

**First  
Ministers  
Conference**

Ottawa, March 8-9, 1984

**Conférence  
des  
premiers ministres**

Ottawa, 8-9 mars 1984

CANADA  
MAR 19 1984

PROPOSED 1984 CONSTITUTIONAL  
ACCORD ON THE RIGHTS OF THE  
ABORIGINAL PEOPLES OF CANADA

PROJET D'ACCORD CONSTITUTIONNEL  
DE 1984 SUR LES DROITS DES  
PEUPLES AUTOCHTONES DU CANADA

Tabled by the Prime Minister  
of Canada

Déposé par le Premier Ministre  
du Canada

Canada 



Proposed 1984 Constitutional Accord on the rights of the Aboriginal peoples of Canada      Projet d'Accord constitutionnel de 1984 sur les droits des peuples autochtones du Canada

THE PRIME MINISTER OF CANADA

LE PREMIER MINISTRE DU CANADA

PROPOSED 1984 CONSTITUTIONAL ACCORD ON THE RIGHTS OF  
THE ABORIGINAL PEOPLES OF CANADA

WHEREAS pursuant to the 1983 Constitutional Accord on Aboriginal Rights a constitutional conference composed of the Prime Minister of Canada and the first ministers of the provinces was held on March 8 and 9, 1984, to which representatives of the aboriginal peoples of Canada and elected representatives of the governments of the Yukon Territory and the Northwest Territories were invited;

AND WHEREAS it was agreed at that conference that certain amendments to the *Constitution Act, 1982* would be sought in accordance with section 38 of that Act;

AND WHEREAS that conference had included in its agenda the following matters that directly affect the aboriginal peoples of Canada:

- Equality Rights
- Aboriginal Title, Aboriginal Rights, Treaties and Treaty Rights
- Land and Resources
- Aboriginal or Self Government

AND WHEREAS it was agreed in the 1983 Constitutional Accord on Aboriginal Rights that future conferences be held at which constitutional matters that directly affect the aboriginal peoples of Canada will be discussed;

AND WHEREAS the Senate and House of Commons of Canada and the legislatures of nine provinces that have, in the aggregate, more than fifty per cent of the population of all the provinces have passed resolutions supporting changes to the Constitution of Canada that were the subject of the 1983 Constitutional Accord on Aboriginal Rights;

NOW THEREFORE the government of Canada and the provincial governments hereby agree as follows:

1. The Prime Minister of Canada will lay or cause to be laid before the Senate and House of Commons, and the first ministers of the provinces will lay or cause to be laid before their legislative assemblies, prior to December 31, 1984, a resolution in the form set out in the Schedule to authorize a proclamation to be issued by the Governor General under the Great Seal of Canada to amend the *Constitution Act, 1982*.

2. The government of Canada and the provincial governments are committed to negotiating with representatives of the aboriginal peoples of Canada to identify and define the nature, jurisdiction and powers of self-governing institutions that will meet the needs of their communities, as well as the financing arrangements relating to those institutions, and to presenting to Parliament and the provincial legislatures legislation to give effect to the agreements resulting from the negotiations.

3. The government of Canada and the provincial governments, in consultation with representatives of the aboriginal peoples of Canada and representatives of the governments of the Yukon Territory and the Northwest Territories, shall review all aspects of social, cultural and economic programs for and services to the aboriginal peoples of Canada, with the following objectives:

(a) clarification of federal and provincial responsibilities for programs and services provided to the aboriginal peoples of Canada, having regard to the existing and potential roles of aboriginal governments;

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PROJET D'ACCORD CONSTITUTIONNEL DE 1984 SUR LES DROITS  
DES PEUPLES AUTOCHTONES DU CANADA

