

Developing Your Own TK Protocol

SUPPLEMENTARY
TOOLS & RESOURCES

01



INTRODUCTION

This section in the Traditional Knowledge (TK) Module offers you guidance for how to develop your own TK protocol, based on similar initiatives taken by other Indigenous peoples in Canada (First Nations, Inuit and Métis). Ideally you would have a TK protocol already in place before being approached by external interests for your knowledge. Developing a TK protocol ensures that you are in a position to assess the risk and benefit of sharing your knowledge as part of a public impact assessment process.

It is important for you to convey or define your own concept of TK. It will not be the same as proponents' or governments' ideas of what this knowledge is. It is also important to represent your TK in your own language. It is important to represent your knowledge according to your own Nation's cultural understanding, and ideally in your own language.

Note in this section, TK and IK (Indigenous knowledge) are used interchangeably. Both terms are used in Canada. TK is term often used in the United Nations Declaration on the Rights of Indigenous peoples. IK is the term used in the Impact Assessment Act and other federal legislation.

EXISTING CULTURAL PROTOCOLS

Most communities and organizations have existing cultural protocols or guidance for how to work with TK holders or with the knowledge itself. This includes how to treat Elders/TK holders respectfully and compensate them for their time. Most First Nations already know these things, but they have not been codified or documented here in a protocol or guide. You can fully expect that interests who are seeking your knowledge (governments, industry, etc.) do not know about these things or are ill-informed. Part of the purpose of developing your own protocol is to assist you in the codification and documentation of protocols that you already know about and practise in your community. The TK protocol simply helps you to write it down so it can serve as a guide for how you expect others to respect your knowledge and TK holders.

SOURCES OF KNOWLEDGE

This template offers key clauses that are included in other TK protocols/guides developed by Indigenous peoples. Some text/clauses come from guidance offered by Indigenous organizations (e.g., the former National Aboriginal Health Organization, or NAHO) and international organizations (e.g., World Intellectual Property Rights Organization). The priorities and focuses are on Indigenous-developed protocols in Canada.

Federal and provincial government-generated protocols were not included, although it is recommended you become familiar with them.

All material generated in this protocol came from public sources. Unfortunately, some of the protocols that clauses/text are drawn from are no longer publicly available, or are from an organization that no longer exists (such as NAHO) although some of their materials can still be found. We have tried to focus on those protocols that you can find on your own if you wish to read the full document. For those no longer publicly available, the First Nation or organization is noted in case you want to contact them on your own.

SELECTION OF TEXT/CLAUSES

The text/clauses included in this template are key clauses based on an analysis of existing protocols and identifying key/core elements. The list is not exhaustive, and you may wish to include other clauses that are important to you. For example, you may wish to state that Traditional Knowledge must be valued on par with western science, or you may wish to indicate explicitly that your protocol will be the one to be followed in any EA process. You may also explicitly state that undertaking a TK study in your territory does not constitute consultation, accommodation or consent,

although the study can inform such processes. Every Indigenous protocol is different, depending on the priorities, needs and capacities of the community or organization, yet all Indigenous protocols contain several key elements.

HOW TO USE THE TK PROTOCOL TEMPLATE

The template contains various protocol clauses/texts that are grouped according to topic. For example, each identified clause/text of the template “*Role and Function of a TK Advisory Committee*” provides several examples of text/clauses as a reference for you to develop your own content. Each topic provides you with ideas to consider including in your own protocol. Each protocol developed by other Indigenous peoples has different priorities and ways they choose to protect their knowledge. You will have to decide what works best for your community or organization. The template in this Module offers the basic structure but does not include any practices or cultural protocols that are specific to your Nation, community or organization. The text/clauses in the table below are directly cited from the source indicated at the end of each example, some of which are publicly available and can be found in the References & Resources Module.

DEVELOPING YOUR OWN TK PROTOCOL/GUIDE

Developing your own protocol involves more than preparing text/clauses and including them in a written document. It is a process that involves your community and requires community approval of the final protocol document. In this way it is somewhat similar to using the TK studies as part of the EA process. You must decide how the protocol and guide will be governed and administered in your community or organization. You will see in the template how different First Nations and organizations have chosen to take on this task. Engaging the community – especially knowledge holders – is critical to ensure cultural protocols are accurate and reflect how knowledge holders wish to be *respected and protected*. If your community already has existing practices around obtaining consent from political leadership, these should be codified in the TK protocol.

The first step is to determine which aspects of a TK protocol already exist in the community or organization. Sometimes these are already written down, sometimes not. Codifying existing practices is important and is a good place to start when developing your own protocol. Many communities are in the process of revitalizing TK knowledge and language, and thus have existing processes to do so.

What is very different about the template offered in this module is the emphasis on protecting your knowledge from external interests such as proponents and governments. If these protections are not in place, the information could be misused, or used against you in the future. Traditional knowledge was intended to ensure the well-being of the natural world/environment, the people and future generations.

See the References & Resources Module for a list of references, and to learn more about where to find more information on TK protocols and guidance documents. The section will note documents that are currently publicly available.

Traditional Knowledge Protocol Topics

TOPIC	PAGE NUMBER
Defining TK. Convey your own concept of TK, ideally using your own language and concepts.	10
Protecting rights. TK studies can assist the First Nation in protecting their rights and way of life.	11
First Nation protocol takes precedence. Governments and others are developing their own TK protocols. Indicate in your protocol that your protocol is the one that proponents, governments and others will follow.	12
TK studies, research or work are not to be interpreted as “duty to consult.” Conducting a TK study does not replace the duty to consult with a First Nation.	12
Respecting Traditional Knowledge as on par with western science. Ensure that TK is not relegated as “add on” knowledge as part of an EA process, but is valued and respected.	14
Establishing a TK Advisory Committee for the purposes of gathering and documenting TK for TK studies, land use studies and environmental assessments.	15
Role and function of a TK Advisory Committee. What kind of decisions will this committee make? How will such a committee function? Who should be on this committee?	17

Traditional Knowledge Protocol Topics

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TOPIC	PAGE NUMBER
<p>Scope of TK protocols. Indicate what the studies will and will not cover, what Traditional Knowledge external people will be allowed to access, that ancestor remains and grave goods can be off limits, etc.</p>	19
<p>Ownership of TK. How do various TK protocols make clear that TK belongs to the community? What is the purpose of owning TK? What are the legal mechanisms by which TK is owned? (Contracts with external study participants? Intellectual property?)</p>	21
<p>Gaining approval/consent from the community to document and gather TK. What kind of information does the community require to authorize?</p>	24
<p>Gaining consent from the community and leadership. Leadership consent is required first and then individual consent (TK holders, Elders, etc.). It is important to stipulate leadership consent is required.</p>	25
<p>Gaining consent for access to individual's knowledge from individual TK holders, practitioners, Elders, community members. This must be free, prior and informed consent.</p>	26
<p>Benefit to the community. How shall the proponent demonstrate benefit to the community?</p>	28
<p>Sharing and Use of TK. How will information be shared with the community after the project is completed?</p>	29

Traditional Knowledge Protocol Topics

Continued

TOPIC	PAGE NUMBER
<p>Administration of the protocol. How will the protocol and its provisions be monitored and enforced? What are the responsibilities of this organization? What happens if the study agreement is violated?</p>	<p>32</p>
<p>Procedures of gathering, documenting TK. What are appropriate methods, procedures and processes to ensure TK is collected ethically in the community? Who is involved in the processes?</p>	<p>35</p>
<p>How can community influence the design and methodology of research involving their TK? (related to the above). Step-by-step instructions on how to structure the methodology of the study. Also covered in the above section: “Procedures of gathering, documenting TK.”</p>	<p>39</p>
<p>Data verification and interpreting data. Procedures for verifying with community, information that was gathered. Community involvement in interpreting the information.</p>	<p>41</p>
<p>Confidentiality (of people who shared the knowledge or location of the knowledge such as sacred sites, burial sites, species at risk). Is there any reference to confidentiality in the TK protocols?</p>	<p>43</p>
<p>Compensation. How will TK holders be compensated for their time? The compensation is not for their knowledge but for their time. The holders of the knowledge and communities retain ownership.</p>	<p>45</p>

Traditional Knowledge Protocol Topics

Continued

TOPIC	PAGE NUMBER
Recognition of TK holders. How should TK holders be given recognition for their contributions and time?	46
Intellectual property rights. What are they and how will they be protected? (Heavily overlaps with the section “Ownership of TK.”)	47
Storage and management of TK. How will TK be stored and managed in the community? How do communities ensure they maintain control over access to TK (even though it may be shared externally)?	48
Community engagement throughout TK study/project. How will community be kept informed of study/project progress? How will community be engaged? How will the final product be reported back to the community?	51
Promotion of TK. How will TK be used for other community goals (education for youth, adults; cataloging information for the Nation, etc.)	52
How will TK study/project findings be shared? How will the community be informed of study findings?	53
Formal agreements/data sharing agreements. Are there examples of where it is necessary to have agreements? What are samples of these types of agreement? When would they be used?	54

Traditional Knowledge Protocol Topics

Continued

TOPIC

PAGE
NUMBER

Conflict resolution. How will disagreements regarding the administration, management and implementation of TK protocol be resolved?

55

Cultural protocols. How are appropriate cultural protocols in gathering information and norms in communication made a requirement? E.g., how are language barriers navigated? How are the differences between western science and TK treated?

55

Amendments – Living document. How can the TK protocol document be amended over time/updated?

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Table of Clauses

NOTE

All URLs listed below were active at the time of writing this publication. If any URL listed below is no longer active, search the document's name online, or contact the organization directly.

SECTION AND PURPOSE

Defining TK,
ideally using your
own language and
concepts.

SAMPLE TEXT

Example 1 **Under Glossary of Terms:**

'NBMIK' or 'MIK' refers to Indigenous Knowledge of the New Brunswick Mi'gmaq. This includes the collection and adaptation of knowledge that Mi'gmaq hold in accord with all components of the natural environment and the interrelationships that exist between all Creation (animate and inanimate matter); therefore *m'st no'gmaq* (all my relations) (p. 8).

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide*. 2016. <https://ethicshub.ca/tool/new-brunswick-migmaq-indigenous-knowledge-study-nbmiks-process-guide/>

Example 2

Mi'kmaw cultural tradition, the concept of *Netukulimk* – a concept which includes the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community at large. *Netukulimk* also encompasses ecological beliefs through the interplay of collective and individual responsibilities of the Mi'kmaq to the natural world. Such relationships with the land are holistic in nature and consider many aspects of the natural and spiritual world (p.6).

Source: *Assembly of Nova Scotia Mi'kmaq Chiefs. 2007. Mi'kmaq Ecological Knowledge Study Protocol*. <https://www.gcseglobal.org/sites/default/files/inline-files/mikmaq-ecological-knowldege-study-protocol.pdf>

SECTION AND PURPOSE

Defining TK,

ideally using your own language and concepts.

SAMPLE TEXT

Example 3

In the preamble, the Sambaa K'e Dene Band defined traditional knowledge in the following article:

Therefore be it Resolved that the Sambaa K'e Dene Band will take all steps necessary to ensure that all land use and resource development activities in the Sambaa K'e traditional land use area incorporate yúndíit'ōh (traditional knowledge) at all phases of development -- including research and planning, project implementation, ongoing project monitoring, and closure / remediation – according to the principles and procedures identified in this policy document.

Source: *Sambaa K'e Dene Band Policy Regarding the Gathering, Use and Distribution of Yúndíit'ōh (Traditional Knowledge)*. 2003. <https://nwtresearch.com/sites/default/files/sambaa-k-e-dene-band.pdf>

Protecting rights.

IK/TK studies can assist First Nation in protecting their rights and way of life.

Example 1

The New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide, under “NBMIKS Trigger,” states:

The requirement for a NBMIKS is triggered the moment the Crown contemplates a decision that may impact the inherent, Aboriginal and Treaty Rights, Title or rights under international law of the Mi'gmaq in New Brunswick. The MTI [Mi'gmawé'l Tplu'taqnn Inc.] and other relevant First Nation organizations will be contacted at this point, pursuant to the Interim Consultation Protocol between MTI, the federal Crown and provincial Crown, and pursuant to the Crown's legal obligations.

