



### Response to Ontario's Proposed Framework to Modernize Ontario's Forest Tenure and Pricing System

May 18, 2010

The Northern Ontario Sustainable Communities Partnership (NOSCP) drafted the Northern Ontario Community Forest Charter to promote community-based decision-making for the publicly-owned forests of northern Ontario. The charter was approved and released for wider endorsement in 2007. In April 2010, the Ontario Ministry of Northern Development, Mines and Forestry released "Ontario's Forests, Ontario's Future: A Proposed Framework to Modernize Ontario's Forest Tenure and Pricing System. NOSCP has reviewed the proposal and below provides a commentary using the NOSCP Forest Charter to compare the MNDMF proposal for tenure reform and provide alternative recommendations.

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**1. To localize control of forest management to maintain environmental sustainability while supporting the social and economic health of the people of the region.**

The proposed 5-15 Management Areas are unlikely to promote local control. The smaller the number of units, the less likely local control will be effective given the size of these MAs. Local control assumes that local communities will have some decision-making authority to decide the structure of governance for forest management. This encourages responsiveness to local concerns and conditions, and promote a variety of approaches to tenure.

**NOSCP Recommendation: That communities (including local organizations, businesses, First Nations) be encouraged to put forth their own proposals for governance and boundaries.**

**2. To ensure governance mechanisms that provide effective management of community forests.**

"Local Forest Management Corporations" (LFMCs) may not be an effective mechanism to promote community forests. The proposed "Management Areas" are to "be responsive to local conditions and existing communities", but the main criteria seems to be to promote competitive market conditions and provide adequate wood supply for a self-sustaining, viable business entity", not for healthy, sustainable communities. These LFMCs are promoting a "business-as-usual" approach focused solely on competitive timber sales that limits the range of community values that can be addressed. This approach limits the input of communities providing only "designated positions" for local and Aboriginal communities. Who determines the membership of Boards? How do we ensure a broad range of community interests, rather than only vested interests? Some people are advocating that only "experts" should be allowed on these Boards. Does this imply some quantitative criteria for

appointments, i.e. so many academic appointees, so many with science-based expertise? How will Local Citizens Committees, which have over time developed forest management planning expertise, be considered in Board appointments? How will Aboriginal members be represented? How can we ensure that Boards have the ability to ensure sound governance through Board training and to solicit the widest range of representation of people willing to act in the public interest (and not just the “old boys”)? The current model is a one-size-fits-all, being imposed from the top down.

**NOSCP Recommendation: Ensure flexibility in governance, including corporations, Crown agencies and co-operatives, that would emerge from community discussions and negotiations. We call these “Community Forest Management Authorities” (CFMAs).**

**3. *To ensure the separation of forest management from any one specific user group (e.g. mills).***

The proposed model is a huge step forward in separating forest management from production facilities. However, it is not clear whether LFMCS’ main focus will be on guaranteeing wood supply for existing players, or whether they will have the authority to encourage new players or different resources than timber. “The proposed framework suggests that at least 25% should be sold through tendered sales” and asks whether this is appropriate and how much regional variation should be considered. If management is driven solely in response to market conditions, how will LFMCS be able to manage for future markets considering long-term benefits rather than short-term gains, for local needs, for a variety of resources? If markets are the sole consideration, what is to prevent monopolies, that is a single company from tying up the wood supply? What is to prevent sales outside of Ontario and Canada without requirements for local production? How will local entrepreneurs who want to start up businesses be able to compete with established players if they are not able to bid a higher price for the resource?

**NOSCP Recommendation: That the Province maintain requirements for local production (the current made-in-Canada exemption) and hiring, and implement incentive programs to support local innovation.**

**4. *To recognize, respect and help to resolve Aboriginal and treaty rights by working with Aboriginal communities.***

Although a main principle of the MNDMF proposal is that “Ontario respects Aboriginal and treaty rights protected by section 35 of the Constitution Act, 1982 and is committed to meeting its constitutional obligations,” there is nothing in the proposal that outlines implementation of this principle. Reforming tenure has an impact on Aboriginal and Treaty Rights because tenure affects Aboriginal peoples’ access to their traditional territories and forest resources by allocating these to business interests, but there is nothing in the proposal that addresses these impacts. There has been no indication that Ontario has fulfilled its legal duty to consult with Aboriginal communities on tenure reform.

**NOSCP Recommendation: That Ontario negotiate options for Aboriginal tenures with Aboriginal communities, entertaining proposals that give meaning to Aboriginal and Treaty Rights while ensuring that Aboriginal communities work with other local communities to promote sustainable development in northern Ontario.**

**5. *To maintain public ownership and shared decision-making for all Crown forested lands.***

The MNDMF proposal does not change ownership of Crown land; however, LFMCS, as with previous Sustainable Forest Licences, does encourage the privatization of timber, transferring control of public assets to private businesses. Given the large size of the proposed Management Areas, such

privatization will continue to limit public and Aboriginal peoples' access to public lands and other resources, such as non-timber values and recreation.