Attendu :

qu'une conférence constitutionnelle réunissant le premier ministre du Canada et les premiers ministres provinciaux, à laquelle avaient été invités les représentants des peuples autochtones du Canada et des représentants élus du territoire du Yukon et des territoires du Nord-Ouest, a eu lieu les 8 et 9 mars 1984 en application de l'Accord constitutionnel de 1983 sur les droits des autochtones;

qu'il a été convenu, à cette conférence, que la *Loi constitutionnelle de 1982* ferait l'objet d'une procédure de modification dans les conditions prévues à son article 38;

que les questions suivantes qui intéressent directement les peuples autochtones du Canada avaient été placées à l'ordre du jour de cette conférence :

- droits à l'égalité,
- titre autochtone, droits ancestraux, traités et droits issus de traités,
- terres et ressources,
- gouvernement autochtone;

qu'il a été convenu, dans l'Accord constitutionnel de 1983 sur les droits des autochtones, d'examiner à des conférences ultérieures les questions constitutionnelles qui intéressent directement les peuples autochtones du Canada;

que le Sénat et la Chambre des communes du Canada et les législatures de neuf provinces dont la population confondue représente plus de cinquante pour cent de la population de toutes les provinces ont adopté des résolutions en vue d'apporter à la Constitution du Canada les modifications qui avaient fait l'objet de l'Accord constitutionnel de 1983 sur les droits des autochtones,

le gouvernement du Canada et les gouvernements provinciaux sont convenus de ce qui suit :

1. Le premier ministre du Canada et les premiers ministres provinciaux déposeront ou feront déposer avant le 31 décembre 1984, devant le Sénat et la Chambre des communes et devant les assemblées législatives respectivement, une résolution, établie en la forme de celle qui figure à l'annexe, autorisant le gouverneur général à prendre sous le grand sceau du Canada une proclamation portant modification de la *Loi constitutionnelle de 1982*.

2. Le gouvernement du Canada et les gouvernements provinciaux s'engagent à négocier avec les représentants des peuples autochtones du Canada en vue de déterminer et de définir la nature, le champ de compétence et les pouvoirs d'institutions gouvernementales adaptées aux besoins de leurs collectivités, de même que les arrangements financiers afférents, et à présenter au Parlement et aux législatures les mesures législatives propres à donner effet aux accords issus de ces négociations.

3. Le gouvernement du Canada et les gouvernements provinciaux, en consultation avec les représentants des peuples autochtones du Canada, ainsi qu'avec ceux des gouvernements du territoire du Yukon et des territoires du Nord-Ouest, étudieront tous les aspects des programmes et services sociaux, culturels et économiques destinés à ces peuples, avec les objectifs suivants :

- a) clarification des responsabilités fédérales et provinciales en matière de programmes et services destinés aux peuples autochtones du Canada, eu égard au rôle présent et éventuel des gouvernements autochtones;

(b) enhanced participation of the aboriginal peoples of Canada in the area of programs and services, including their increased involvement in the design and delivery of programs and services, taking into account the special social, cultural and economic needs of the aboriginal peoples of Canada;

(c) assessment of financial provisions, including consideration of existing arrangements between the government of Canada and the provincial governments;

(d) examination of eligibility requirements of programs and services for the aboriginal peoples of Canada, including residency requirements; and

(e) examination of programs and services to the aboriginal peoples of Canada, including the degree to which they are comparable with services received by other Canadians residing in similar communities.

4. The government of Canada and the provincial governments shall report on the findings of the review referred to in article 3 to the first constitutional conference held pursuant to the proposed section 37.1 of the *Constitution Act, 1982*, as agreed to in the 1983 Constitutional Accord on Aboriginal Rights.

5. In preparation for the constitutional conferences contemplated by the changes to the Constitution of Canada that were the subject of the 1983 Constitutional Accord on Aboriginal Rights, meetings composed of ministers of the government of Canada and the provincial governments, together with representatives of the aboriginal peoples of Canada and representatives of the governments of the Yukon Territory and the Northwest Territories, shall be convened at least annually by the government of Canada.