The NBMIKS Committee will review correspondence relating to the potential Project. Subsequent meetings with the Proponent may be requested if additional information is required. Based on its understanding of the proposed Project, the NBMIKS Committee will determine the scale of MIKS needed to effectively assess potential impacts to Mi'gmaq Rights within New Brunswick, and the relevant resources needed to complete this work (p. 10).

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide*. 2016. <https://ethicshub.ca/wp-content/uploads/2020/05/56-New-Brunswick-Mi%E2%80%99gmaq-Indigenous-Knowledge-Study-NBMIKS-Process-Guide.pdf>

SECTION AND PURPOSE

SAMPLE TEXT

Protecting rights.

IK/TK studies can assist First Nation in protecting their rights and way of life.

Example 2

3.1 New Brunswick Mi'gmaq Indigenous Knowledge Study Process Guide was established to assist it protect and advance Mi'gmaq rights and interests.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide*. 2016. <https://ethicshub.ca/wp-content/uploads/2020/05/56-New-Brunswick-Mi%E2%80%99gmaq-Indigenous-Knowledge-Study-NBMIKS-Process-Guide.pdf>

First Nation protocol takes precedence.**Example 1**

3.3 This MTK [Maliseet Nation Traditional Knowledge] Protocol is intended to complement and support the operation of the Maliseet Research Review Board (MRRB), that pertains to MTK data collection and, in the event of a conflict between this protocol, and any other guidelines or laws, the guidelines in this Protocol, including the Maliseet Ethics Guidelines, shall take precedence.

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. September 2009. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol)*. https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

TK studies, research or work are not to be interpreted as “duty to consult” or as meeting legal obligations to consult.**Example 1**

3.1 Nothing in this MTK [Maliseet Nation Traditional Knowledge] Protocol or any related discussions, communications or documentation shall be interpreted as to abrogate, derogate, or in any way, affect, limit or detract from the Aboriginal, Treaty or Title rights of any member of the Maliseet Nation.

3.2 Nothing in this document shall be interpreted as Consultation for the purpose of justifying an infringement on Maliseet Aboriginal, Treaty or Title rights, or as satisfying the duty to consult and accommodate the Maliseet Nation, unless otherwise provided for in writing and sanctioned by Maliseet Nation Leadership.

3.3 This MTK Protocol is intended to complement and support the operation of the Maliseet Research Review Board (MRRB), that pertains to MTK data collection and, in the event of a conflict between this protocol, and any other guidelines or laws, the guidelines in this Protocol, including the Maliseet Ethics Guidelines, shall take precedence.

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. September 2009. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol)*. https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

SECTION AND PURPOSE

TK studies, research or work are not to be interpreted as “duty to consult” or as meeting legal obligations to consult.

SAMPLE TEXT

Example 2

A key point in this protocol document is that the content of community protocols should not replace community consultation protocols. See page 11 of the New Brunswick Mi’gmaq Indigenous Knowledge Study (NBMIKS) Guide V.3:

For greater certainty nothing in this document shall be interpreted as Consultation, as it is described by the Supreme Court of Canada in a series of constitutionally significant decisions. The rights that Indigenous Peoples hold are fundamental to the constitution and the foundations of Canada. The Mi’gmaq as an Indigenous People, who hold constitutional and legal rights, are clearly distinguishable from stakeholders.

Source: *New Brunswick Mi’gmaq Indigenous Knowledge Study (NBMIKS) Process Guide V.3.* <https://ethicshub.ca/tool/new-brunswick-migmaq-indigenous-knowledge-study-nbmiks-process-guide/>

Example 3

3.1 Nothing in this MTK [Maliseet Nation Traditional Knowledge] Protocol or any related discussions, communications or documentation shall be interpreted as to abrogate, derogate, or in any way, affect, limit or detract from the Aboriginal, Treaty or Title rights of any member of the Maliseet Nation.

3.2 Nothing in this document shall be interpreted as Consultation for the purpose of justifying an infringement on Maliseet Aboriginal, Treaty or Title rights, or as satisfying the duty to consult and accommodate the Maliseet Nation, unless otherwise provided for in writing and sanctioned by Maliseet Nation Leadership.

3.3 This MTK Protocol is intended to complement and support the operation of the Maliseet Research Review Board (MRRB), that pertains to MTK data collection and, in the event of a conflict between this protocol, and any other guidelines or laws, the guidelines in this Protocol, including the Maliseet Ethics Guidelines, shall take precedence.

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. September 2009. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol).* https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

SECTION AND PURPOSE

Respecting TK as on par with western science.

Ensure that TK is not relegated as “add on” knowledge as part of an IA process, but is valued and respected

SAMPLE TEXT

Example 1

Research and other activities that utilize both yúndíit’óh and a western scientific component must include training, so that Smbaa K’e Dene Band members can learn to use and apply western approaches and technology to the gathering and use of land and resource information.

And

Traditional Knowledge will be subject to Traditional Knowledge quality controls and scrutiny, not Western Science quality controls and scrutiny:

- Yúndíit’óh is derived from a traditional process of intuition, observation, testing, and validation and is of equal value to western scientific processes.

Source: *Smbaa K’e Dene Band Policy Regarding the Gathering, Use and Distribution of Yúndíit’óh (Traditional Knowledge)*. 2003. <https://nwtresearch.com/sites/default/files/smbaa-k-e-dene-band.pdf>

Example 2

Part of the guiding principles of the Gwich’in Tribal Council Traditional Knowledge Policy (2004) states:

Ensures respect for Gwich’in Traditional Knowledge holders and ethical use of Gwich’in Traditional Knowledge in research, giving it an equal standing with western scientific knowledge.

Source: *Gwich’in Tribal Council. 2004. Traditional Knowledge Policy*. <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

SECTION AND PURPOSE

Establishing a TK Advisory Committee

for the purposes of gathering and documenting TK for TK studies, land use studies, environmental assessments.

The TK Advisory Committee should be established by the Nation. The role of the committee is also covered in the following section. This section also includes text that addresses the composition of TK Advisory Committees.

SAMPLE TEXT

Example 1**1.1. The purpose of this Protocol is:**

- a.** to protect traditional knowledge holders against any infringement of their rights as recognized by this Protocol; and
- b.** to protect expressions of folklore against misappropriation, misuse and unlawful exploitation beyond their traditional context” (p. 7).

Source: ARIPO. African Regional Intellectual Organization. 2010. *Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore*. <https://www.ceja.ch/images/CEJA/DOCS/Bibliotheque/Legislation/Africaine/Textes%20Communautaires/BC/BC6.pdf>

Example 2

2.1 The Akwesasne Task Force on the Environment (ATFE) has established a Research Advisory Committee Review (RAC) to review and comment on all proposals that involve environmental and/or scientific research to be conducted in the Mohawk Nation community of Akwesasne. Due to the increased number of research projects being proposed by scientists, it has become necessary to establish guidelines to protect the community of Akwesasne and its future generations.

Source: Akwesasne Task Force on the Environment. 1996. *Protocol For Review of Environmental and Scientific Research Proposals*. https://nnigovernance.arizona.edu/sites/nnigovernance.arizona.edu/files/resources/atfe_protocol_0.pdf

Example 3

The Maliseet Nation (Wolastoqwik) Traditional Knowledge (MTK) Protocol for the roles and responsibilities of the Maliseet Nation Conservation Council regarding traditional knowledge protocols:

Phase I – Project Planning

4.2 The MNCC [Maliseet Nation Conservation Council] will act as the central agency responsible for the administration and oversight of all stages of the MTK Protocol, including planning and initiation. MNCC will advise the Consultant on communications strategy in order to effectively provide information on each Project, Consultants and Proponents, MTK processes, and gather feedback. MNCC shall act as the contact organization for MTK studies taking place in the traditional territory of the Maliseet Nation.

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. September 2009. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol)*. https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

SECTION AND PURPOSE

Establishing a TK Advisory Committee

for the purposes of gathering and documenting TK for TK studies, land use studies, environmental assessments.

The TK Advisory Committee should be established by the Nation. The role of the committee is also covered in the following section. This section also includes text that addresses the composition of TK Advisory Committees.

SAMPLE TEXT

Example 4

3.1 New Brunswick Mi'gmaq Indigenous Knowledge Study Process Guide: Mi'gmaq Sagamaq Mawiomi [Gathering of Mi'gmaq Chiefs] was formed in September 2015 in order to promote a strong unified voice for the Mi'gmaq People in New Brunswick. The Mi'gmaq Sagamaq Mawiomi established Mi'gmawe'l Tplu'taqnn Incorporated in November, 2015 to assist it protect and advance Mi'gmaq rights and interests.

This New Brunswick Mi'gmaq Knowledge Study Process Guide ('Guide') was developed with the valuable support of Wolastoqiyik and Mi'gmaq Elders and knowledge holders. This Guide is intended to provide guidance in the initiation, timing and execution of Indigenous Knowledge Studies within New Brunswick.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide*. <https://ethicshub.ca/tool/new-brunswick-migmaq-indigenous-knowledge-study-nbmiks-process-guide/>

SECTION AND PURPOSE

Role and function of a TK/IK Advisory Committee.

What kind of decisions will this committee make? How will such a committee function? Who should be on this committee?

SAMPLE TEXT

Example 1

The Gwich'in Tribal Council: The Gwich'in, as represented by the Gwich'in Tribal Council (GTC), are the holders of Gwich'in Traditional Knowledge (TK) in and around the Gwich'in Settlement Area (GSA).

Roles and Responsibilities:

- a. Represent membership on all matters that will impact the rights of the Gwich'in People, including the issue of protecting and promoting Gwich'in TK
- b. Responsible for ensuring that the cultural and economic relationships between the Gwich'in and government recognize the Gwich'in way of life
- c. Negotiating self-government arrangements on matters including culture, heritage and language
- d. The Gwich'in Tribal Council was authorized "to develop a policy on Gwich'in Traditional Knowledge research that would bring clarity to Gwich'in ownership and control of Gwich'in Traditional Knowledge

Source: Gwich'in Tribal Council. 2004. *Traditional Knowledge Policy*. <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

Example 2

Mi'kmaw Ethics Watch: The Research Principles and Protocols provides a prescribed approval process for the collection, analysis and reporting of research data generated from Mi'kmaq First Nation communities throughout the province of Nova Scotia.

Roles and Responsibilities:

- a. Any research, study, or inquiry into collective Mi'kmaw knowledge, culture, arts, or spirituality which involves partnerships in research shall be reviewed by the Mi'kmaw Ethics Watch (p. 17).
- b. The Mi'kmaq Ethics Watch (Committee, etc.) shall conduct a fair and timely review of all research conducted among Mi'kmaq people and shall maintain control over all research processes (p. 17).
- c. List of Mi'kmaw Ethics Watch Obligations found on page 20

Source: *Mi'kmaq Ecological Knowledge Study Protocol*. <https://ethicshub.ca/wp-content/uploads/2020/05/4-Mi%E2%80%99kmaq-Ecological-Knowledge-Study-Protocol.pdf>

A Mi'kmaq Ethics Committee has been appointed by the Sante' Mawio'mi (Grand Council) to establish a set of principles and protocols that will protect the integrity and cultural knowledge of the Mi'kmaw people. These principles and protocols are intended to guide research and studies in a manner that will guarantee that the right of ownership rests with the various Mi'kmaw communities.

SECTION AND PURPOSE

Role and function of a TK/IK Advisory Committee. What kind of decisions will this committee make? How will such a committee function? Who should be on this committee?

