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# Three Year Review Social Union Framework Agreement (SUFA)

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Submission by  
Federal/Provincial/Territorial Ministerial  
Council on Social Policy Renewal

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## INTRODUCTION

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On February 4, 1999, First Ministers (except the Premier of Quebec)<sup>3</sup> signed *A Framework to Improve the Social Union for Canadians*. This Agreement, which has since become known as the Social Union Framework Agreement (SUFA), was based on mutual respect between orders of government and reflected governments' desire and willingness to work more closely together to meet the needs of Canadians.

As part of this Agreement, governments agreed that they would undertake a review of SUFA and its implementation. Section 7 states that:

*By the end of the third year of the Framework Agreement, governments will jointly undertake a full review of the Agreement and its implementation and make appropriate adjustments to the Framework as required. This review will ensure significant opportunities for input and feedback from Canadians and all interested parties, including social policy experts, private sector and voluntary organizations.*

To fulfill this task, governments agreed that the Federal/Provincial/Territorial (F/P/T) Ministerial Council on Social Policy Renewal (the Council) would undertake the joint review. The work of officials was initiated in the fall of 2001, and Ministers agreed in December 2001 to establish a process for the review that involved three broad elements:

- establishing processes to seek the views of Canadians and interested parties on SUFA and its implementation;

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<sup>3</sup> Not having signed SUFA, Quebec is an observer on the Ministerial Council. Consequently, it did not participate in the elaboration of this report.

- engaging the five National Aboriginal Organizations<sup>4</sup> (NAOs) in the review to develop individual submissions outlining their perspectives on SUFA and its implementation; and
- establishing a process of government-to-government dialogue aimed at identifying successes and best practices, considering challenges and concerns, and exploring approaches to strengthen the operation and implementation of the Framework Agreement.

This report summarizes the key findings of the review process. This process has involved internal assessments by each jurisdiction, and discussions by senior officials and the Council about the various aspects of SUFA and its implementation. The process included consideration of the input received from social policy experts, a wide range of stakeholders, the private and voluntary sectors and the NAOs. Summaries of the outcomes from the public consultation process can be found in Appendix A. Reports received from each of the five NAOs are provided in Appendix B. In addition, the correspondence between governments describing the dispute avoidance and resolution process for the *Canada Health Act* is provided in Appendix C.

The public consultations component of the three year review included three regional roundtables (in Saskatoon, Ottawa, and Moncton) at which participants were able to express their views on SUFA and its implementation. In addition, a Web site on which interested parties could provide their views was created. Submissions to the Web site or through private correspondence were solicited through advertisements in newspapers across the country and by letters to over 300 groups and individuals requesting their input.

There were 92 submissions to the Web site. Individuals posted 49 submissions and provincial and national organizations posted 43. A wide range of organizations posted submissions. Many of these groups have a direct interest in one or more social sectors, including health care, early childhood development and child care, income security, and affordable housing.

The submissions generally take a positive view of SUFA's objectives and take the position that SUFA can contribute to enhancing intergovernmental collaboration and governments' engagement with citizens and stakeholders. The submissions also identify room for improving SUFA implementation in a number of areas.

Overall, the review found that SUFA continues to provide a useful framework for governments in their efforts to respond to the social policy needs of Canadians.

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<sup>4</sup> The five National Aboriginal Organizations are the Assembly of First Nations, the Congress of Aboriginal Peoples, the Inuit Tapiriit Kanatami, the Metis National Council and the Native Women's Association of Canada.

The Council's view is that governments have demonstrated a commitment to SUFA and its undertakings:

- to improve mobility;
- to inform Canadians through public accountability and transparency;
- to work in partnership to improve social programs for Canadians; and
- to avoid and resolve disputes.

At the same time, governments must be committed to improving the implementation of SUFA. The Council's view is that governments need to build on successes and to improve continuously how they work together to promote the social priorities of Canadians.

The report is divided into sections that follow the same order as SUFA. Each section summarizes the undertakings of governments, reviews the progress made to date in meeting the provisions of that section, and provides recommendations on best practices or improvements to the implementation of the Agreement.

