

7.9 Engaging with Foreign Governments Policy

Policy Statement

In a globalized world, many of Nova Scotia's opportunities will depend on the Province's ability to identify shared and strategic interests with other parties, sometimes including other countries or their sub-national governments.

Building an effective intergovernmental relationship is an incremental process. This policy provides guidelines for the Province to use in determining the best way to engage with particular foreign entities in order to achieve Nova Scotia's goals, whether by means of formal relationships or more informal interactions. It offers a continuum of engagement options such as: media opportunity; proclamation; statement; memorandum of understanding (MOU); and/or formal legal agreement between the Province and international parties. The policy provides for the choice of the most suitable option, informed consideration of each government's capacity and intentions, consistency of corporate decision-making, and establishment of accountabilities commensurate with the level of expectations flowing from the engagement option chosen.

This policy supports all corporate intergovernmental objectives at the international level.

Definitions

AGREEMENT

A contract or other exchange of promises which create legal relations and which the parties intend to be legally enforceable against each other, in either domestic or international law.

DEPARTMENT

A department established under the *Public Service Act*.

FOREIGN GOVERNMENT

Foreign government refers to governments outside of Canada.

MEDIA OPPORTUNITY

Includes events used to give publicly visible recognition to the Province's intergovernmental engagement. In the early stage of a relationship with another jurisdiction, it might be the most appropriate form of engagement. It would likely be a public event and therefore co-ordination is required, especially given the level of senior officials likely to be participating. The media opportunity is primarily symbolic in nature, resulting in no legally binding actions. Typically, it is an event or occasion that lends itself to (or is deliberately arranged for) taking photographs that provide favourable publicity for those who are photographed. Such events may include activities such as: a ground-breaking dedication; official openings; sod-turning or tree-planting events; gift exchanges or greetings; and ministerial tours or missions. It is possible but not necessary to combine it with use of another option provided for in this policy, such as the issuance of a Proclamation or statement, or the signing of an MOU or legal agreement.

MEMORANDUM OF UNDERSTANDING (MOU)

A legally non-binding statement of the parties' intentions that does not include any commitment intended to be enforceable in domestic or international law. The purpose of an intergovernmental MOU is to formally:

- provide leadership vision in the form of jointly desired outcomes or commonly intended actions;
- clarify accountabilities and/or other elements in plans for cooperation;
- express mutual understanding of the policy or operational expectations of each party; and/or
- enable moving forward together without making a legally enforceable commitment.

OFFICE

An office established under the *Public Service Act*.

PROCLAMATION

An official public statement normally signed by the Premier which uses stylistic declaratory language to proclaim recognition of an event, person, date, relationship or similar significant matter.

STATEMENT

Includes a public statement through a speech, or news release, published article or letter; it may describe the shared interests of the two jurisdictions, the historical or current context in which they arise, and the purpose of activity in which they are engaged. The statement may be issued by a Nova Scotia government representative on the Province's behalf, or may be a jointly-issued statement with the foreign entity.

Policy Objectives

- To have the right tools to formalize relations recognizing there are various options to pursue. These relations, which lead to mutual benefits for both parties, could be economic, social or educational for example.
- To provide guidance in the development, creation and implementation of the MOU or other type of engagement/agreement (s) and, to ensure the Government of Nova Scotia takes a corporate approach to these relationships.
- To guide, evaluate and to provide accountability for relationships to which this policy applies.
- To help the officials of the two governments work efficiently together to develop the new relationship be it informal or formal.
- To build in accountability measures and specific time periods for the MOU
- To help guide relationships for informal engagement as a reference tool.

Application

This policy is intended to apply to all departments and offices, and any entity seeking to have a Minister or the Premier sign an MOU or legal agreement with representatives of a foreign government.

Policy Directives

When interest is expressed in recognizing the quality of a relationship between the Province and some international party, Nova Scotia should be guided by consideration of its objectives for the relationship. The choice of whether to use some other recognition option, or to enter into an MOU or even a legally binding formal agreement, should depend on what both parties require as a long-term goal, and what concrete commitments they are called on to make, taking into account their current mutual capacity to resource the activity contemplated.

It should be noted that, to varying degrees, each of these options may create expectations and moral or even legal obligations. When an arm of the Nova Scotia

government is considering formalizing a relationship with a foreign government body, the following process should be followed:

1. When there is consideration by Nova Scotia officials to enter into a formalized intergovernmental engagement, the department/office/agency will notify the Department of Intergovernmental Affairs (IGA) by a message to the Executive Director of IGA.
2. IGA staff will review with the lead department/office/agency the range of options for formalizing intergovernmental engagement, and will also work with them to identify the best choice for the circumstances. The range of options would typically include these, as defined in the preceding part of this policy:
 - Media opportunity
 - Proclamation
 - Statement
 - MOU
 - Formal legal agreement (very rarely)
3. If an option involving a jointly-signed intergovernmental document (such as an MOU or legal agreement) is being considered, IGA will provide a toolkit for preparation of any required drafting instructions, as well as providing advice and expertise. The lead department should engage through their lawyer at this point so that Justice advice on the file can be considered and coordinated throughout any negotiation.
4. Interdepartmental consultations will address the nature and level of interests of each of the potential parties, the strategic value the proposition represents to them, potential areas of collaboration and cooperation between the governments (or a government and any other proposed party), and the capacity of each party to resource the relationship and its objectives. It is important to manage the expectations at this stage of each of the potential parties.
5. As required, IGA will consult with the Department of Foreign Affairs and International Trade (DFAIT), and will work with the Nova Scotia lead department/office/agency to determine the need to involve or consult other internal or external stakeholders, to ensure there is no conflict of priorities and appropriate parties are engaged as necessary.
6. The lead department/office/agency staff will work closely with IGA on the development of any documentation, such as joint statements, proclamations, MOU's or formal legal agreements.