SAMPLE TEXT

These principles and protocols will guarantee only the highest standards of research. Interpretation and conclusions drawn from the *research will be subject to approval to ensure accuracy and cultural sensitivity.*

Source: Mi'kmaw Ethics Watch. <https://www.cbu.ca/indigenous-initiatives/mikmaw-ethics-watch/>

Example 3

The Research Advisory Committee (min. 5 members selected via consensus decision of the Akwesasne Task Force on the Environment) reviews and comments on all proposals that involve environmental and/or scientific research, whereby, the Akwesasne Task Force on the Environment is consulted and provided recommendations from the Advisory Committee on all projects or activities. The Research Advisory Committee ensures that: proposed research benefits the community; gives the people of Akwesasne an opportunity to be involved in decision making processes and empowers those involved through education, training and/or authorship.

Source: Akwesasne Task Force on the Environment. *Protocol for Review of Environmental and Scientific Research Proposals.* https://nnigovernance.arizona.edu/sites/nnigovernance.arizona.edu/files/resources/atfe_protocol_0.pdf

Example 4

The role of the Maliseet Nation Conservation Council (MNCC) when conducting Maliseet Traditional Knowledge studies:

4.7 Role of the MNCC in phase II activities:

The MNCC shall act as to increase Maliseet involvement in MTK [Maliseet Nation Traditional Knowledge] Studies from a training and implementation standpoint. The role of the MNCC in Phase II activities includes, but is not limited to, the following:

- Hiring, advising and/or guiding project manager;
- Working with project manager to set clear goals and budgets;
- Where appropriate, participating in project management, including acting as project manager and developing Maliseet research capacity;
- Acquiring informed consent of project participants;
- Assisting in finding solutions to problems and resolving conflicts;
- Responding to regular project reporting from the study team about progress, schedules, emerging issues and financial considerations;

SECTION AND PURPOSE

Role and function of a TK/IK Advisory Committee.

What kind of decisions will this committee make? How will such a committee function? Who should be on this committee?

SAMPLE TEXT

- Developing a process to ensure the project manager and team members expend funds according to the budget;
- Administering funds with full accountability to the community for how the money is spent;
- Communicating frequently with the community and those who are providing the financial support regarding the goals and value of the study as well as its progress;
- Arranging funding and co-operative partnerships;
- Facilitating the participation of Maliseet communities;
- Preparation of communications strategy and materials;
- Preparation of communications materials such as newsletters, news releases, wall displays for public buildings;
- Developing public educational materials related to the project;
- Preparing letters and other correspondence to appropriate leaders, Chiefs and Councils, Tribal Councils and other relevant parties;
- Initiating discussions on benefit sharing.

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. September 2009. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol)*. https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

Scope of IK protocols.

Indicate what the studies will and will not cover, what Indigenous knowledge external people will be allowed to access (e.g. ancestor human remains can be off limits).

Example 1**Sambaa K'e Policy Regarding Yúndíit'õh Principles includes aspects for the use of TK to outside agencies:**

Yúndíit'õh belongs to the Sambaa K'e Dene as a whole and is therefore a collective responsibility. Decisions concerning what Yúndíit'õh information to share with outside agencies must be made through a community process, with the full and active involvement of the elders.

Ownership and copyright of all Sambaa K'e yúndíit'õh remains with the community as a whole, as represented by the Sambaa K'e Dene Band, and may only be gathered and used by outside agencies for specific purposes under a Yúndíit'õh Research Agreement and with the permission of the community.

SECTION AND PURPOSE

Scope of IK protocols.

Indicate what the studies will and will not cover, what Indigenous knowledge external people will be allowed to access (e.g. ancestor human remains can be off limits).

SAMPLE TEXT

Yúndíit'ōh gathered for the use of outside agencies must be summarized in a plain language report (in English) and on audio tape (in Dene Yatie) and must be reviewed and ratified by the Sambaa K'e Dene Band before being released.

Source: *Sambaa K'e Policy Regarding Yúndíit'ōh*. <https://nwtresearch.com/sites/default/files/sambaa-k-e-dene-band.pdf>

Example 2

See page 12 of the *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Guide V.3*:

Phase I NBMIKS Scoping & NBMIKS Description

Depending on the issues giving rise to the duty to consult, the Crown or formally delegated proponent or entity will provide Mi'gmawe'l Tplu'taqnn with a description of a proposed project. Mi'gmawe'l Tplu'taqnn will in turn subsequently provide a full description of the NBMIKS to the relevant body.

NBMIKS Area Scoping

NBMIKS scoping will be informed and made possible as a result of the knowledge garnered through the desktop literature review. When determining a study's geographical area, Mi'gmawe'l Tplu'taqnn shall take into account the nature of NBMIK data, which demands the following:

- NBMIK data is continuously evolving and therefore any NBMIKS will require use of the most recently approved version of the NBMIKS Guide;
- Collection of NBMIK data will cover an area beyond the proposed Project footprint as determined in the initial research scoping of the NBMIKS Area;
- Collection of information about Mi'gmaq use and occupation of lands and waters must recognize and describe their importance to Mi'gmaq cultural and spiritual beliefs and practices;
- Describe the significance of the inclusion and recognition of Mi'gmaq historical, spiritual and cultural information in the proposed study;

SECTION AND PURPOSE

Scope of IK protocols.

Indicate what the studies will and will not cover, what Indigenous knowledge external people will be allowed to access (e.g ancestor human remains can be off limits).

SAMPLE TEXT

- The final dimension of Project scoping is a very important step, the identification and employment of Mi'gmaq Community Researchers. In some cases, it will be necessary for Mi'gmawé'l Tplu'taqnn to train Mi'gmaq Community Researchers. If training of Mi'gmaq Community Researchers is required, the cost of this training will be included in the budget submitted for funding the NBMIKS."

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide V.3.* <https://ethicshub.ca/wp-content/uploads/2020/05/56-New-Brunswick-Mi%E2%80%99gmaq-Indigenous-Knowledge-Study-NBMIKS-Process-Guide.pdf>

Ownership of TK.

How do various TK protocols make clear that IK belongs to the community? What is the purpose of owning IK? What are the legal mechanisms by which IK is owned? (Contracts with external study participants? Intellectual property?) Example 4 also provides sanctions should violations of the protocol occur.

Example 1 Purpose

A common theme with the obtaining and application of TK was ensuring intellectual property rights were not violated and that individuals who shared knowledge retained ownership of that knowledge.

A First Nation Community retains ownership and control over Aboriginal Knowledge and its interpretation. A community will have full access to any documents and research that includes its Aboriginal Knowledge (p. 5).

Source: *Assembly of First Nations. First Nations Ethics Guide on Research and Aboriginal Traditional Knowledge.* https://achh.ca/wp-content/uploads/2018/07/Guide_Ethics_AFN.pdf

Example 2 Ownership, Control, Access and Possession (OCAP)

The Principle of Ownership is defined as: "the relationship of a First Nations community to its cultural knowledge/data/information. The principle states that a community or group owns information collec-

SECTION AND PURPOSE

Ownership of TK.

How do various TK protocols make clear that IK belongs to the community? What is the purpose of owning IK? What are the legal mechanisms by which IK is owned? (Contracts with external study participants? Intellectual property?) Example 4 also provides sanctions should violations of the protocol occur.

SAMPLE TEXT

tively in the same way that an individual owns their personal information. It is distinct from stewardship [or possession] (p.4).

Source: First Nations Information Governance Center. *The First Nations Principles of OCAP*. <https://fnigc.ca/what-we-do/ocap-and-information-governance/>

Example 3

Through this shared stewardship, Dehcho First nation(s) are the primary guardians, protectors and interpreters of Traditional Knowledge. Dehcho First Nation(s) require informed consent prior to outside agencies, Industry, government, researchers, or other interested parties receiving access to any documented Dehcho Traditional Knowledge. The Dehcho communities have the right to deny any outside party access to any documented Traditional Knowledge that they possess.

As the primary guardian, protectors, and interpreters of Traditional Knowledge, Dehcho First Nation(s) communities will retain primary management of research studies and projects that involve Traditional Knowledge. Co-management arrangements may be made with outside agencies, at the discretion of the community.

Source: *Dehcho First Nations Traditional Knowledge Research Protocol*. 2004. http://www.reviewboard.ca/upload/ref_library/DCFN%20TK%20research%20protocol.pdf

Example 4**IV) Copyright Arrangements**

- A.** Where the material to be published is merely the recorded, transcribed or translated intellectual product of either an individual Maliseet or a group of Maliseets, copyright shall be vested solely in that individual or group of Maliseets, and the recorder, transcriber, or translator shall not be able to claim copyright as Canadian law currently allows.
- B.** Where a researcher adds significant intellectual content and analysis to Maliseet cultural material (as defined under Section I herein):
 - 1.** copyright in the original cultural material must be acknowledged wholly in the Maliseet nation, community, or individuals (or their heirs) who provided the original or cultural material; and
 - 2.** joint copyright in the entire work may also be acknowledged in both the researcher or collector and the Maliseet Nation or Maliseet individuals (or their heirs) from whom the material was obtained.

SECTION AND PURPOSE

Ownership of TK.

How do various TK protocols make clear that IK belongs to the community? What is the purpose of owning IK? What are the legal mechanisms by which IK is owned? (Contracts with external study participants? Intellectual property?) Example 4 also provides sanctions should violations of the protocol occur.

SAMPLE TEXT

3. Either copyright arrangement must be approved in writing by the MRRB [Maliseet Research Review Board] prior to display or publication of the material in any form (written, audio, oral, visual or digital)."

Sanctions

-
1. informing the offending person or agency of this Protocol, and of the sanctions to be applied if it is not respected;
 2. reporting the specific violation to the funding agencies and/or head of the institution, corporation, government, or agency employing the researcher;
 3. reporting the violation to the appropriate professional ethics boards;
 4. prohibiting future research among Maliseet people and within Maliseet Nation communities by the offending agency or individual;
 5. public censure of the agency or individual;
 6. legal action where necessary, if all else fails

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol)*. September 2009. https://www.google.com/url?sa=t&rct=j&q=&es-rc=s&source=web&cd=&ved=2ahUKEwjHivPX9bf4AhVURc0KH2DBcUQFnoECAMQAQ&url=https%3A%2F%2Ffachh.ca%2F-wp-content%2Fuploads%2F2018%2F07%2FProtocol_TK_Maliseet.pdf&usg=AOvVaw27Gumnmew-IXAZv6qmu0F_

SECTION AND PURPOSE

Gaining approval/consent

from the community to document and gather IK. *What kind of information does the community require to authorize approval of an IK study in their community? Who makes this decision? Or what body makes this decision?*

SAMPLE TEXT

Example 1

The Assembly of Nova Scotia Mi'kmaq Chiefs' Mi'kmaq Ecological Knowledge Study Protocol, 2nd Edition, stipulates in the Application to Conduct Research:

7. Consent: describe the process by which participants consent to participate in the research project; that is, how will participants be informed of their rights as participants, and by what means they will signify their understanding of those rights and consent to participate. Any research involving children shall require parental informed consent (p. 21).

Source: Assembly of Nova Scotia Mi'kmaq Chiefs. *Mi'kmaq Ecological Knowledge Study Protocol, 2nd Edition*. <https://novascotia.ca/abor/aborlearn/docs/mek%20protocol%20second%20edition.pdf>

Example 2

A Board of Directors is one form of a governance/approval body. This is the community protocol of the Northwest Territory Métis Nation Traditional Knowledge Policy:

The Board of Directors must approve any proposal to study, research, use or collect NWTMN Archival Records, Métis Heritage Resource, Traditional Knowledge or TK Data.

Before approving a project, the Board of Directors must be satisfied that they have been fully informed as to the scope and purpose for the use of the Traditional Knowledge and that the TK project is in the best interests of the NWTMN.

Source: Northwest Territory Métis Nation Traditional Knowledge Policy. <https://nwtmetisnation.ca/wp-content/uploads/2016/02/TKpolicy.pdf>

**Example 3
Checklist****Box Key H: Obtaining Informed Consent**

1. Provide enough information about the proposed project so that participants are able to form an opinion about potential impacts.
2. Explain why traditional knowledge is being collected.
3. Explain and commit to how and where their traditional knowledge will be used, and where and how original interview materials will be archived.

