and consumer demand for socially responsible forestry and increasing corporate awareness of Aboriginal and treaty rights is leading to new forms of partnership with forest industries.
- Demographic and Labour Force Realities: The forest sector workforce is aging – more than 41% of the forest industries' employees are over 45 and, as an example, 80% of

the technical and professional workforce within the BC Ministry of Forests will need to be replaced within 10 years. In forest producing areas of the country, Aboriginal youth make up a large portion of the potential workforce.

The strengthened Aboriginal position in the forest sector has given First Nations added leverage in negotiating access to forest resources and access to forest and land use planning and management processes. However, gaining access is only a beginning point. Deriving benefit and creating wealth from access to natural resource use requires an enabling environment including institutions, organizational capabilities, recognized authority and enhanced knowledge and skills of human resources. With the exception of a number of modern day treaties, enabling environments for the development of an adequate level of capacity at the Aboriginal community level do not yet exist.

First Nation Governance and Forest Management

First Nation interests in forests derive from a long term relationship with the land. The land in which most (80%) First Nation communities are located is forested land. Governance is at the heart of First Nations' interests in forest management. Finding a balance between traditional knowledge and values; multiple use and wise utilization of forest resources; and holistic perspectives on the management of human interactions with the land, within Canadian social, political and economic systems, is key to rebuilding First Nation governance. The aspiration of First Nation leaders to regain a significant role as "stewards of the land" is based on the realization that cultural preservation and future socio-economic well-being is dependent on maintaining the relationship with the land in that context.

Aboriginal peoples in Canada are becoming increasingly engaged in forest sector activities and the means of this engagement depends on the nature of the activity and on the institutional arrangements for forest management on the land base selected for that activity. Engaging in forest sector activity is often multi-jurisdictional as "Indians and lands reserved for Indians" is the jurisdictional responsibility of the Federal Government, and forest activity in traditional territories is based on recognition of Aboriginal and treaty rights or the legal regime of provincial governments. Co-management arrangements between First Nations and other levels of government are often the means of managing jurisdictional differences and avoiding conflicts with respect to authority over land use. Arrangements to address the Aboriginal interests in the land base stipulate the broad terms for Aboriginal engagement.

In broad terms, Aboriginal peoples and communities are engaged in forest sector activities as:

(1) First Nation Governments

With the goal of self-determination, First Nations are in the process of re-building their systems of governance including social, political and economic institutions. Considering various circumstances such as land base (title and size), population, political culture and climate, etc., First Nation governments, in terms of daily usage include; Indian Act bands, nation governments defined by traditional affiliation, i.e., Shuswap Nation, and treaty nations that rely on their treaties with the Crown as a primary means of self-identity. (See models of Aboriginal governance in RCAP, Volume 2, page 245). Authorities for First Nation governments are derived from the inherent recognition, delegated powers from the federal government, modern day treaties and land claim settlements, and intergovernmental agreements (often co-management) with other levels of government. More often than not, First Nation governments exercise authority based on two or more of these sources, and also often, jurisdictional issues is an area of continuing uncertainty.

(2) Reserve Land Forest Manager

Total reserve lands across Canada have increased by 23% over the past 20 years to more than 8 million acres in 2007. This number is projected to reach more than 17 million acres by 2020 (NRCan 2007). Legislative responsibility for these reserve land forests and their administration falls under the provisions of the *Indian Act* and the Indian Timber Regulations. Shortcomings of the *Indian Act* from a forest management perspective have been described in reports of the RCAP, the Auditor General and numerous other agencies, as being seriously deficient in enabling a contemporary approach to forest management. Currently, no government program exists to support on-reserve forest management. The First Nations Forestry Program has funded the development of some forest management plans. However, implementation of these plans is problematic considering the lack of an appropriate regulatory regime.

Indian reserve lands are fragmented into thousands of usually small parcels. The lack of attention to these lands has been based on the observation that most are small and therefore unable to support viable forest enterprises. For larger reserves, those that are about to be expanded, and those that have special attributes in view the changing forest economy, there is now greater potential to manage forested reserve lands as community forests, or at the least, as woodlots, providing resources other than just timber.

(3) Forest Interests in Traditional Territories

The Crown's duty to consult and accommodate Aboriginal and treaty rights has, to some extent, legitimized the forest interests of First Nations in their traditional territories. It has not however, addressed the need of First Nations to develop capacity in land and resource

management, which is essential to meaningful accommodation. Consultation requests continue to be made on a case-by-case basis without consideration of the cumulative effects of resource development and the lack of funds and staff at the First Nation community level. With respect to land and resource management, First Nations seek an ongoing land and resource management capability as an integral component of their governmental structures. Managing forest interests in traditional territories include the following major activities:

- Carrying out, monitoring and updating traditional land use and occupancy studies/land use planning cultural landscape, and other planning to ensure appropriate representation of community interests,
- Negotiation and management of accommodation measures including appropriate mechanisms for forest stewardship, i.e. co-management, tenure, partnerships, etc.,
- Work with traditional users, license holders, certification bodies, governments, conservation bodies, on an ongoing basis, and
- Creating an environment conducive to forest-based development for community members.