## **PRINCIPLES**

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The principles set out in SUFA give expression to the values of Canadians that are fundamental to Canada's social union: equality, respect for diversity, fairness, individual dignity and responsibility, mutual aid and our responsibilities for one another, and sustaining social programs and services.

The Council has reviewed the principles, along with comments received from the interested parties that participated in the review. The public input generally recognizes that the principles are sound, reflect important values, and that governments should continue to seek ways to meet their commitments to the principles in Section 1. Public consultations also indicate that the social union's scope should be better defined.

### Recommendation

The principles articulated in SUFA continue to be relevant to Canadians. The Council recommends that governments should continue to use these principles to guide the development of new social policies and programming.

## MOBILITY

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The Council notes the good progress that has been made on promoting the mobility of Canadians within the country.

Governments agreed to eliminate, within three years, any unreasonable residency based social policies or practices and to ensure no new residency-based barriers to mobility are created in new social policy initiatives. To date, governments have met this commitment.

All governments have reviewed their social policies and programs for unreasonable residency-based barriers. Given the range and diversity of programs across the country each jurisdiction is responsible for determining what constitutes an unreasonable residency-based barrier. In the cases where jurisdictions found unreasonable barriers, these barriers were removed. Provinces and territories have eliminated residency-based barriers in a range of programs from the following policy areas: student loans, social housing, youth training programs, basic education and skills development programs, health and persons with disabilities. However, in some cases, jurisdictions identified barriers that were “reasonable and consistent with the principles” of SUFA (such as residency requirements for specialized post-secondary education programs).

The Forum of Labour Market Ministers (FLMM) has made significant progress on the commitment to ensure compliance with the mobility provisions of Chapter 7 of the Agreement on Internal Trade (AIT). As of July 1, 2001, 82 percent of self-regulating professions representing 98 percent of workers in the regulated workforce were in full or substantial compliance with the terms of the AIT. In the government regulated trades, governments have put measures in place to ensure mobility for a majority of tradespersons. However, challenges remain in achieving full compliance. The FLMM is taking measures to secure compliance from those professions that still have outstanding compliance issues.

Participants in the roundtables recognized the progress that has been made in eliminating labour mobility barriers in the self-regulating professions. However, the input from the public consultations raised more issues related to the portability of services and fewer concerns about governments’ commitments towards eliminating unreasonable residency barriers to mobility and to improving labour mobility.

### Recommendations

The Council encourages governments to review new policy and program developments, including third party delivery arrangements, as they occur to ensure that no new unreasonable barriers are created that constrain access to social programs based on residency.

The Council encourages the FLMM to continue its efforts to build on the substantial progress to date in achieving full compliance with Chapter 7 of the AIT.

## **INFORMING CANADIANS – PUBLIC ACCOUNTABILITY AND TRANSPARENCY**

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In SUFA, governments committed to strengthen Canada's social union through improved public accountability and public reporting. This commitment reflected and built upon extensive work undertaken by the Government of Canada and provinces and territories respecting accountability to their citizens for expenditures and outcomes of public programs. Each government agreed to focus on reporting to its constituents on the performance and outcomes of the programs that it delivers.

Consistent with these commitments, governments have moved forward jointly and individually to improve reporting to constituents. Joint initiatives include:

### Health Reporting

First Ministers agreed in September 2000 to comprehensive and regular public reporting by each government on the health programs and services they deliver, on health system performance, and on progress toward identified priorities. More specifically, they agreed to collaborate on the development of a comprehensive framework using jointly agreed comparable indicators. On September 30, 2002, the Government of Canada and each province and territory released their own first reports on 14 indicator areas measuring health status, health outcomes and quality of service.

### Early Childhood Development (ECD) Reporting

First Ministers (except Quebec) agreed that each government will report to Canadians on an annual basis on their investments and their progress in enhancing programs and services in any or all of the four ECD areas for action. In addition, First Ministers agreed to regular reporting on child well-being, using an agreed upon set of common indicators. A number of governments recently released their ECD reports, and others are expected to release their reports in the near future.