SECTION AND PURPOSE

Gaining approval/consent from the community to document and gather IK. What kind of information does the community require to authorize approval of an IK study in their community? Who makes this decision? Or what body makes this decision?

SAMPLE TEXT

4. Discuss the purpose and process of the impact assessment that traditional knowledge is being collected for.
5. Note that you understand that they have the right to:
 - Not participate
 - Set conditions of use for their traditional knowledge
 - Protect their intellectual property rights.
 - Assert confidentiality over certain aspects of traditional knowledge.
6. Note the obligations of researchers and proponent (e.g., respect traditional knowledge collection protocols, instructions for confidentiality).
7. Explain how and when payment would be made for their participation
8. Describe the consultation process.
9. Provide information on who can be contacted if they have additional questions or concerns.
10. Explain how they will be given credit for their contribution.
11. Describe the proposed follow up and data verification process.
12. Repeat what has been agreed too to ensure both parties understand correctly.
13. Use a consent form when possible.

Source: *Traditional Knowledge Guide for the Inuvialuit Settlement Region, NWT Vol. 2: Using TK in Impact Assessments. 2008.* https://achh.ca/wp-content/uploads/2018/07/TK_Inuvialuit-TK-Protocol.pdf

Gaining consent from the community and leadership. There are different levels of consent. Include a clause that requires consent from community or organizational leadership.

Example 1

A First Nation Community will fully be informed about the use and interpretation of its knowledge as well as the frameworks and methodologies used prior to the collection and interpretation of knowledge. The community may grant or withhold its consent for its knowledge to be accessed, disseminated, or otherwise used (p. 5).

Source: *Assembly of First Nations.* https://achh.ca/wp-content/uploads/2018/07/Guide_Ethics_AFN.pdf

Example 2**1.1 Application process**

Researchers must begin working with the ATFE [Akwasasne Task Force on the Environment] in the earliest stages of planning in their proposals. Depending on the nature of the proposed project, researchers are advised to allow sufficient time for community members to thoroughly review and understand all

SECTION AND PURPOSE

Gaining consent from the community and leadership.

There are different levels of consent. Include a clause that requires consent from community or organizational leadership.

SAMPLE TEXT

aspects of the study, ask questions, and resolve differences. Even the simplest of proposals will need more than a month for review, since the ATFE meets monthly. Because research is a cooperative venture, it is not wise to wait until the last minute to write a grant application and assume that the community of Akwesasne will automatically cooperate.

Source: Akwesasne Task Force on the Environment. 1996. *Protocol For Review of Environmental and Scientific Research Proposals*. https://nnigovernance.arizona.edu/sites/nnigovernance.arizona.edu/files/resources/atfe_protocol_0.pdf

**Example 3
Ensure Informed Consent**

The collection and use of traditional knowledge usually requires two levels of informed consent in advance: from local governing bodies as well as from the individuals sharing that information. Informed consent usually requires some form of documented statement or oral agreement, although the nature of these agreements may vary.

Where regional or community TK protocols are not in place to guide consent considerations, the issue of consent must be discussed in advance with the Aboriginal governments or agencies that represent local TK holders.

Source: Government of the Northwest Territories. *Summary of Best Practices for Applying Traditional Knowledge in Government of the NWT Programming and Services*. https://www.enr.gov.nt.ca/sites/enr/files/reports/tk_best_practices_summary.pdf

Gaining consent for access to Individual's knowledge

from individual TK holders, practitioners, Elders, community members. This must be free, prior and informed consent.

Example 1

See page 14 of the *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide V.3:*

Phase IV Data Collection**Informed Consent of the Land User/Interviewee**

Before NBMIKS data collection takes place, it is necessary to secure informed consent from each Mi'gmaq participant. Before informed consent is requested Mi'gmawe'l Tplu'taqnn will repeat steps 1 through 5 of the Knowledge Holder Engagement process to ensure each participant is fully aware of the proposed project and the NBMIKS process. This can be done in a group Community Cultural Values Mapping (CCVM) or individually prior to the biographical mapping session.

SECTION AND PURPOSE

Gaining consent for access to Individual's knowledge

from individual TK holders, practitioners, Elders, community members. This must be free, prior and informed consent.

SAMPLE TEXT

A written Consent and Release form is explained and completed. A current example form is attached as Schedule C. However, it is a living document that will be updated from time to time.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide*. 2016. <https://ethicshub.ca/tool/new-brunswick-migmaq-indigenous-knowledge-study-nbmiks-process-guide>/<https://migmawel.squarespace.com/s/NBMIKSG-v-3-2018-03-20.pdf>

Example 2

Before MIKS data collection takes place, it is necessary for the Consultant/Researcher to secure informed consent from each Mi'gmaq Participant. Ideally the Mi'gmaq Participant will have prior knowledge of the MIKS, in order to develop an overall understanding of the proposed Project and resulting MIKS. The Consultant/Researcher will begin the interview process by confirming that the interviewees are fully versed in the research process (p.13-15).

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide*. <https://ethicshub.ca/wp-content/uploads/2020/05/56-New-Brunswick-Mi%E2%80%99gmaq-Indigenous-Knowledge-Study-NBMIKS-Process-Guide.pdf>

Example 3**Informed Consent – Education and Agreement**

Before any data collection takes place, the Consultant must first secure the free, informed consent of the Participant. Two key elements to informed consent are education and agreement. The Consultant shall ensure all Participants are provided with detailed project information and MEKS [Mi'kmaq Ecological Knowledge Study] information to allow them to make an informed decision whether or not to participate in the Study.

- Agreement – Consultants must ensure that the Mi'kmaq Participant's decision to participate in the MEKS is voluntary and that he/she clearly understands the use of the MEK.

The Participant must signify that she/he understands that:

- their participation is voluntary;
- he/she can end the interview or withdraw her/his participation at any time;
- she/he does not have to answer any question with which she/he is not comfortable;
- if desired, his/her identity will be kept confidential; and,

SECTION AND PURPOSE

Gaining consent for access to Individual's knowledge

from individual TK holders, practitioners, Elders, community members. This must be free, prior and informed consent.

SAMPLE TEXT

- that the MEK provided will be included in the MEKS, which may become public record.

A written Consent and Release Form explaining and identifying the above Agreement factors must be signed and completed.

Education – Consultants must provide the relevant information to ensure that the Participants demonstrate a clear understanding of:

- the type of Project proposed – its location, and goals (purpose of the development);
- the scope and purpose of the MEKS;
- the use of the MEKS data in the applicable approval process(es); and,
- that the MEKS is not Consultation for the purpose of justifying an infringement of Aboriginal and Treaty Rights.

Source: Assembly of Nova Scotia Mi'kmaq Chiefs. *Mi'kmaq Ecological Protocol, 2nd Edition*. <https://novascotia.ca/abor/aborlearn/docs/MEK%20Protocol%20Second%20Edition.pdf>

Benefit to the community.

How shall the proponent demonstrate benefit to the community?

Example 1

Negotiating Research Relationships with Inuit Communities: A Guide for Researchers was written to help researchers “understand the benefits, opportunities and challenges associated with engaging Inuit communities in research” (p. 1).

Researchers should also consider the following questions:

- a. What types of direct and indirect benefits could my project have within a community?
- b. How can I positively engage community members in the research process?

The process of answering the above questions may reveal ways in which research projects can be developed in order to maximize the potential benefits to community members and researchers (p. 6).

Source: Inuit Tapiriit Kanatami and Nunavut Research Institute. 2007. *Negotiating Research Relationships with Inuit Communities: A Guide for Researchers*. https://www.itk.ca/wp-content/uploads/2016/07/Negotiating-Research-Relationships-Researchers-Guide_0.pdf

SECTION AND PURPOSE

SAMPLE TEXT

Benefit to the community.

How shall the proponent demonstrate benefit to the community?

Example 2**Promoted through Advisory Committees:**

The Mi'kmaw Ethics Watch shall increase efforts to educate each community and its individuals to the issues, concerns, benefits, and risks of research involving Mi'kmaq people, heritage, environment, and promote ethical conduct and conformity concerning protocols and guidelines for doing research in and about indigenous peoples with some kind of disciplinary action against those who do not comply.

Source: Mi'kmaw Ethics Watch. <https://www.cbu.ca/indigenous-initiatives/mikmaw-ethics-watch/>

AND/OR

Benefits to be Included in Protocol:

All research partners shall provide each person or partner involved in the research with information regarding the anticipated risks involved in their participation, and any anticipated benefits.

Source: Mi'kmaw Ethics Watch. <https://www.cbu.ca/indigenous-initiatives/mikmaw-ethics-watch/>

Example 3

Benefits (as well as risks) may be presented or stipulated under research agreements or included in Application to Conduct Research (p. 21)

Usefulness and Benefits: describe any benefit(s) for the individual Mi'kmaq person or to the Mi'kmaw Nation as a whole as a result of this study or its published report or findings (p. 22).

Source: Assembly of Nova Scotia Mi'kmaq Chiefs. *Mi'kmaq Ecological Knowledge Study Protocol, 2nd Edition*. <https://novascotia.ca/abor/aborlearn/docs/mek%20protocol%20second%20edition.pdf>

Sharing and use of TK. How will information be shared with the community after the project is completed?

Example 1**Ownership Control Access Possession (OCAP)****Access**

First Nations people must have access to information and data about themselves and their communities, regardless of where it is currently held. The principle also refers to the right of First Nations communities

SECTION AND PURPOSE

Sharing and use of TK. How will information be shared with the community after the project is completed?

SAMPLE TEXT

and organizations to manage and make decisions regarding access to their collective information. This may be achieved, in practice, through standardized, formal protocols” (p. 5).

Source: First Nations Information Governance Center. *The First Nations Principles of OCAP*. <https://fnigc.ca/what-we-do/ocap-and-information-governance/>

Example 2

All research, study, or inquiry into Mi’kmaw knowledge, culture, and traditions involving any research partners belongs to the community and must be returned to that community.

Source: Mi’kmaw Ethics Watch. <http://www.cbu.ca/mrc/ethics-watch>

**Example 3
Reporting Back to the Community**

As part of the follow-up process, all researchers working with Gwich’in Traditional Knowledge should return to the community to present the findings of their research. Research results should be presented or displayed in the Gwich’in communities in culturally relevant and creative ways. An example of the latter would be poster or audio-visual formats (p. 15).

Source: Gwich’in Tribal Council. 2004. *Traditional Knowledge Policy*. https://gwichin.ca/sites/default/files/gtc_final_tk_policy_2004.pdf

Example 4

GIS software program shall be used to ensure that the presentation of the MEK [Mi’kmaq Ecological Knowledge] data allows an easy comprehension. When identifying areas and resources for Mi’kmaq use and significance (including but not limited to spiritual sites, fishing sites, etc.) careful attention must be paid to the protection and privacy of hunting, fishing and gathering sites and areas, as provided by the Participant. Where a resource site location is considered sacred and/or is seen by the Participant or Mi’kmaq community as a site [that] should be kept private, the data should be presented in general terms and not site specific.

SECTION AND PURPOSE

Sharing and use of TK. How will information be shared with the community after the project is completed?

SAMPLE TEXT

Historical Data

The Consultant shall ensure that the historical information included within the MEKS [Mi'kmaq Ecological Knowledge Study] is specific to the Project area, or the immediate surrounding area, and will lead to a greater understanding of MEK.

Source: *Mi'kmaq Ecological Knowledge Study Protocol, 2nd Edition*. <https://novascotia.ca/abor/aborlearn/docs/mek%20protocol%20second%20edition.pdf>

Example 5

The Maliseet Nation (Wolastoqwik) traditional knowledge protocol:

4.8 Maliseet communities have the right to control and determine their proprietary interests in the collection, use storage and potential future use of data. These issues should be negotiated as part of the research process.