Managing First Nations' interests in traditional territories is an area of shared responsibility within organizations operating at various levels of the First Nation public service. First Nations have the primary responsibility but tribal councils, with delegated responsibility and PTO's with a programming and policy mandate, have supporting roles to play.

(4) Forest Tenures and First Nation Controlled Forest Management

In some provinces, particularly BC, First Nations have gained access to forest resources, through provincial tenure systems. Currently, First Nations hold approximately 150 forest tenures which include; woodlots, community forests, forest and range agreements, timber supply and overlapping licenses; the majority of which are volume-based tenures. Six First Nations hold area-based tenures and a similar number have entered into forest stewardship agreements/co-management arrangements whereby they play an active role in day-to-day operations. Where modern-day treaties have been concluded, First Nations have jurisdiction over forested lands in accordance with the terms of the treaty. NAFA estimated in 2006, that there is a need for approximately 500 Aboriginal professional foresters to manage currently held forest tenures and forested land now managed by Aboriginal entities. For the most part, First Nations contract out for professional forest management services or employ non-Aboriginal foresters.

With the importance that First Nations attach to their relationship with the land one would assume that governing structures of First Nations would reflect the First Nation land ethic. However, this is not the case. First Nations' administrations dealing with land and forest management take the form of delegated authority in accordance with the funding programs

of the federal government. The reality of what First Nations are attempting to govern to-day, with regard to forest lands is a complex combination of jurisdictional landforms and authorities. This includes the management of forested lands on-reserve under the jurisdictional authority of the federal government, forest tenures under provincial jurisdiction, along with managing the provisions of a handful of land claim settlements or modern day treaties that deal with the issue of forestry on settlement lands. For most First Nations, managing interests in forested lands of traditional territories is the primary concern and it is here that the relevant Crown authority does not adequately recognize the First Nation interests. Provincial forest management regimes do not address the forest interests of First Nations.

First Nation Organizational and Human Resource Needs

First Nation governmental or public service structures have the primary responsibility for managing their forest interests be they on reserve or in traditional territories. Economies of scale and overlapping interests with other First Nations require that there be arrangements for administration, the pursuit of common interests, joint initiatives and overall shared responsibility with Tribal Councils, PTO's and other First Nation entities. This section describes generic duties carried out at the various levels of First Nation governance.

(1) First Nation Government

First Nation governmental structures at the community level operate in a complex policy and legal environment often without formal sanction of their activities by other levels of government. Most First Nations view self-government as an inherent right, but accept some delegated federal and provincial powers. With respect to lands and resources, First Nations rely on constitutionally protected Aboriginal and treaty rights, and agreements that are in accordance with decisions of the Supreme Court of Canada, on the nature of those rights. First Nations are recognized as the fundamental unit of government, and all other Aboriginal organizations serve that level of government through delegation of authority and responsibility.

Depending on the level of forestry activity, First Nations have capacity needs to address a range of forestry and forest land management functions:

Forestry /Forest Management Functions	Range of Knowledge and Skill Sets Req'd
<ul style="list-style-type: none"> • reserve land forest management • traditional territories land-use planning and values mapping • consultation and negotiation with other governments on resource access and rights accommodation • co-management arrangements • human resource development • governance; structure, communications, accountability 	<ul style="list-style-type: none"> • forester (operations, agro, range) • forest technicians • traditional knowledge • public administrator • natural resources management • community/nation governance systems

(2) Tribal Councils

As groupings of First Nations, tribal councils provide services and deliver programs subject to agreement with their First Nation members and often represent their members in agreements with other levels of government. Tribal Councils often take on several key functions related to forest management:

Forestry /Forest Management Functions	Range of Knowledge and Skill Sets Req'd
<ul style="list-style-type: none"> • delegated authorities from member First Nations including forest management & operations • database, inventories, regional planning • professional advisory and tech support services • forest practises, policy analyses and development • co-ordination and collective initiatives for First Nation members 	<ul style="list-style-type: none"> • project manager • community/landscape planner • GIS specialists • environmental • cultural resources specialist • forester; operations and policy

(3) Development Corporations and Forestry Enterprises

In many First Nation communities, and often at the Tribal Council level, forest-based development is housed in subsidiary entities whereby the business of forestry is separated from the public service of forest management. First Nation or Tribal Council owned forest businesses are often managed through development corporations or as forestry enterprises. Development corporations often have the dual role of providing business development

services and managing existing businesses. Though consistent with the long term vision or direction of the First Nation or Tribal Council under which they were formed, forestry enterprises exist solely to manage the business. The knowledge and skill sets needed shift to those necessary to make the forest business viable on an ongoing basis.