### National Child Benefit Reporting

The National Child Benefit (NCB) Governance and Accountability Framework emphasizes accountability to the public on program effectiveness. F/P/T Ministers responsible for Social Services (except Quebec) committed to providing, at least once a year, a report on the performance of the NCB initiative. Ministers also agreed to focus on program outcomes and to improve program measurement. NCB reports were issued in May 1999, April 2001 and May 2002.

## **Involving Canadians**

All jurisdictions have worked to involve the public where appropriate in the development of social programs and the review of outcomes. During the public consultations, a number of participants expressed the need for improved information about social programs and were critical of what they saw as limited opportunities for citizens, community groups and stakeholder organizations to participate in identifying social priorities and reviewing outcomes.

The Council noted that provinces, territories and the Government of Canada use a broad range of mechanisms for involving the public in social policy development. These include commissions, parliamentary and legislative committees and special meetings or congresses.

## **Moving Forward**

Although much progress has been made, governments are committed to improving methods for public reporting. Sharing information and best practices supports the development of improved outcome measures and working with each other enables governments to develop, over time, comparable indicators to measure progress on agreed upon objectives.

The capacity required to compile and analyze reporting data can be a challenge for all jurisdictions. To ensure that reporting is comprehensive and effective while also affordable, performance indicators should be as flexible and relevant to each jurisdiction as possible.

### F/P/T Accountability Frameworks

All governments account to their respective legislatures and public on expenditures and performance.

A number of federal transfers support provincial and territorial programs designed to improve the social union. It is important that the accountability frameworks that are part of these transfer arrangements:

- reflect and support the priorities of all governments involved;
- take into account the extensive measurement and reporting mechanisms the provinces and territories already have in place; and
- recognize that governments are accountable to their constituents, not each other.

The Council's view is that governments should build upon the best practices found in successful existing frameworks to improve their transparency and accountability to citizens.

### Recommendations

The Council recognizes that the process of refining accountability and performance measures is a continuous learning process and recommends that governments work together to improve public reporting by:

- focussing on the information needs of the public;
- publicly and appropriately recognizing and explaining the respective roles and contributions of governments;
- building on mechanisms for the public to participate in developing social priorities and reviewing outcomes where appropriate;
- reinforcing the commitment of governments to report to their constituents on their programs and striving to improve the quality and effectiveness of reporting over time;
- clearly presenting outcomes in concise, easily accessible formats;
- ensuring the selected indicators are commensurate with the scope and goals of specific programs;
- ensuring that reporting requirements are straightforward, cost efficient, and manageable; and
- working together to ensure the application of federal policy on accountability for federal transfers takes into account the extensive accountability mechanisms that provinces and territories have in place.

# WORKING TOGETHER AND THE FEDERAL SPENDING POWER: CONSULTATION UNDER SUFA

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## Consultation and Collaboration

SUFA commits governments to collaborate on implementation of joint priorities when this would result in more effective and efficient service to Canadians, including joint development of objectives and principles, clarification of roles and responsibilities, and flexible implementation.

SUFA also contains a range of commitments to effective consultation among governments, the benefits of which include:

- more efficient and effective service to Canadians;
- more efficient and effective use of public funds;
- better program design that complements existing measures and avoids overlap and duplication;
- improved access to operational expertise in policy development;
- enhanced support for new policy initiatives;
- avoiding distortion in other governments' policy direction and priorities; and
- improved implementation.

While consultation and collaboration among governments strengthen decision-making, the Council's view is that governments must retain their capacity to set priorities and make decisions, in keeping with their own strategic policy directions and desired timing. Within these constraints, meaningful consultation can result in effective policies and programs that recognize provinces' and territories' diverse circumstances in developing policies and programs to meet agreed upon objectives.