MNCC's [Maliseet Nation Conservation Council's] role in Phase III activities:

- Respect, recognize and reinforce the value of Elders and custodians of knowledge, who can teach traditional use and knowledge on a continuous basis.
- Find, encourage and recognize community members, including youth, who seek out Elders and become the next generation of 'knowers.'
- Ensuring only relevant and accurate data are collected for precise and limited purposes and disclosure made only for these original purposes.
- Handle copyright issues of publications and other materials, including MRRB [Maliseet Research Review Board] guidelines.
- Assist with interpretation of results and dissemination.
- Warehousing of MTK [Maliseet Traditional Knowledge] data through development of a Maliseet Nation Archives (MNA).
- Negotiate research agreements and memoranda of understanding.
- Ensure that when reporting MTK data, Consultants shall use a GIS software program.

SECTION AND PURPOSE

Sharing and use of TK. How will information be shared with the community after the project is completed?

SAMPLE TEXT

- Ensure that Consultant’s reports include MTK baseline data as well as compliance with any Memoranda of Understanding, or other agreements.

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. September 2009. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol)*. https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

Administration of the protocol. How will the protocol and its provisions be monitored and enforced? What are the responsibilities of this organization? What happens if the study agreement is violated?

Example 1

The Mi’kmaw Ethics Watch shall come from local community representatives authorized to review ethic principles, standards, protocols, practices of research conducted, knowledge, and heritage.

Each community shall decide levels of authority locally, and who shall speak for the community.

Members of the Watch shall work collaboratively to avoid misuse of information supplied by individuals without permission of the community.

The Mi’kmaw Ethics Watch shall operate on the basis of self-determination of each community and consider the risks and benefits of research and the rights of individuals and collectives to be recognized and protected.

The Mi’kmaw Ethics Watch shall consider the credentials and intentions of each research project, its sensitivity to Mi’kmaw culture and heritage, and consider how the research can benefit the community.

The Mi’kmaw Ethics Watch shall consider problems surrounding the purchase or publication of private materials and removal of artifacts. Private papers, photographs, or artistic productions are protected under copyright. One cannot legally cite, reproduce, publish, refer to, or distribute, documents without permission, from the authors, heirs, or institutions that hold copyright.

Any research involving collection of human genes, Mi’kmaw genetic material, or involving the Human Genome Diversity Project shall be rejected or considered only as to its benefits to the Mi’kmaq people.

SECTION AND PURPOSE

Administration of the protocol. How will the protocol and its provisions be monitored and enforced? What are the responsibilities of this organization? What happens if the study agreement is violated?

SAMPLE TEXT

The Mi'kmaw Ethics Watch shall increase efforts to educate each community and its individuals to the issues, concerns, benefits, and risks of research involving Mi'kmaq people, heritage, environment, and promote ethical conduct and conformity concerning protocols and guidelines for doing research in and about indigenous peoples with some kind of disciplinary action against those who do not comply.

The Mi'kmaw Ethics Watch shall consider the context of the research being requested and the issues of power and control that influence research topics, questions, and results.

The Mi'kmaw Ethics Watch shall encourage researchers to consult with and interpret the research from the tribal perspective and to make research and results available to Mi'kmaw people in their own language(s) and/or orthographies.

Source: Mi'kmaw Ethics Watch. *Mi'kmaw Research Principles and Protocols Conducting Research With and/or Among Mi'kmaw People*. <https://www.cbu.ca/indigenous-initiatives/mikmaw-ethics-watch/>

Example 2 Authority and Accountability

1. Gwich'in Tribal Council:

- a. Authorizes the Gwich'in Social and Cultural Institute to implement the policy on behalf of the Gwich'in Tribal Council.
- b. Represents the rights and interests of the Gwich'in beneficiaries on any matters arising that will promote and protect their Gwich'in Traditional Knowledge.
- c. Ensures that the Gwich'in Social and Cultural Institute and other Designated Gwich'in Organizations have the resources required to manage and apply this policy.

2. Gwich'in Social and Cultural Institute will:

- a. Review all research permits and licences issued pursuant to the Scientists Act (R.S.N.W.T. 1988), Wildlife Act, (R.S.N.W.T. 1988), the NWT Act Archaeological Site Regulations (NWT Act, Chapter 1237, 1978), Fisheries Act, (R.S.C. 1985), the Yukon Scientists and Explorers Act, (R.S.Y. 1986) or the Yukon Act Archaeological Sites Regulations (C.R.C. c.112, 1978) for compliance with the policy guidelines prior to providing advice to the authority issuing the permit or licence.
- b. Ensure that research has gone through an ethical review process before research begins.

SECTION AND PURPOSE

Administration of the protocol.

How will the protocol and its provisions be monitored and enforced? What are the responsibilities of this organization? What happens if the study agreement is violated?

SAMPLE TEXT

- c. Reserves the right to enter into research agreements to collaborate with researchers for proposed Gwich'in Traditional Knowledge research or other socio-cultural research in the Gwich'in Settlement Region (see Schedule A). The Gwich'in Social and Cultural Institute shall ensure that a plain language description of the project is provided to the community in which the research is proposed, and that informed consent has been gained before the research proceeds.
 - d. Monitor Gwich'in Traditional Knowledge projects, studies and other initiatives inside and outside the Gwich'in Settlement Region to improve general understanding of the methodology of incorporating Gwich'in Traditional Knowledge into education, environmental assessment, heritage management and land, water and resource management and planning.
 - e. Participate in the on-going exchange of information about Gwich'in Traditional Knowledge research and development and its incorporation into decision-making.
 - f. Identify areas where Gwich'in Traditional Knowledge can be successfully incorporated into the design or delivery of Gwich'in Tribal Council governance and Board decision-making.
 - g. Develop guidelines for researchers seeking to conduct research on Gwich'in Traditional Knowledge in the Gwich'in Settlement Region that reflect the values and traditions of the Gwich'in as expressed through this policy.
 - h. Encourage the use of collaborative research methods in Gwich'in Traditional Knowledge and Scientific research.
 - i. Communicate the objectives of this policy and its guidelines to all Gwich'in organizations, government departments, researchers, and institutions of public government identified within the Gwich'in Comprehensive Land Claim Agreement and the Mackenzie Valley Resource Management Act.
 - j. Provide the Gwich'in Tribal Council with advice on all matters which fall within the scope of this policy.
 - k. Work with Designated Gwich'in Organizations and Renewable Resource Councils to identify Gwich'in individuals who are qualified Gwich'in Traditional Knowledge holders in specific topic areas and interested in working with researchers.
 - l. Educate elders and other beneficiaries about their individual rights with respect to their participation in all research, including Gwich'in Traditional Knowledge research.
 - m. Recover costs related to the provision of information to researchers, wherever possible. The Gwich'in Social and Cultural Institute will provide the most current Rate Schedule upon request.
- 3. Other Designated Gwich'in Organizations will:**
- a. Review research permits and licences that affect Gwich'in beneficiaries in their communities and provide advice to the Gwich'in Social and Cultural Institute.

SECTION AND PURPOSE

Administration of the protocol. How will the protocol and its provisions be monitored and enforced? What are the responsibilities of this organization? What happens if the study agreement is violated?

SAMPLE TEXT

4. Gwich'in Tribal Council will:

- a. Review research permits and licences with regard to Private and Crown lands. The Gwich'in Social and Cultural Institute will provide advice to the Gwich'in Tribal Council concerning these permits and licences.
- b. Apply this policy within any Impact Benefit Agreements negotiated between the government or industry and the Gwich'in Tribal Council."

Source: Gwich'in Tribal Council. 2004. *Traditional Knowledge Policy*. <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

Example 3

Where an Agreement has been signed, the Dehcho Resource Management Authority will play a lead role in project implementation. Where an agreement has been violated, the Dehcho First Nation(s) will either assume full authority over any project activities until any outstanding issues have been resolved, or terminate the Agreement without further notice.

Source: Deh Cho First Nation Traditional Knowledge Research Protocol. 2004. https://achh.ca/wp-content/uploads/2018/07/Protocol_De-Cho-FN-TK-research-protocol.pdf

Procedures of gathering, documenting TK. What are appropriate methods, procedures and processes to ensure TK is collected ethically in the community? Who is involved in the processes?

Example 1

There are a set of principles that guide the gathering, use, and distribution of Smbaa K'e yúndíit'õh:

- Yúndíit'õh is derived from a traditional process of intuition, observation, testing, and validation and is of equal value to western scientific processes.
- Yúndíit'õh belongs to the Smbaa K'e Dene as a whole and is therefore a collective responsibility. Decisions concerning what Yúndíit'õh information to share with outside agencies must be made through a community process, with the full and active involvement of the elders.
- Yúndíit'õh is closely linked with, and dependent on, the language in which it is rooted and must therefore be documented and shared to the greatest extent possible in the Smbaa K'e Dene Yatie dialect.
- Primary management of research and other activities involving yúndíit'õh should remain with the Smbaa K'e Dene Band or its designated body, although co-management arrangements may be negotiated as needed to further the interests of the SKDB [Smbaa K'e Dene Band].

SECTION AND PURPOSE

Procedures of gathering, documenting TK. What are appropriate methods, procedures and processes to ensure TK is collected ethically in the community? Who is involved in the processes?

SAMPLE TEXT

- Ownership and copyright of all Smbaa K'e yúndíit'õh remains with the community as a whole, as represented by the Smbaa K'e Dene Band, and may only be gathered and used by outside agencies for specific purposes under a Yúndíit'õh Research Agreement and with the permission of the community.
- Yúndíit'õh is held by both men and women, so women should be involved in Yúndíit'õh research activities to the greatest extent possible.
- Research and other activities that utilize both yúndíit'õh and a western scientific component must include training, so that Smbaa K'e Dene Band members can learn to use and apply western approaches and technology to the gathering and use of land and resource information.
- Yúndíit'õh gathered for the use of outside agencies must be summarized in a plain language report (in English) and on audio tape (in Dene Yatie) and must be reviewed and ratified by the Smbaa K'e Dene Band before being released.
- Copies of all yúndíit'õh information gathered within the Smbaa K'e traditional land use area must be provided to the SKDB for secure filing. Information designated confidential will be treated as such by the SKDB (p. 2).

Source: *Smbaa K'e Dene Band Policy Regarding the Gathering, Use and Distribution of Yúndíit'õh (Traditional Knowledge)*. 2003. <https://nwtresearch.com/sites/default/files/smbaa-k-e-dene-band.pdf>

Example 2

For clarity, informed consent requires that Dehcho communities receive written requests that detail the nature of the request, the reason for the request, and how the information will be used. Informed consent also requires that outside parties adhere to community policies. All requests granted by Dehcho First Nation(s) will be subject to written confidentiality agreements that contain limited use and distribution clauses.

Traditional Knowledge may only be gathered for use by outside agencies for specific purposes only as outlined in signed Agreements including clarity on intellectual property.

Source: *Deh Cho First Nation Traditional Knowledge Research Protocol*. 2004. http://www.reviewboard.ca/upload/ref_library/DCFN%20TK%20research%20protocol.pdf

SECTION AND PURPOSE

Procedures of gathering, documenting TK. What are appropriate methods, procedures and processes to ensure TK is collected ethically in the community? Who is involved in the processes?

SAMPLE TEXT

Example 3 Interview Process

The following key points will be included:

- Interviews shall be conducted in the Interviewee’s language of preference:
 - » The translator will be someone the interviewee recommends or deems appropriate.
- Interviewees shall have the right to be accompanied by a friend, personal advisor or witness(es) of their choice;
- The Research Team shall provide appropriate materials including a Project description, in terms understandable to the interviewee, any relevant maps and appropriate recording devices that have been approved by the NBMIKS [New Brunswick Mi’gmaq Indigenous Knowledge Study] Committee;
- Interviewees will be provided with an honourarium (This is financial compensation for their time, not their knowledge) and will also be offered ceremonial tobacco.
- The Research Team shall be knowledgeable about and respectful of Mi’gmaq cultural norms and values.
- The Research Team shall take into account ‘response burden’ and ‘vicarious trauma’ (see glossary).