Forestry /Forest Business Functions	Range of Knowledge and Skill Sets Req'd
<ul style="list-style-type: none"> • managing forest tenure • commercial forestry operations • marketing/ sales • business development • partnerships and business arrangements • integration with other sectors 	<ul style="list-style-type: none"> • business management, commerce • wood science & tech • millwright • marketing and sales • trades, specialty skills, i.e. lamination, silviculture • forester; operations

(4) Provincial and Territorial Organizations (PTO's)

PTO's are First Nation mandated organizations created for collective political representation on a treaty, territory, or province-wide basis. Their primary role is policy development in support of First Nations governance and development. Considering that natural resources are managed by provincial governments, the PTO role in this area should be substantial however; this is most often not the case (due to the non-recognition of the full range of First Nations interests at a strategic level). Capacity needs at the PTO level should include:

Forestry /Forest Management Functions	Range of Knowledge and Skill Sets Req'd
<ul style="list-style-type: none"> • forest policy, research and advocacy on legislative and regulatory regimes and interface with Aboriginal rights • professional advisory and tech support services • program development and delivery i.e., capacity-building • communications, forest research extension services 	<ul style="list-style-type: none"> • political scientist • forester; policy & training • program manager • traditional knowledge • research extension specialist • legal services

(5) National Organizations

Similar to the role of PTO's, but at a national level, national Aboriginal organizations, i.e. the Assembly of First Nations, are primarily focussed on political representation and policy

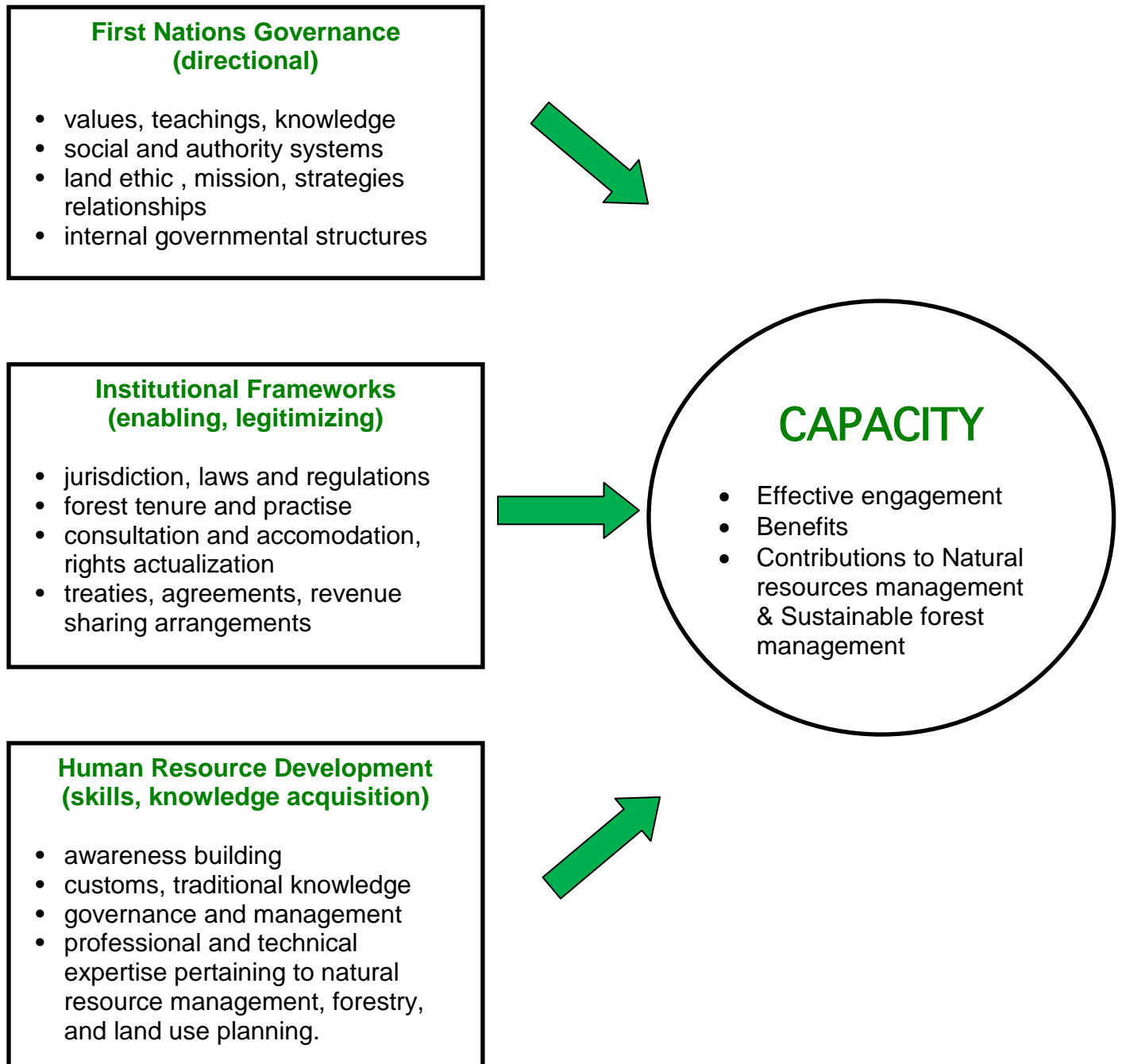
development. National sectoral organizations, i.e. NAFA, are oriented toward research and advocacy functions and rely on working relationships with political organizations to garner support for major policy change. National organizations deal with international forest policy, national policy either governmental or non-governmental, and federal government policy with respect to the forest sector and to Aboriginal affairs. The purpose of those efforts is to create a policy environment conducive to Aboriginal forest stewardships and development.