6. Nothing in this Accord is intended to preclude, or substitute for, any bilateral or other discussions or agreements between governments and the various aboriginal peoples and, in particular, having regard to the authority of Parliament under Class 24 of section 91 of the *Constitution Act, 1867*, and to the special relationship that has existed and continues to exist between the Parliament and government of Canada and the peoples referred to in that Class, this Accord is made without prejudice to any bilateral process that has been or may be established between the government of Canada and those peoples.

7. Nothing in this Accord shall be construed so as to affect the interpretation of the Constitution of Canada.

- b) participation accrue des peuples autochtones du Canada aux programmes et services, notamment à l'élaboration et à la mise en oeuvre de ceux-ci, compte tenu des besoins sociaux, culturels et économiques particuliers de ces peuples;
- c) évaluation des dispositions financières, notamment des ententes en vigueur entre le gouvernement du Canada et les gouvernements provinciaux;
- d) examen des conditions, notamment de résidence, à remplir pour bénéficier des programmes et services destinés aux peuples autochtones du Canada;
- e) examen des programmes et services destinés aux peuples autochtones du Canada, notamment de la mesure dans laquelle ils se comparent aux services reçus par les autres Canadiens résidant dans des zones semblables.
4. Le gouvernement du Canada et les gouvernements provinciaux feront rapport des résultats de l'étude mentionnée à l'article 3 pour la première conférence constitutionnelle à tenir, suivant le projet, dans sa version conforme à l'Accord constitutionnel de 1983 sur les droits des autochtones, d'article 37.1 de la *Loi constitutionnelle de 1982*.
5. En vue de la préparation des conférences constitutionnelles prévues par les modifications de la Constitution du Canada qui avaient fait l'objet de l'Accord constitutionnel de 1983 sur les droits des autochtones, des réunions, provinciales, ainsi que les représentants des peuples autochtones du Canada et ceux des gouvernements du territoire du Yukon et des territoires du Nord-Ouest.
6. Le présent accord n'a pas pour effet d'empêcher ou de remplacer les discussions, bilatérales ou autres, ou la conclusion d'accords, entre gouvernements et les divers peuples autochtones. Plus particulièrement, eu égard à la compétence dévolue au Parlement en vertu de la catégorie 24 de l'article 91 de la *Loi constitutionnelle de 1867* et aux relations particulières qui ont existé et continuent à exister entre le Parlement et le gouvernement du Canada et les peuples mentionnés dans cette catégorie, la conclusion du présent accord n'a pas pour effet de porter atteinte aux actions bilatérales menées, ou susceptibles de l'être, entre le gouvernement du Canada et ces peuples.
7. Le présent accord n'a pas pour effet de déroger à l'interprétation de la Constitution du Canada.

SCHEDULE

Motion for a Resolution to authorize His Excellency the Governor General to issue a proclamation respecting amendments to the Constitution of Canada

WHEREAS the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and resolutions of the legislative assemblies as provided for in section 38 thereof;

AND WHEREAS the Constitution of Canada, reflecting the country and Canadian society, continues to develop and strengthen the rights and freedoms that it guarantees;

AND WHEREAS it is fitting that the government of Canada and the provincial governments work with the representatives of the aboriginal peoples of Canada to develop their special place in Canadian society through the strengthening of self-governing institutions and the preservation of their cultural heritage.

NOW THEREFORE the [Senate] [House of Commons] [legislative assembly] resolves that His Excellency the Governor General be authorized to issue a proclamation under the Great Seal of Canada amending the Constitution of Canada as follows:

PROCLAMATION AMENDING THE CONSTITUTION OF CANADA

1. (1) Section 25 of the *Constitution Act, 1982* is renumbered as subsection 25(1).

(2) Section 25 of the said Act is further amended by adding thereto the following subsection:

“(2) Nothing in this section abrogates or derogates from the guarantees of equality with respect to male and female persons under section 28 of this Charter.”