Response burden is commonly addressed by limiting the length of an interview and giving adequate time for the interviewee to answer questions. To this end, an interview will last no longer than three hours in one day per interviewee (with an intermission during a natural break in the conversation every hour), based on the willingness of the interviewee to continue. A timer will be set at the beginning of the interview and reset after each break to prevent fatigue in both the interviewee and researchers.

Secondary traumatic stress (Vicarious Trauma) is a concern for researchers who are interviewing residential school survivors, intergenerational survivors and others who have experienced traumatic events in their life. Mental and spiritual health support for interviewees and the Research Team is needed to mitigate the effects of working with victims of trauma in the interview setting. Interviewees may require support as a result of revisiting past trauma through the interview process. Funding needs to be provided to cover the honourarium for a traditional Practitioner to conduct healing/talking circles and ceremonies as required.

Source: *New Brunswick Mi’gmaq Indigenous Knowledge Study (NBMIKS) Process Guide V.4. 2019.* <https://migmawel.org/wp-content/uploads/2021/05/NBMIKSGv4.020190304.pdf>

SECTION AND PURPOSE

Procedures of gathering, documenting TK. What are appropriate methods, procedures and processes to ensure TK is collected ethically in the community? Who is involved in the processes?

SAMPLE TEXT

Example 4 Inclusivity

Engage inclusively and diversely, including women, men, Two Spirit, queer, trans and gender diverse youth, Elders, Knowledge Keepers and lived experience leaders.

Have Knowledge Keepers participate in or lead this work, including developing and implementing the methods or tools that will be used to create or collect Indigenous Knowledges and data.

Co-create knowledge products that are:

- Shared back quickly with Knowledge Keepers and their communities, and made available more broadly where appropriate
- Easy to use and share, for example being available online, by email or by mail or put into a format that is most relevant and in relevant languages”

Source: Indigenous Innovation Initiative. 2021. *Indigenous Knowledges and Data Governance Protocol*. Toronto: Indigenous Innovation Initiative. www.indigenouinnovate.org

Example 5

Checklist for Researchers

- Are familiar with the Gwich'in Traditional Knowledge Policy.
- Include copy of consent form and questionnaire you are using.
- Initial presentation to Chief and Council, local RRC [Renewable Resources Council] and DGOs [Designated Gwich'in Organizations].
- A local Gwich'in interpreter/translator and community assistant are hired as required.

Research Materials

- Mail copies of sound and video recordings (digital and audio), electronic transcripts, maps, photographs, field notes, final report (hard copy and CD) to the GSCI [Gwich'in Social and Cultural Institute] head office in Tsiigehtchic.

SECTION AND PURPOSE

Procedures of gathering, documenting

TK. What are appropriate methods, procedures and processes to ensure TK is collected ethically in the community? Who is involved in the processes?

SAMPLE TEXT

Reporting Back

- Present in person your research findings and results to the Chief and Council, local RRC and DGOs at their monthly meetings and at a public meeting as required.
- Forward a hard copy of final reports to each interviewees and the community when available.”

Source: Gwich'in Social and Cultural Institute. *Conducting Traditional Knowledge Research in the Gwich'in Settlement Area: A Guide for Researchers*. https://nwtresearch.com/sites/default/files/gwich-in-social-and-cultural-institute_0.pdf

How can community influence the design and methodology of research

involving their TK? (related to the above). Step-by-step instructions on how to structure the methodology of the study. Also covered in the above section: **“Procedures of gathering, documenting TK.”**

Example 1

The New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) outlines the suggested phase and format of a NBMIKS (see definition below):

‘NBMIKS’ and ‘New Brunswick Mi'gmaq Indigenous Knowledge Study’ mean all components of a study, which includes the planning, collection, analysis, protection, reporting and distribution of Mi'gmaq Knowledge in New Brunswick” (p. 6).

NBMIKS Phases & Format

- Phase I: Study Scoping & Study Description
- Phase II: Desktop Literature Review
- Phase III: Mi'gmaq Community Information Sharing
- Phase IV: Knowledge Holder Engagement & Community Cultural Values
- Mapping
- Phase V: Individual Interviews and Biographical Mapping
- Phase VI: Interim Report to Community
- Phase VII: Follow-up interviews
- Phase VIII: Groundtruthing
- Phase IX: Data Analysis & Community Review of Draft Final Report

SECTION AND PURPOSE

How can community influence the design and methodology of research involving their TK? (related to the above). Step-by-step instructions on how to structure the methodology of the study. Also covered in the above section: **“Procedures of gathering, documenting TK.”**

SAMPLE TEXT

- Phase X: Final Report”

Source: *New Brunswick Mi’gmaq Indigenous Knowledge Study Process Guide*. 2016. <https://ethicshub.ca/tool/new-brunswick-migmaq-indigenous-knowledge-study-nbmiks-process-guide/>

Example 2

Customary laws and practices

In the context of a documentation project, due consideration is also required for customary laws and practices, which may determine whether and how TK can be obtained and shared, how must it be presented, in what form, by whom, and so on.

As a general rule, research institutions, NGOs [non-governmental organizations], or other third parties undertaking documentation need to ensure that customary laws and practices are fully respected at all stages of the TK documentation project. Whether expressed in written guidelines, codes of conduct, community protocols, formal agreements (written or oral) or even simple instructions given by TK custodians, communities or their representatives, efforts should be made to ensure such requirements are met.

Customary laws and practices need to be considered before documentation takes place, but may also arise during the documentation process. Indeed, when documentation activities begin, this may bring to light conflicts with customary laws and practices not envisaged at the date an agreement for documentation was made (p. 12).

Source: World Intellectual Property Organization. 2017. *Documenting Traditional Knowledge. A Toolkit*. https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf

SECTION AND PURPOSE

Data verification and interpreting data. Procedures for verifying with community, information that was gathered. Community involvement in interpreting the information.

SAMPLE TEXT

Example 1

The Mi'kmaw Ethics Watch shall encourage researchers to consult with and interpret the research from the tribal perspective and to make research and results available to Mi'kmaq people in their own language(s) and/or orthographies" (p. 21).

Source: Mi'kmaw Ethics Watch. <https://www.cbu.ca/wp-content/uploads/2019/08/MEW-Principles-and-Protocols.pdf>

Example 2**Data Analysis/Interpretation**

1. Community informed of results (minimal involvement): The standard requirement of most northern research licensing and funding agencies is that researchers submit translated annual summary reports of study findings to local authorities.
2. Community as advisor: The researcher undertakes preliminary analysis of data and seeks community feedback to ensure that the results make sense from a local perspective. The researcher then revises the analysis and prepares results taking local interpretation into account, but researcher interpretation takes precedence (i.e. community concurrence is not necessarily required).
3. Community as research manager (maximal involvement): The community must accept the validity and accuracy of the researcher's analysis and interpretation before results can be finalized; community explanations for perceived errors must be thoroughly addressed to the satisfaction of both parties" (p. 12).

Source: <https://www.itk.ca/sites/default/files/Negotiating-Research-Relationships-Researchers-Guide.pdf>

Example 3**Disposition of the data**

Describe how individual participants will be informed on how data will be used. Remember that both the community and the participants must clearly understand what the researcher plans to do with the information that is collected. Describe plans to provide individual participants with their own personal results. In addition, describe how the community at large will be educated or empowered by this study. Describe how frequently and in what manner aggregate data and progress reports will be shared with the Research Advisory Committee. Describe communication strategies that will be used to present aggregate data to the community at large. Remember, data must be shared with the community of Akwesasne before it is shared outside the community.

Source: Akwesasne Task Force on the Environment. 1996. *Protocol For Review of Environmental and Scientific Research Proposals*. https://nnigovernance.arizona.edu/sites/nnigovernance.arizona.edu/files/resources/atfe_protocol_0.pdf

SECTION AND PURPOSE

Data verification and interpreting data. Procedures for verifying with community, information that was gathered. Community involvement in interpreting the information.

SAMPLE TEXT

Example 4 **“Groundtruthing” sessions to verify land-based data**

NBMIKS Groundtruthing

Groundtruthing sessions will include the use of land and waters with interviewee(s) traveling to the study area to confirm land and waters use data collected during the interviews and to further elicit the memories of Knowledge Holders. The Knowledge Holder may request to be accompanied by an assistant of their choice.

Source: *New Brunswick Mi’gmaq Indigenous Knowledge Study (NBMIKS) Process Guide V.4.* 2019. <https://migmawel.org/wp-content/uploads/2021/05/NBMIKSGv4.020190304.pdf>

Example 5 **Interpretation of the data and the rights of Knowledge Holders & Indigenous Communities**

3.0 Interpretation

3.3 This MTK [Maliseet Traditional Knowledge] Protocol is intended to complement and support the operation of the Maliseet Research Review Board (MRRB), that pertains to MTK data collection and, in the event of a conflict between this protocol, and any other guidelines or laws, the guidelines in this Protocol, including the Maliseet Ethics Guidelines, shall take precedence.

Source: *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol.* 2009. https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

Example 6 **MIKS (Indigenous Knowledge of the New Brunswick Mi’gmaq) Ground Truthing**

The MIKS [Mi’gmaq Indigenous Knowledge Study] will include Ground Truthing sessions, whereby the Consultant/Researcher and a selection of interviewee(s) travel to the potential Project area to confirm oral and written data, and to further elicit the memories of knowledge holders. The knowledge holder may request to be accompanied by an assistant of their choice.

Source: *New Brunswick Mi’gmaq Indigenous Knowledge Study (NBMIKS) Process Guide.* 2016. <https://ethicshub.ca/wp-content/uploads/2020/05/56-New-Brunswick-Mi%E2%80%99gmaq-Indigenous-Knowledge-Study-NBMIKS-Process-Guide.pdf>

SECTION AND PURPOSE

Confidentiality (of people who shared the knowledge or location of the knowledge such as sacred sites, burial sites, species at risk). Is there any reference to confidentiality in the TK protocols?

SAMPLE TEXT

Example 1

Specific confidentiality agreements or more explicit contractual clauses may be required to satisfy the interests of those participating in the documentation process, especially indigenous peoples and local communities. These may include provisions which limit who can access TK, and under what circumstances (i.e., for patent search purposes only, by national intellectual property authorities only, by selected institutions, etc.). In such cases, it is advisable to include a clause specifying that obligations to maintain the secrecy and confidentiality of the database should remain even after the termination of the agreement.

It may be necessary to develop protocols on access and use to maintain undisclosed TK under special and stronger access restrictions or committing to higher levels of secrecy. If the idea is to document undisclosed TK in digital form or using electronic databases, security systems like passwords and codes should be put in place to protect the data related to undisclosed TK (p. 17).

Source: WIPO. World Intellectual Property Organization. 2017. *Documenting Traditional Knowledge – A Toolkit*. https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1049.pdf

**Example 2
Confidential Data**

The Consultant must give due regard to MEK [Mi'kmaq Ecological Knowledge] data that is of a private or sacred nature, as indicated by a Participant or the Mi'kmaq community and use their discretion to ensure that such data is referenced in a manner that considers the integrity and privacy of the Mi'kmaq.

Source: Assembly of Nova Scotia Mi'kmaq Chiefs. *Mi'kmaq Ecological Knowledge Study Protocol, 2nd Edition*. <https://novascotia.ca/abor/aborlearn/docs/mek%20protocol%20second%20edition.pdf>

Example 3

This section of the New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Guide V.3 describes how the data gathered will be aggregated and Knowledge Holder's confidentiality protected (see page 17):

MIKS Data Analysis

When reporting NBMIKS data a Geographic Information System (GIS) software or equivalent technology will be utilized and data will be presented in a general coded form that reflects overall knowledge, use and occupancy of the land and waters (a composite map). The identity of individual interviewees will be protected by a corresponding PIN.

SECTION AND PURPOSE

Confidentiality (of people who shared the knowledge or location of the knowledge such as sacred sites, burial sites, species at risk). Is there any reference to confidentiality in the TK protocols?

SAMPLE TEXT

The following factors will be used to determine the significance of NBMIKS data:

the uniqueness and nature of the land or waters resource use/occupation;
And the cultural use or spiritual meaning of the land or resource use/occupation.