Without reference to specific projects or initiatives, the general human resource needs are:

Forestry Management Policy and Support Functions	Range of Knowledge and Skill Sets Req'd
<ul style="list-style-type: none"> • forest policy, research and advocacy on national and international issues and sector-wide initiatives and their interface with Aboriginal rights • multi-stakeholder dialogue and partnerships • forest research engagement on issues of national significance • federal government policy frameworks; economic dev., training, trade, etc. • development of management tools, synthesis of expert opinion • communications, forest sector intelligence services 	<ul style="list-style-type: none"> • political science/public affairs • strategic and land use planning • foresters; policy, research • research extension specialist • commerce/economist • administration • communications and IT

Capacity-Building Pillars

Aboriginal engagement in the forest sector is taking place as avenues for participation in forest management and forest-based development increase. However, for the most part, current approaches are adhoc and focussed on short term fixes, i.e. non-renewable volume based forest tenures. Security of area-based forest tenure is essential for Aboriginal capacity building and the sustainability of the forest resource. Aboriginal people are not going anywhere and the capacity sought must be for the long term. The three pillars of capacity building, outlined below, require the attention of First Nations, their organizations and other levels of government.



Conclusions: Seizing the Moment

Only Aboriginal communities through their governmental structures and organizations can fully define their capacity needs, and it is they that must ultimately take responsibility for building that capacity. Approaches to Aboriginal capacity building in the forest sector must be bottoms-up, driven by opportunity and circumstance, and guided by the collective forest values within communities. Aboriginal communities should be supported in their efforts to develop land use plans, develop and implement capacity-building plans, and undertake human resources development initiatives accordingly.

The role of Tribal Councils, PTO's and national organizations is integral in capacity-building providing research and policy development support parallel with forest and natural resource management regimes provincially and nationally. The value of capacity-building at these levels is to present consistent collective views when engaging in regional and strategic level policy and planning processes, and to fashion initiatives that offer economies of scale and greater potential for partnerships and alliances with other forest interests. The Aboriginal capacity deficiencies in the forest sector today, in view of the transformation occurring, suggests that distinct Aboriginal institutions will need to evolve at regional or provincial and national levels, to represent Aboriginal forest and natural resource interests.

The role of the federal and provincial governments is to create an enabling environment. This is the essence of the Crown's duty to consult and accommodate. Addressing Aboriginal forest and natural resource management issues through institutional reform is the obvious route. Forest tenure reform to accommodate Aboriginal interests will require innovation, within highly politicized processes, and ultimately special measures, such as an Aboriginal Forest Tenure, will need to be institutionalized. With respect to human resource development, there are known skill gaps commonplace in the Aboriginal forest sector. Aboriginal organizations and governments should collaborate on strategic initiatives focussed on professional development in the forest sector and on the acquisition of certain technical skills such as wood science and biotechnologies.

Within the forest sector, it is broadly recognized that Aboriginal peoples will play a major role in the new forest economy and that the means for their effective engagement is a major concern and a factor in the transformation now occurring. Effective engagement of Aboriginal peoples is a central and complex challenge to the future of sustainable forest management in Canada. The framework provided in this paper attempts to breakdown the challenge of Aboriginal capacity-building in the forest sector into manageable pieces. It is intended to foster a better understanding of why now is the time to move forward.