F/P/T governments have engaged in a range of consultations in the areas of social policy. Some of these consultations illustrate characteristics of effective F/P/T consultation. These include:

*Early Childhood Development (ECD)<sup>5</sup>*: Governments first agreed on children's programs as a priority for action and then identified and agreed upon objectives giving provinces and territories the flexibility to invest in areas which best addressed local

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<sup>5</sup> Quebec does not participate in this initiative.

needs. Governments then engaged in joint work on the development of a flexible framework agreement that enabled provinces and territories to determine detailed program design. Substantive consultations took place on program parameters, funding, and related accountability measures. Although timelines were tight, governments were able to identify overlap and duplication and suggest alternate approaches.

*National Child Benefit (NCB)<sup>6</sup>*: The NCB is a complex set of policies that has benefited from extensive consultations between governments. Priorities were set collectively and consultations are ongoing to improve the effectiveness of the program over time. Each time a new federal investment is made there is a consultative process to determine the impact of federal involvement on provinces and territories and how provinces and territories will reinvest federal funding. There is a permanent working group to do ongoing work on implementation, reporting, evaluation and developing new policy directions for the NCB.

In both cases, the depth of the consultations resulted in flexible programs with appropriate accountability measures across jurisdictions. Aspects of the ECD and NCB models could be used as a model for effective future consultations.

While progress has been made, the Council's view is that government to government consultations can be improved. In order to build on the positive experiences found in recent consultations, governments are committed to coming to a better shared understanding with respect to the appropriate nature and forms of the reciprocal notice and consultation provisions of SUFA.

### Meaningful and Timely Consultation

The Council's view is that all governments must be committed to genuine efforts to address concerns brought forward during the consultation process. Meaningful consultation includes, but is not restricted to, a number of characteristics. It should:

- be timely, taking place early enough that receiving governments are able to develop and put forward preferable alternative proposals to achieve flexible and effective policy, and early enough to allow the initiating government to consider such alternative proposals;
- enable governments to identify potential duplication; and
- where appropriate, result in adjustments to implementation.

Effective intergovernmental consultation involves receiving input, including the identification of possible alternatives, so that governments can work together effectively to provide services to Canadians.

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<sup>6</sup> Quebec does not participate in this initiative.

## Advance Notice and Consultation

SUFA commits governments to “give one another advance notice prior to implementation of a major change in a social policy or program which will likely substantially affect another government” and to “offer to consult prior to implementing new social policies and programs that are likely to substantially affect other governments or the social union more generally.”

In order to move forward with a common understanding of when reciprocal notice and consultation provisions of SUFA should apply, it is essential to have a shared understanding of the term “substantially affect.”

A social policy or program should be considered to “substantially affect” another government when the change (including termination) or new program:

1. can be reasonably expected to have a significant financial impact on the operation or budget of another government’s program;
2. requires a change in another government’s policy, regulation, or legislation;
3. will result in overlap or duplication;
4. requires another government to implement the change in policy; and
5. can be reasonably expected to have a significant impact on an existing intergovernmental policy mechanism or process.

The Council recognizes that when governments are acting within their own jurisdictions in ways that will have little or no impact on other governments or the social union more broadly, advance notice and consultation are not required.

## Consultation Related to the Use of the Federal Spending Power

Funding predictability in existing federal social transfers is essential to the effective delivery of social programs in Canada. When changes are proposed to existing social transfers, governments should have the opportunity to exchange views and propose alternatives. The Government of Canada will provide formal notice of funding changes and consult with provinces and territories at least twelve months prior to implementation in any multi-year financial arrangement, unless otherwise agreed. These due notice provisions will also be built into any new transfers.

Governments agree that new Canada-wide initiatives funded by intergovernmental transfers, whether block-funded or cost-shared, require governments to meet all their obligations provided for in SUFA, such as flexibility in funding, program design and implementation. These obligations include cases where existing programs meet the agreed objectives. In these cases provinces and territories have the ability to reinvest funds in the same or related priority area.

It is the Council's view that proposed Government of Canada initiatives involving direct transfers to individuals and organizations may result indirectly in spending pressures on provinces and territories. Provinces and territories note that direct federal transfer programs which involve provincial-territorial cost matching can affect their policy and spending priorities similarly to cost-shared programs. Effective consultation is, therefore, very important.