Disclosure and Reporting of NBMIKS Data

NBMIKS Report findings shall contain NBMIKS baseline information such as the type of use and species harvested or observed.

NBMIK data shall be represented in the report through a variety of means including the use of GIS.

Confidentiality of a Mi'gmaq Participant's NBMIKS data shall be protected as described elsewhere in this Study Guide.

The NBMIKS Report shall provide recommendations on the avoidance, mitigation or remediation of potential impacts of the Project in a manner that reflects Mi'gmaq cultural perspectives.

Mi'gmawe'l Tplu'taqnn and any partner(s) shall have a reasonable period of time to review and comment on the report and propose amendments and then determine when and how it is to be forwarded to the Proponent and or Crown.

The NBMIKS Report must protect the intellectual property rights that the Mi'gmaq individually and collectively hold to all information provided for each study. An approved statement to that effect is appended to this document as Schedule B.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study Process Guide*. 2019. <https://migmawel.org/wp-content/uploads/2021/05/NBMIKSGv4.020190304.pdf>

Example 4
Site Confidentiality

Archaeological Site Protection Archaeological data can provide significant understanding to Mi'kmaq past relationship to the land. As such, this information may at times be included in a MEKS [Mi'kmaq Ecological

SECTION AND PURPOSE

Confidentiality (of people who shared the knowledge or location of the knowledge such as sacred sites, burial sites, species at risk). Is there any reference to confidentiality in the TK protocols?

SAMPLE TEXT

Knowledge Study]. Archaeological data is important to the Mi'kmaq and the Consultant must take the appropriate steps to ensure that any archaeological site is not represented in a manner that could compromise the site or its artefacts. When archaeological information, location especially, is included in the MEKS, references must be made in general terms. As well, when an archaeological site is referenced on a GIS map, its representation must also be presented as to not reveal the specific location of the site.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study Process Guide*. 2016. <https://ethicshub.ca/tool/new-brunswick-migmaq-indigenous-knowledge-study-nbmiks-process-guide/>

Compensation.

How will TK holders be compensated for their time? The compensation is not for their knowledge but for their time. The holders of the knowledge and communities retain ownership. This may also be included in research agreements.

**Example 1
Compensation**

All holders of Gwich'in Traditional Knowledge should be compensated, if they wish, for their time working with researchers. Compensation can be in the form of a cash payment, an in-kind contribution, or a fair exchange (gas, food, etc.). Compensation will be determined between the researcher and the holder of Gwich'in Traditional Knowledge. Researchers should inform the Gwich'in Social and Cultural Institute how they plan to compensate Gwich'in Traditional Knowledge holders. The Gwich'in Social and Cultural Institute will provide the most current Rate Schedule upon request (p. 14).

Source: *Gwich'in Tribal Council. 2004. Traditional Knowledge Policy*. <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

Compensation

Lack of recognition or compensation: Inuit participants in research projects have not always received appropriate credit in research publications, reports, etc. and/or have not been compensated fairly for their important contributions (i.e. paid adequately and equitably for their time) (p. 4).

Provide fair and adequate compensation for those providing information for a research project, or hired to help with the research process (p. 5).

SECTION AND PURPOSE

Compensation.

How will TK holders be compensated for their time? The compensation is not for their knowledge but for their time. The holders of the knowledge and communities retain ownership. This may also be included in research agreements.

SAMPLE TEXT

Financial compensation: Establish compensation guidelines/rates for project participants, contributors, assistants, and/or interpreters. The northern research institutes can offer guidance on appropriate compensation rates for research assistants, translators, and informants in each region (p. 9).

Source: Inuit Tapiriit Kanatami and Nunavut Research Institute. *Negotiating Research Relationships with Inuit Communities: A Guide for Researchers*. https://www.itk.ca/wp-content/uploads/2016/07/Negotiating-Research-Relationships-Researchers-Guide_0.pdf

Recognition of

TK holders. How should TK holders be given recognition for their contributions and time?

**Example 1
Authorship**

Give recognition: Give credit to community members who have worked on the project and whose knowledge or information shared may form the basis of the study. This includes citations or potential co-authorship, in an appropriate format for academic journals or other publications (p. 9).

Source: Inuit Tapiriit Kanatami and Nunavut Research Institute. *Negotiating Research Relationships with Inuit Communities: A Guide for Researchers*. https://www.itk.ca/wp-content/uploads/2016/07/Negotiating-Research-Relationships-Researchers-Guide_0.pdf

SECTION AND PURPOSE

Intellectual property rights.

What are they and how will they be protected? (Heavily overlaps with the section “Ownership of TK.”)

SAMPLE TEXT

**Example 1
Intellectual Property Rights**

First Nations’ Intellectual Property Rights will include and address the following themes, which currently limit the Intellectual Property Right laws to protect TK.

- Recognize community ownership and control of TK.
- Clarify ‘ownership’ and ‘control’ i.e. ownership for economic gain and ownership for community sustainability from an Aboriginal perspective.
- Protection of TK and practices.
- Inclusion of traditional laws/ customary laws.
- Authorize use and/or refuse the use of TK or cultural practices.
- Respect ancestors and include future generations as identifiable TK holders.
- Recognize transmission of knowledge by specific cultural mechanisms such as Elders, songs, stories, etc.
- Recognize and uphold First Nations inherent and treaty rights.
- Appropriate compensation to First Nations where TK has been used by corporations and industry.

Source: Chiefs of Ontario. 2010. *Traditional Knowledge Primer*. Print.

Example 2

Participants mentioned that there are intellectual property rights around sharing ATK [Aboriginal Traditional Knowledge]; further, non-Aboriginals need to respect that certain ceremonies are not supposed to be documented (p. 33).

Source: Lavalley, Giselle. *Aboriginal Traditional Knowledge and Source Water Protection: First Nations’ Views on Taking Care of Water*. Toronto: Chiefs of Ontario. 2006. Print.

Example 3

Below is the fifth fundamental principle for use of Traditional Knowledge as per the Arctic Council:

5. Traditional Knowledge is the intellectual property of the indigenous knowledge holders, therefore policies and procedures for accessing data and information gathered from Traditional Knowledge holders should be developed at the appropriate ownership level, recognizing and adhering to each Permanent Participants’ protocols.

Source: Arctic Council Permanent Participants for Use in the Arctic. *Ottawa Traditional Knowledge Principles*. https://static1.squarespace.com/static/58b6de9e414fb54d6c50134e/t/5dd4097576d4226b2a894337/1574177142813/Ottawa_TK_Principles.pdf

SECTION AND PURPOSE

Intellectual property rights.

What are they and how will they be protected? (Heavily overlaps with the section “Ownership of TK.”)

Storage and management of TK. How will TK be stored and managed in the community? How do communities ensure they maintain control over access to TK (even though it may be shared externally)?

SAMPLE TEXT

**Example 4
Consultation and Intellectual Property Rights**

An explicit statement must be included in the MEKS [Mi’kmaq Ecological Knowledge Study] that states that the Study is not intended to be interpreted as ‘Consultation’ for the purpose of justifying an infringement on the existing Aboriginal and Treaty Rights of the Mi’kmaq of Nova Scotia.

The MEKS must include a provision acknowledging that the MEK contained within the Study is subject to the intellectual property rights of the Mi’kmaq of Nova Scotia, which they individually and collectively hold.

Source: Assembly of Nova Scotia Mi’kmaq Chiefs. *Mi’kmaq Ecological Knowledge Study Protocol, 2nd Edition*. <https://novascotia.ca/abor/aborlearn/docs/MEK%20Protocol%20Second%20Edition.pdf>

**Example 1
Ownership Control Access Possession (OCAP)****Possession:**

While ownership identifies the relationship between a people and their data in principle, possession or stewardship is more literal. Although not a condition of ownership per se, possession (of data) is a mechanism by which ownership can be asserted and protected. When data owned by one party is in the possession of another, there is a risk of breach or misuse. This is particularly important when trust is lacking between the owner and possessor (p. 5).

Source: First Nations Information Governance Center. *The First Nations Principles of OCAP*. <https://fnigc.ca/what-we-do/ocap-and-information-governance>

Example 2

Copies of all Traditional Knowledge gathered will be kept and stored by the Dehcho First Nation(s). Information designated confidential will be treated as confidential by the community, as represented by the local First Nations(s), or other designated body. Traditional Knowledge in any documented form shall not be appropriated or stored by outside agencies without prior consent (p. 5).

Source: *Deh Cho First Nation Traditional Knowledge Research Protocol*. 2004. http://www.reviewboard.ca/upload/ref_library/DCFN%20TK%20research%20protocol.pdf

SECTION AND PURPOSE

Storage and management of TK. How will TK be stored and managed in the community? How do communities ensure they maintain control over access to TK (even though it may be shared externally)?

SAMPLE TEXT

Example 3 Incorporated into Research Agreement with the Gwich'in Social and Cultural Institute

Detail how data will be accessed in future and any storage agreements (p. 9).

Source: Gwich'in Tribal Council. 2004. *Traditional Knowledge Policy*. <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

Example 4 The New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Guide V.3 regarding data storage protocols:

Phase VIII Data Management

Data management for Mi'gmawe'l Tplu'taqnn Mi'gmaq Knowledge guidelines, beyond or in addition to this Study Guide, will be based on the NBMIKS Research principles. A comprehensive set of data management protocols will be developed and implemented, which will include data documentation, harmonization, storage, retrieval, cataloging, and dissemination policies, to be amended by Mi'gmawe'l Tplu'taqnn.

Data sets will include records of archival resources, which will be stored using a bibliographic software package. Additional data will include standard academic bibliographies, classified according to keywords; shape files and resultant maps created in geographic information systems; a keyword searchable database of Knowledge Holders (identified only by PIN); digital video files, catalogued by keyword and timeframe; and oral histories that are culturally appropriate and comply with Mi'gmaq law.

Mi'gmawe'l Tplu'taqnn will serve as custodian of this data until such time as directed otherwise by MSM [Mi'gmaq Sagamaq Mawiomi]. Mi'gmawe'l Tplu'taqnn will store the data in a secure setting and back it up regularly.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study Process Guide (NBMIKS)*. V.4. 2019. <https://migmawel.org/wp-content/uploads/2021/05/NBMIKSGv4.020190304.pdf>

SECTION AND PURPOSE

Storage and management of TK.

How will TK be stored and managed in the community? How do communities ensure they maintain control over access to TK (even though it may be shared externally)?

SAMPLE TEXT

Example 5**4.6 Information Storage (Maliseet Nation Archives)**

MNCC [Maliseet Nation Conservation Council Inc.], in connection with the MRRB [Maliseet Research Review Board], will perform the duties related to storage of MTK [Maliseet Traditional Knowledge] materials (interview documents, tapes and videos) and backup copies, make copies of Global Positioning System (GPS) data and maps and enter into an electronic database, also ensuring all files are properly backed up and stored at an alternative secure location.

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. September 2009. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol)*. https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

Example 6

The MIKS [Mi'gmaq Indigenous Knowledge Study] Report shall be distributed in a timely manner to the relevant Mi'gmaq political organizations. The MTI [Mi'gmawe'l Tplu'taqnn Inc.] shall have a reasonable period of time to review and comment on the report and propose reasonable amendments before it is forwarded to the Proponent. The MIKS Report must protect the Intellectual Property Rights that the Mi'gmaq individually and collectively hold. An approved statement to that effect is appended to this document as Schedule B. The Consultant/Researcher shall make explicit reference in the MIKS Report that it is not Consultation.

Source: Mi'gmaq Sagamaq Mawiomi. *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide*. <https://ethicshub.ca/wp-content/uploads/2020/05/56-New-Brunswick-Mi%E2%80%99gmaq-Indigenous-Knowledge-Study-NBMIKS-Process-Guide.pdf>

SECTION AND PURPOSE

Community engagement throughout TK study/project. How will community be kept informed of study/project progress? How will community be engaged? How will the final product be reported back to the community?