**NOSCP Recommendation: That government, in co-operation with CFMAs, maintain responsibility to protect the public interest in Ontario's forests.**

**6. *To direct the resources of the forests to the economic and social development of the people of the region.***

There is nothing in the MNDMF proposal that ensures local distribution of wealth generated from northern forests to northern communities. Profits from the sale of timber will be directed to LFMCs, not to communities. A portion of profits from timber sales (in good economic times) will be directed to the province at large.

**NOSCP Recommendation: That a pricing system be implemented that ensures a portion of revenue from the sale of forest resources—both timber and non-timber—be allocated to local and Aboriginal communities for economic and social development.**

**7. *To co-operate and organize regionally to promote healthy forests and communities.***

The MNDMF proposal, other than stipulating provincial oversight, puts forward no suggestions for how LFMCs would co-operate with each other in matters of regional concern, such as landscape level environmental values, or community economic and social development. In fact, the proposal promotes competition among LFMCs, again focused solely on timber. "The intent is to stimulate competition in selling Crown timber while providing opportunity for local and Aboriginal community involvement. This would promote competition between LFMCs to create market conditions, yet provide each LFMC with enough volume to be financially viable."

**NOSCP Recommendation: To establish regional boards that would work with CFMAs and the province to ensure that each Community Forest Management Authority is taking into account larger regional concerns and promoting co-operation among CFMAs.**

**8. *To have the support of provincial and federal governments in promoting diversified local/regional economies, especially value-added production, based on a variety of forest-based businesses and activities, both timber and non-timber.***

The MNDMF proposal focuses solely on timber with no consideration for non-timber values, cultural values and ecosystem services like carbon storage. Although LFMCs would be "subject to all legislated forest management requirements," the current forest management planning regime in Ontario does not give adequate consideration to non-timber values and resources.

**NOSCP Recommendation: That "Community Forest Management Authorities" be given the authority to go beyond the existing forest management regulations to define the forest resources to be managed and how this will be done, including determination of the Allowable Annual Cut considering the full range of forest values.**

**9. *To have government investments directed towards community-based forest management.***

There is no mention in the MNDMF proposal of provincial financial support for LFMCs. These corporations are expected to be "financially self-sufficient". Although the proposal acknowledges that "start-up capital would be needed to pay for management planning, consultation, compliance reporting, inventory, managing contract tenders, forest certification, interest and loan repayment, salaries, benefits, lease costs (buildings and equipment) and board of director costs", the proposal does not indicate that any of this money would come from the province. We are concerned that the

proposal is a means to offload provincial responsibilities for forest management by having the private sector assume these costs. However, given the high costs of management, and the uncertainties in the market, how will these LFMCs bear these costs and raise additional funds for their own operations? It is not clear that the proposed revenue model requiring LFMCs to establish “an operating reserve” when markets are good will be sufficient to cover their operating costs when markets are poor. We think that the public of Ontario is willing to pay a certain amount to ensure sustainable management of its forests, because these forests provide much more than revenues.

**NOSCP Recommendation: That government direct investments towards community-based forest management, acknowledging that funds will need to be set aside for forest management, and that there may be times when these costs will not be covered by sales of timber, non-timber forest products or environmental services.**

***10. To promote a strong working relationship with the Ontario Ministry of Natural Resources and other government departments, federal and provincial, including scientific and management support.***

The MDMF proposal does not clearly state how LFMCs will work with both MNDMF and the Ministry of Natural Resources (responsible for forest management), and there is no mention of working with other provincial government departments or the federal government. Research that would provide scientific support is not mentioned.

**NOSCP Recommendation: That Ontario promote co-operation among its own departments, with CFMAs and with the federal government to serve the public interest.**

***11. To ensure best end use and highest value forest products are produced from forested lands.***

There is no guarantee that competitive sales of timber will lead to best end use and highest value production. If a market, i.e. the U.S. market upon which Ontario is dependent, continues to demand low value, high volume commodity products, then timber sales will continue to be low value and subject to boom-and-bust cycles.

**NOSCP Recommendation: That government establish programs, including scientific and community-based research, to support the diversification of markets as a way to encourage value-added and best end use.**

***12. To advocate for fair trade policies that ensure communities receive full value for their resources and labour.***

The MNDMF proposal with its market-based approach seems to be a partial response to the U.S. Softwood Lumber dispute which claims that Ontario’s pricing system provides an unfair advantage to companies purchasing Crown timber because of hidden subsidies. Will this new model open Ontario’s Crown timber to purchase from U.S. buyers with no requirements for production in Ontario? Will NAFTA rules then tie Ontario in to continued sale to U.S. companies and prevent the use of northern Ontario timber to be used to develop a strong northern economy?

**NOSCP Recommendation: That MNDMF provide the people of Ontario with a paper exploring the implications of this new proposal in light of NAFTA, the softwood lumber dispute and our dependence on the U.S. market.**