### Recommendations

The Council recognizes the importance of continuous improvement in intergovernmental consultations. Consistent with the principles of our parliamentary government system and the budget-making process, the Council recommends that governments:

- govern themselves according to the common understanding of “consultation” and its components described above;
- govern themselves according to the common understandings of “advance notice” and “substantially affect” described above;
- formally provide advance notice prior to implementation at a Ministers’ or senior officials’ level. Where feasible, governments should endeavour to provide advance notice prior to any public announcement;
- formally express an offer to consult at the Ministers’ or senior officials’ level, including an outline of the topic for discussion, who will be consulted, and timelines for discussions;
- distinguish between stakeholder and government-to-government consultations; and
- provide sufficient scope for governments to consult effectively and propose alternate approaches.

The Council recommends that governments should work together to find a common understanding of SUFA's implementation, including commitments to provide notice and consult, for proposed Government of Canada initiatives involving direct transfers to individuals and organizations that may result indirectly in spending pressures on provinces and territories.

While many consultations are already underway, increased clarity on objectives and areas for action, reasonable timelines, and a shared understanding of the issues to be discussed will enable governments to build upon existing consultations and continue to improve upon this in the future.

## Aboriginal Peoples

In Section 4 of SUFA, Governments committed to “work with the Aboriginal peoples of Canada to find practical solutions to address their pressing needs.”

Following a meeting of Premiers and National Aboriginal Leaders in March 1999, the Federal/Provincial/Territorial Ministerial Council on Social Policy Renewal (F/P/T Council), Leaders of the National Aboriginal Organizations (NAOs), and the Federal/Provincial/Territorial Ministers responsible for Aboriginal Affairs met on December 16, 1999. At this Tripartite meeting, Ministers and Leaders affirmed that the NAOs would be engaged in the implementation of SUFA wherever such implementation has implications for Aboriginal people. As a part of the effort to facilitate this goal, they established a Tripartite Working Group of their respective officials and agreed to convene another Tripartite meeting within one year. They also agreed that the SUFA three year review process should include consideration of proposals by Aboriginal organizations to strengthen their involvement in the Social Union process.<sup>7</sup>

In support of this latter commitment, the five NAOs received funding from the Government of Canada to prepare reports on their assessment of SUFA and its implementation (see Appendix B for the reports). A key theme to emerge from these reports is that the NAOs want enhanced funding and to be fully involved, as governments, in intergovernmental discussions on social policies and programs, and to have this formalized by becoming parties to SUFA or establishing a parallel accord. There is a perception that SUFA has so far had little practical impact in terms of improving Aboriginal social conditions. Some NAOs noted that, while the Tripartite process has had some positive aspects, to date the process has not met their expectations.

The Council's view is that governments have taken steps to more meaningfully engage Aboriginal peoples in social policy issues that have a significant impact on them. The ongoing work of the forum of Federal/Provincial/Territorial Ministers of Aboriginal Affairs and the National Aboriginal Leaders (F/P/T/A) facilitates the exchange of information and promotes collaborative policy work on shared priorities. In addition to these national efforts, there is the wide array of bilateral and multilateral consultation that occurs between governments and with Aboriginal people and organizations at federal, provincial, territorial and community levels. The five NAOs, and through them, many affiliates and Aboriginal professional organizations were consulted on the development of the National Children's Agenda. They were also engaged in discussions on the National Child Benefit, and in the development of the *In Unison 2000* Report, through the Aboriginal Reference Group on Disability Issues. Additionally, the Tripartite Working Group undertook work to identify best and innovative practices in engaging Aboriginal people in the development and/or delivery of social policies and programs, as well as work to highlight the socio-economic and demographic issues facing Aboriginal Canadians.

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<sup>7</sup> December 16, 1999 communiqué from the meeting of the F/P/T Ministerial Council on Social Policy Renewal, Leaders of the National Aboriginal Organizations and F/P/T Ministers Responsible for Aboriginal Affairs.