7. If the relationship between the two jurisdictions has reached a stage where it is beneficial to talk about it publicly, they may choose to issue a statement. This would allow the Nova Scotia government to outline the context, history and current considerations surrounding the international relationship, and if appropriate, hopes and intent. It may also be beneficial for the other government to make a similar statement and which could be combined in a joint statement.

Alternatively, a Proclamation by Nova Scotia can be used to cordially and publicly recognize a foreign government visit or event, with or without a media opportunity, as a means of dignifying an early-stage relationship.
8. As text is developed during the course of negotiations with the foreign entity, Nova Scotia proposals will be shared with appropriate internal stakeholders (and more rarely with external stakeholders, subject to diplomatic and confidentiality considerations) as appropriate for comment and review.
9. In consultation with the lead department, IGA may liaise with the foreign government at any stage of the engagement process, while also reinforcing the lead department/office/agency opportunities to strengthen the intergovernmental relationship. IGA will work with the lead department to ensure that both governments have a clear understand of who is responsible for various aspects of the process and that clear lines of communications are established.
10. Upon completion of the documentation, if the document is a legal agreement or memorandum of understanding requiring Cabinet approval under S. 6 of the Public Service Act, the sponsoring Minister's staff will provide IGA, the Office of Policy and Priorities, and Treasury Board staff an opportunity to review, and have its feedback on the Cabinet submission addressed, prior to submission to the Executive Council for approval.
11. If approved by Executive Council, arrangements will be developed under the leadership of IGA for sign-off by the Government of Nova Scotia and the foreign entity.
12. At this time, the Protocol division of IGA will be engaged.
13. An original signed copy of any jointly or formally issued documentation, MOU or legally binding agreement will be provided by IGA to a previously identified official of each signing party, the lead department/office/agency, IGA, and the Executive Council Office.

14. After formal signing has occurred on any MOU or legally binding agreement, IGA will work with the lead department, office or agency to ensure transition of the file to officials with operational responsibility, records management and those accountable for corporate follow-up.
15. If the process has involved signing of an MOU or legally binding agreement, the lead department will provide the Deputy Minister of IGA a brief update on implementation of its terms on the first anniversary of the MOU's signing, and annually thereafter for the life of the document, unless an alternative method of corporate follow-up is recorded by the lead and IGA Deputy Minister.
16. If a media event is the appropriate method of engagement, or where such an event accompanies a signing, these points will apply:
 - Intergovernmental Affairs will work with the lead department/office/agency to plan the event. Protocol and Premier's Office staff will be consulted as required.
 - In addition, Managing Directors with Communications Nova Scotia (CNS) should be notified of upcoming events as soon as planning begins.
 - A draft agenda or photo opportunity outline will be prepared by department/office/agency in collaboration with IGA and shared with foreign country/state for finalization.
 - A press release may be necessary and therefore department/office/agency communications in collaboration with CNS and the Premier's press secretary/staff are required to notify media outlets.
 - Appropriate media coordination will fall to the department/office/agency communications, CNS and Premier's staff. CNS media guidelines are to be followed.
 - Preparatory and background material (such as briefing notes, bios, etc.) may be required and are the responsibility of the department/office/agency to provide.
 - A permanent record (photo, statement, proclamation, etc.) will be produced and shared with all parties.
 - Any follow-up action will be pursued by department/office/agency officials, including any necessary reporting.
 - IGA will be consulted on an as-needed basis.

Policy Guidelines

In all instances where a Nova Scotia department, office, or agency is engaged with a foreign government, the Directives above should be adhered to. The Directives may be modified or enhanced to meet departmental requirements, provided that the department is in compliance with this policy. The intent of the policy is to ensure there is:

- conscious and informed consideration of appropriate incremental options;
- an opportunity, through IGA, to facilitate consistency of corporate decision-making concerning international relationships; and
- an arrangement by both governments for resources and accountability commensurate with the expectations arising in the form of international engagement chosen.

Accountability

The Deputy Minister of IGA shall be accountable for the content of this policy and, through IGA staff, for the provision of support in its implementation. Senior officials of IGA will be accountable for: providing advice and training in the application of this policy; information relating to international matters; comments on draft documents; and general liaison services. Nova Scotia departments and offices will be responsible for compliance with this policy, consultation with IGA and other provincial government entities impacted by a proposed initiative, and the quality of international intergovernmental initiatives which the department or office pursues. The Deputy head of the Nova Scotia department or office is responsible for the implementation of terms set out in an MOU or legal agreement provided for in this policy.

Monitoring

The lead department or the IGA staff liaison for that department will monitor developments during regular contact with the department or Office. The lead department will provide IGA and other relevant departments with written annual reports on the anniversary of the signing of the MOU.

References

Public Service Act, Section 6 and 46E

Enquires

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or

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