SAMPLE TEXT

Example 1

Collaborative research methodologies imply that wherever possible, the research project supports community capacity building, including education, research training and employment opportunities for local residents” (p. 13).

Source: Gwich'in Tribal Council. 2004. *Traditional Knowledge Policy*. <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

Example 2**A Continuum of Community Involvement**

Various levels of community involvement, within three identified research stages: project design, data collection, and analysis are presented below, along a continuum from minimal to maximal involvement. Reporting research results can also be considered a research stage; however, communication strategies are addressed in a distinct section because they are ongoing throughout all research stages.

Source: Inuit Tapiriit Kanatami and Nunavut Research Institute. 2007. *Negotiating Research Relationships with Inuit Communities: A Guide for Researchers*. https://www.itk.ca/wp-content/uploads/2016/07/Negotiating-Research-Relationships-Researchers-Guide_0.pdf

Example 3**Stipulated within the Sambaa K'e Dene Band Policy or protocol:**

Yúndíit'õh belongs to the Sambaa K'e Dene as a whole and is therefore a collective responsibility. Decisions concerning what Yúndíit'õh information to share with outside agencies must be made through a community process, with the full and active involvement of the elders (p. 2).

Source: *Sambaa K'e Dene Band Policy Regarding the Gathering, Use and Distribution of Yúndíit'õh (Traditional Knowledge)*. 2003. <https://nwtresearch.com/sites/default/files/sambaa-k-e-dene-band.pdf>

Example 4**The New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide V.3 states:****Phase III Knowledge Holder Engagement**

When the Desktop Review and initial Project Scoping are completed, it is necessary to engage and inform Mi'gmaq community members about the NBMIKS and to identify Knowledge Holders. An initial community meeting is to be held in Mi'gmaq community by Mi'gmawe'l Tplu'taqnn staff or designate. The representative(s) shall:

SECTION AND PURPOSE

Community engagement throughout TK study/project.

How will community be kept informed of study/project progress? How will community be engaged? How will the final product be reported back to the community?

SAMPLE TEXT

1. Share information about the proposed project for which the NBMIKS has been triggered;
2. Describe all the steps of the NBMIKS and how the results will be used; ensuring the use will be in keeping with the NBMIKS Research principles described above;
3. Explain how the land use data will be gathered (e.g. interview process);
4. Describe how the data will be verified, stored and shared;
5. Collect concerns from community members about the project or the NBMIKS process;
6. Arrange for a second community session when Community Cultural Values Mapping (CCVM) will take place.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide V.4.* 2019. <https://migmawel.org/wp-content/uploads/2021/05/NBMIKSGv4.020190304.pdf>

Promotion of TK.

How will TK be used for other community goals (education for youth, adults; cataloging information for the Nation, etc.).

Example 1**Future Generations:****The Gwich'in Tribal Council will manage Gwich'in Traditional Knowledge issues in the Gwich'in Settlement Region in a manner that:**

1. Allows future generations to benefit and learn from Gwich'in Traditional Knowledge (p. 1-2).

Source: Gwich'in Tribal Council. 2004. *Traditional Knowledge Policy.* <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

Example 2**Language Retention**

Language retention is central to maintaining traditional knowledge and First Nations cultures. There are many ideas in First Nations languages that cannot be translated into other languages, such as English. Once languages are lost, traditional knowledge and ceremonies may also be lost (p. 16).

Source: Crowshoe, C. 2005. *Sacred Ways of Life: Traditional Knowledge Toolkit.* First Nations Centre. National Aboriginal Health Organization. https://www.ktpathways.ca/system/files/resources/2019-02/Traditional_Knowledge_Toolkit_2005.pdf

SECTION AND PURPOSE

How will TK study/ project findings be shared? How will the community be informed of study findings?

SAMPLE TEXT

Example 1 Ongoing Communication

A communication plan: Work this out in the early stages of the project and consult community or regional organizations on appropriate methods for communication. In most cases communities should hear the results of information that they provided before hearing it in southern media, journals, conferences, etc. Community members want to hear back from researchers directly or local residents involved in the research. However, in some exceptional cases where research may be sensitive or controversial southern researchers may not be the best individuals to communicate the results (p. 9).

Source: Inuit Tapiriit Kanatami and Nunavut Research Institute. *Negotiating Research Relationships with Inuit Communities: A Guide for Researchers*. https://www.itk.ca/wp-content/uploads/2016/07/Negotiating-Research-Relationships-Researchers-Guide_0.pdf

Example 2 Reporting Back to the Community

As part of the follow-up process, all researchers working with Gwich'in Traditional Knowledge should return to the community to present the findings of their research. Research results should be presented or displayed in the Gwich'in communities in culturally relevant and creative ways. An example of the latter would be poster or audio-visual formats (p. 14).

Source: Gwich'in Tribal Council. 2004. *Traditional Knowledge Policy*. <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

Example 3 4.6 Communications

The communication strategy shall address the goals of the study and present them as realistic and achievable, provide reassurance to community members that the knowledge gathered through the study will be protected in the best interests of the community, and that confidentiality will be respected.

A communication strategy should be developed for each project including radio advertising, public notices in local papers, public notice boards, public meetings, leadership meetings, mail-outs of

SECTION AND PURPOSE

How will TK study/project findings be shared? How will the community be informed of study findings?

SAMPLE TEXT

brochures, word of mouth, phone calls, school presentations, announcements at community events, Aboriginal radio slots and other methods acceptable to the community and other interested parties.

The communications strategy may also identify key people and groups within the community, and direct information to them. These people may include community members whose influence is significant and whose support is critical.

Source: Maliseet Nation Conservation Council Traditional Knowledge Working Group. September 2009. *Maliseet Nation (Wolastoqwik) Traditional Knowledge Protocol (MTK Protocol)*. https://achh.ca/wp-content/uploads/2018/07/Protocol_TK_Maliseet.pdf

Formal agreements/data sharing agreements. Are there examples of where it is necessary to have agreements? What are samples of these types of agreement? When would they be used?

Example 1

Data management for the MTI [Mi'gmawe'l Tplu'taqnn Inc.] Mi'gmaq Knowledge guidelines will be based on the OCAP [Ownership, Control, Access and Possession] principles. A comprehensive set of data management protocols will be developed and implemented, which will include data documentation, harmonization, storage, retrieval, cataloging, and dissemination policies, to be periodically reviewed and vetted by the MTI.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMIKS) Process Guide*. <https://ethicshub.ca/tool/new-brunswick-migmaq-indigenous-knowledge-study-nbmiks-process-guide/>

Example 2**Gwich'in Social and Cultural Institute Research Agreement Framework****Schedule A:**

The terms of all Research Agreements are to be negotiated between the researcher and the Gwich'in Social and Cultural Institute in accordance with the Gwich'in Traditional Knowledge Research Policy and attached Guidelines on a project by project basis.

Source: Gwich'in Tribal Council. 2004. *Traditional Knowledge Policy*. <https://gwichin.ca/legislation-and-policy/traditional-knowledge-policy>

SECTION AND PURPOSE

Conflict resolution.

How will disagreements regarding the administration, management and implementation of TK protocol be resolved?

SAMPLE TEXT

Example 1
Elements of a Research Relationship

Conflict resolution – Jointly decide how to suspend (temporarily or permanently) the research project should the community(ies) involved have concerns part way through the project. Perhaps develop a contingency plan in the case that conflict may arise.

Source: Inuit Tapiriit Kanatami and Nunavut Research Institute. *Negotiating Research Relationships with Inuit Communities: A Guide for Researchers*. https://www.itk.ca/wp-content/uploads/2016/07/Negotiating-Research-Relationships-Researchers-Guide_0.pdf

Cultural protocols.

How are appropriate cultural protocols in gathering information and norms in communication made a requirement? E.g., how are language barriers navigated? How are the differences between western science and IK treated?

Example 1
Culturally Appropriate Methodologies, and Communication and Transmission of Knowledge in Indigenous Languages

11. The co-production of knowledge requires creative and culturally appropriate methodologies and technologies that use both Traditional Knowledge and science applied across all processes of knowledge creation.
12. Communication, transmission and mutual exchange of knowledge using appropriate language conveying common understanding, including strategies to communicate through indigenous languages, is critical to work of Arctic Council.

Source: Arctic Council Permanent Participants for Use in the Arctic. *Ottawa Traditional Knowledge Principles*. https://static1.squarespace.com/static/58b6de9e414fb54d6c50134e/t/5dd4097576d4226b2a894337/1574177142813/Ottawa_TK_Principles.pdf

Example 2

Proponents should also consider requiring Indigenous cultural training for their staff or contractors and organize community-specific training with the Indigenous nation to provide a foundational understanding to set expectations for working together and to support understanding Indigenous Knowledge.

Participants should acknowledge that engaging throughout an EA, including engaging with knowledge holders, is a significant workload for Indigenous nations, and that Indigenous nations may be engaging with multiple proponents at the same time. Every project is different and may draw upon the knowledge

SECTION AND PURPOSE

Cultural protocols.

How are appropriate cultural protocols in gathering information and norms in communication made a requirement? E.g., how are language barriers navigated? How are the differences between western science and IK treated?

SAMPLE TEXT

of different community members. Proponents should engage with Indigenous nations as early as possible to determine what is required to work respectfully with the community and provide as much notice as possible to facilitate more effective incorporation of Indigenous Knowledge into the EA process.

Source: Government of British Columbia. *Guide to Indigenous Knowledge in Environmental Assessments*. https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/environmental-assessments/guidance-documents/2018-act/guide_to_indigenous_knowledge_in_eas_v1_-_april_2020.pdf

Amendments –

Living document. How can the TK protocol document be amended over time/updated?

Example 1

This NBMKS (New Brunswick Mi'gmaq Indigenous Knowledge Study) Guide may be amended at any time. Amendments will first need to be approved by the MSM (Mi'gmaq Sagamaq Mawiomi) Elders Advisory Council and MTI [Mi'gmawe'l Tplu'taqnn Inc.] member Chiefs. In the event that an amendment is made to this NBMKS Guide, the said amendment shall be forwarded to and discussed with any Consultant/Researcher engaged in a Project or a MIKS [Mi'gmaq Indigenous Knowledge Study], and other Aboriginal organizations conducting Indigenous Knowledge Studies.

Source: *New Brunswick Mi'gmaq Indigenous Knowledge Study (NBMKS) Process Guide*. 2016. <https://ethicshub.ca/tool/new-brunswick-migmaq-indigenous-knowledge-study-nbmiks-process-guide/>

Example 2

This is to be a living document, designed to continue to cultivate and strengthen an understanding of how the insights of Indigenous peoples and nations throughout the Great Lakes can inform and contribute to the work of the Annex subcommittees to achieve the shared goals of the Agreement. Moreover, as

SECTION AND PURPOSE

Amendments –

Living document.

How can the TK protocol document be amended over time/updated?

SAMPLE TEXT

it evolves, this guidance document may help to inform and guide additional protection and restoration activities and initiatives throughout the Great Lakes.

Source: United States Caucus of the Traditional Ecological Knowledge Task Team Annex 10 Science. *Guidance Document on Traditional Ecological Knowledge Pursuant to the Great Lakes Water Quality Agreement*. https://www.bia.gov/sites/default/files/dup/assets/bia/wstreg/Guidance_Document_on_TEK_Pursuant_to_the_Great_Lakes_Water_Quality_Agreement.pdf

Example 3

This 2nd edition of the MEKSP [Mi'kmaq Ecological Knowledge Study Protocol] builds on the 1st edition and incorporates recommendations for improvement and observations from Mi'kmaq, Consultants, Proponents and Government on how to clarify the MEKS process to ensure that the highest quality and most relevant information is provided to decision makers and the Mi'kmaq of Nova Scotia.

Source: Assembly of Nova Scotia Mi'kmaq Chiefs. *Mi'kmaq Ecological Knowledge Study Protocol, 2nd Edition*. <https://novascotia.ca/abor/aborlearn/docs/mek%20protocol%20second%20edition.pdf>

REFERENCES

See the References & Resources Module for a full list of references to this section.