The socio-economic indicators for Aboriginal peoples clearly indicate that more needs to be done to address the pressing needs of Aboriginal peoples. The Council acknowledges that, in some cases, Aboriginal Canadians have not been engaged early enough, or substantially enough, in the development of new social policy initiatives. Continued efforts need to be made to meaningfully engage Aboriginal people in social policies and programs that have a significant impact on them.

The Council also acknowledges that unresolved differences over questions of jurisdiction and responsibility have, in the past, hindered effective intergovernmental cooperation on Aboriginal issues. All governments recognize that, despite these differences, there is a need to work better together, and with Aboriginal people both on and off reserve, to improve the quality of life of Aboriginal peoples.

In this context, some lessons on what constitutes good consultation can be drawn from recent work with Aboriginal people by the Council and sectors on the National Children's Agenda, the National Child Benefit and *In Unison*, as well as from the review of Best Practices carried out by the Tripartite Working Group.

Among the recommended practices, the Council would particularly note the following three key elements. First, Aboriginal people were given early opportunity to provide input to the development of policies directly affecting them. Second, Aboriginal input to policy and program design at the officials' level was supplemented by appropriate opportunities for Aboriginal leaders to meet with Ministers to present their views. Finally, the issue of Aboriginal people's capacity to participate meaningfully in the policy development process was addressed in each instance.

The purpose of engaging Aboriginal people in this way is to facilitate governments' decision-making and priority setting, and to inform the policy and program development process to take into account their particular needs and circumstances. The Council encourages each sector to continue to develop and improve upon these practices and to share its experiences with the Council and other sectors.

### Recommendations

The Council recommends that:

- Governments work together to develop a common understanding of how SUFA mobility provisions apply to Aboriginal peoples.
- Governments work together to ensure that the services provided to Aboriginal peoples are delivered in a way that meets their pressing needs wherever they live, including the delivery of services to Aboriginal peoples both on and off reserve.
- The work done by the Tripartite working group identifying best and innovative practices in engaging Aboriginal peoples be shared with sectors.

- Sectors share their best and innovative practices for strengthening the involvement of Aboriginal peoples in the social union process.

## DISPUTE AVOIDANCE AND RESOLUTION

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All jurisdictions acknowledge that SUFA provides governments with a framework for collaboration and transparency that is key to avoiding potential disputes. The Council encourages governments to continue to work together in an open and cooperative way.

In addition, the Council acknowledges the importance of ensuring there are effective processes to resolve disputes if they cannot be avoided through collaborative dialogue. The Council believes that SUFA provides an important framework for sectors in the development of processes to avoid and resolve disputes.

The Council welcomes the agreement reached on establishing a dispute avoidance and resolution (DAR) process related to interpretation of the *Canada Health Act (CHA)* principles as an important milestone that is consistent with governments' undertakings in SUFA (see correspondence outlining and confirming the agreement in Appendix C).

### Recommendation

The Council encourages sector Ministers to refer to the Dispute Avoidance and Resolution process for the *Canada Health Act* principles, including the use of third parties, to guide the development of future DAR processes.

# **REVIEW OF THE SOCIAL UNION FRAMEWORK AGREEMENT**

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The three year review of SUFA has provided a valuable opportunity for governments and citizens to engage in a meaningful dialogue on the Agreement and its implementation. The review has allowed jurisdictions to identify successes and best practices, to consider challenges and concerns, and to explore approaches to strengthen the operation and implementation of the undertakings made by First Ministers in 1999.

In addition, it has provided governments with the opportunity to jointly seek input and feedback from Canadians and to obtain their perspective on SUFA's implementation.

While the Council is encouraged by the progress governments have made in the implementation of SUFA, it also recognizes that challenges remain and will continue to emerge as governments address the social priorities of Canadians. The Council acknowledges the need to ensure there is an ongoing dialogue among governments on the implementation of SUFA.

## **Recommendation**

It is the Council's recommendation that governments should review SUFA and its implementation again at a future date. To accomplish this, the Council proposes that a second review be completed within five years of this report's submission to First Ministers.