Rights of equality of both sexes

ANNEXE

Motion de résolution autorisant Son Excellence le gouverneur général à prendre une proclamation portant modification de la Constitution du Canada

Considérant :

que la *Loi constitutionnelle de 1982* prévoit que la Constitution du Canada peut être modifiée par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat et de la Chambre des communes et par des résolutions des assemblées législatives dans les conditions prévues à l'article 38;

que la Constitution du Canada, à l'image du pays et de la société canadienne, est en perpétuel devenir dans l'affermissement des droits et libertés qu'elle garantit;

qu'il convient que le gouvernement du Canada et les gouvernements provinciaux collaborent avec les peuples autochtones du Canada en vue de leur assurer la place qui leur revient tout particulièrement, grâce à la consolidation d'institutions gouvernementales et au maintien de leur patrimoine culturel,

[le Sénat] [la Chambre des communes] [l'assemblée législative] a résolu d'autoriser Son Excellence le gouverneur général à prendre, sous le grand sceau du Canada, une proclamation modifiant la Constitution du Canada comme il suit :

PROCLAMATION MODIFIANT LA CONSTITUTION DU CANADA

1. (1) Le numéro d'article 25 de la *Loi constitutionnelle de 1982* est remplacé par le numéro de paragraphe 25(1).

(2) L'article 25 de la même loi est modifié par adjonction de ce qui suit :

«(2) Le présent article n'a pas pour effet de porter atteinte aux garanties d'égalité prévues pour les personnes des deux sexes par l'article 28 de la présente charte.»

Égalité des droits pour les deux sexes

2. The said Act is further amended by adding thereto, immediately after Part II thereof, the following Part:

2. La même loi est modifiée par insertion, après la partie II, de ce qui suit :

“PART II.1

COMMITMENTS RELATING TO  
ABORIGINAL PEOPLES OF CANADA

Commitments relating to cultural heritage and self-government

35.2 Without altering the legislative authority of Parliament or of the provincial legislatures, or the rights of any of them with respect to the exercise of their legislative authority,

(a) Parliament and the legislatures, together with the government of Canada and the provincial governments, are committed to

(i) preserving and enhancing the cultural heritage of the aboriginal peoples of Canada, and

(ii) respecting the freedom of the aboriginal peoples of Canada to live within their heritage and to educate their children in their own languages, as well as in either or both of the official languages of Canada;

(b) the aboriginal peoples of Canada have the right to self-governing institutions that will meet the needs of their communities, subject to the nature, jurisdiction and powers of those institutions, and to the financing arrangements relating thereto, being identified and defined through negotiation with the government of Canada and the provincial governments; and

(c) the government of Canada and the provincial governments are committed to participating in the negotiations referred to in paragraph (b) and to presenting to Parliament and the provincial legislatures legislation to give effect to the agreements resulting from the negotiations.”

«PARTIE II.1

ENGAGEMENTS RELATIFS AUX  
PEUPLES AUTOCHTONES DU  
CANADA

Engagements relatifs au patrimoine culturel et aux gouvernements autochtones

35.2 Sous réserve des compétences législatives du Parlement et des législatures et de leur droit de les exercer :

a) le Parlement et les législatures, ainsi que les gouvernements fédéral et provinciaux, s'engagent à :

(i) maintenir et valoriser le patrimoine culturel des peuples autochtones du Canada,

(ii) respecter la liberté de ces peuples de vivre dans leur milieu culturel et d'instruire leurs enfants dans leurs langues ainsi que dans les deux langues officielles du Canada ou l'une de celles-ci;

b) les peuples autochtones du Canada ont droit à des institutions gouvernementales adaptées aux besoins de leurs collectivités, la nature, le champ de compétence et les pouvoirs de ces institutions, de même que les arrangements financiers afférents, étant à déterminer et à définir par négociations avec les gouvernements fédéral et provinciaux;

c) les gouvernements fédéral et provinciaux s'engagent à participer aux négociations visées à l'alinéa b) et à présenter au Parlement et aux législatures les mesures législatives propres à donner effet aux accords issus de ces négociations.»