



BC ASSEMBLY OF FIRST NATIONS

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BCAFN SPECIAL CHIEFS ASSEMBLY
March 9-10, 2023
Hybrid - In person & online via Zoom

Draft Resolution 04/2023

SUBJECT: **SUPPORT FOR A BC -SPECIFIC PROCESS REGARDING CANADA'S
UNDA NATIONAL ACTION PLAN**

Moved BY: **CHIEF HARVEY MCLEOD, UPPER NICOLA INDIAN BAND**

SECONDED BY: **CHIEF JOE PIERRE, AQ'AM FIRST NATION**

DECISION: **CARRIED**

WHEREAS:

- A. We are sovereign Indigenous Nations with the right to protect, manage, and derive social, cultural and economic benefits from the wealth of our lands, waters and resources;
- B. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) was adopted by the General Assembly in September 2007, after more than 20 years of debate, discussion and advocacy by Indigenous leaders;
- C. The *UN Declaration* is the most comprehensive, universal international human rights instrument explicitly addressing the economic, social, cultural, political, spiritual and environmental rights of Indigenous Peoples;
- D. The *UN Declaration*, which Canada has adopted without qualification and has, along with the Province of British Columbia, committed to implement, affirms, among other things:

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Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions;

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them;

Article 27: States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the right of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process;

Article 38: States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration;

- E. The Truth and Reconciliation Commission of Canada Calls to Action, accepted by both Canada and the Province of British Columbia, state:

Call to Action 43: We call upon federal, provincial, territorial, and municipal governments to fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation;

Call to Action 44: We call upon the Government of Canada to develop a national action plan, strategies, and other concrete measures to achieve the goals of the United Nations Declaration on the Rights of Indigenous Peoples;

- F. The federal government tabled Bill C-15 *an Act respecting the United Nations Declaration on the Rights of Indigenous Peoples* (Bill C-15) in the House of Commons on December 3, 2020;
- G. On June 21, 2021, the United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA) came into force. This Act requires the Government of Canada, in consultation and cooperation with Indigenous peoples, to:

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- i. Take all measures necessary to ensure that federal laws are consistent with the Declaration (Section 5);
 - ii. Prepare and implement an action plan to achieve the objectives of the Declaration (Section 6); and
 - iii. Develop annual reports on progress and submit them to Parliament (Section 7).
- H. The legislated deadline for the official tabling of UNDA NAP is June 21, 2023;
- I. On February 16, 2023, the Honourable David Lametti, Minister of Justice and Attorney General of Canada, issued a Letter of Understanding to the First Nations Leadership Council (FNLC) which outlines Canada's commitment to a BC-specific bilateral process with the FNLC to identify priorities and actions for UNDA implementation consistent with direction of First Nations in BC;
- J. By Resolution 08/2019, Support for a Legislative Framework for the Implementation of the United Nations Declaration on the Rights of Indigenous Peoples, the BCAFN Chiefs-in-Assembly established full support and implementation of *the Declaration* and called on the BCAFN as part of the FNLC to engage and seek input from First Nations on the development of legislation;
- K. By Resolution 01/2020, Federal Legislation to create a Framework for the Implementation of the *UN Declaration*, the BCAFN Chiefs-in-Assembly called upon Canada to develop a government Bill which was premised on former Bill C-262 as the "floor", with improvements, and requested the following processes:
 - i. establish a BC-specific collaborative process to fulfill its commitment to introduce co- developed legislation to implement the UN Declaration by the end of 2020, as set out in the Prime Minister's December 2019 mandate letter to the Minister of Justice and Attorney General of Canada;
 - ii. work in collaboration and partnership with First Nations in BC and the First Nations Leadership Council (BCAFN, FNS and UBCIC) in any co-development process regarding federal legislation to implement the UN Declaration;
 - iii. work in collaboration and partnership with First Nations in BC and the First Nations Leadership Council to develop a BC-specific action plan to implement the UN Declaration, which is to be informed by other United Nations instruments upholding Indigenous rights, such as the *Universal Declaration of Human Rights* and

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international human rights law, as well as the Organization of American States' *American Declaration on the Rights of Indigenous Peoples*;

- L. By Resolution 08/2021, Enhancing Bill C-15 Federal Legislation to Implement the *United Nations Declaration on the Rights of Indigenous Peoples*, the BCAFN Chiefs-in-Assembly supported Bill C-15 with identified improvements and directed Regional Chiefs, working with the First Nations Summit and the Union of BC Indian Chiefs as the First Nations Leadership Council, to take any and all opportunities to improve the bill and to prepare a submission outlining recommendations for improvements;
- M. On November 26, 2019, the Province of British Columbia passed the *Declaration on the Rights of Indigenous Peoples Act* (the "Declaration Act"), to implement the UN Declaration, making it the first province in Canada to enact such legislation;
- N. To assist First Nations in developing their own priorities and positions for inclusion into the UNDA NAP, the BCAFN legal and policy team has prepared an Options Paper which contains possible recommendations and priorities to help inform First Nations' submission to Canada's UNDA NAP engagement process;
- O. The FNLC, comprised of the BC Assembly of First Nations, the First Nations Summit and the Union of BC Indian Chiefs, has prepared a Draft Priorities Paper which has been distributed to BC First Nations for feedback and comment. This paper, once finalized, will be submitted by the FNLC to Canada, representing high-level priorities for the BC region for inclusion into the National Action Plan; and
- P. The FNLC, on March 29, is hosting an All-Chiefs Forum on the UNDA National Action Plan in Vancouver. The purpose of this forum is to discuss, workshop and amend the Draft Priorities Paper to represent the priorities of First Nations in BC.

THEREFORE BE IT RESOLVED THAT:

- 1. The BCAFN Chiefs-in-Assembly express their continued support, as stated in Resolution 01/2020 for a BC specific action plan to implement the Canada's *United Nations Declaration Act*;
- 2. The BCAFN Chiefs-in-Assembly support Regional Chief, working with the First Nations Summit and the Union of BC Indian Chiefs as the First Nations Leadership Council, to engage in a BC-specific bilateral process with the Department of Justice to identify priorities and actions for UNDA implementation consistent with direction of First Nations in BC and include resources for capacity for all First Nations in BC to be adequately engaged in the

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UNDA NAP process;

3. The BCAFN Chiefs-in-Assembly support Regional Chief, working with the First Nations Summit and the Union of BC Indian Chiefs as the First Nations Leadership Council, to develop and submit a high-level Priorities Paper representing the priorities and interest of BC First Nations, recognized Nations and/or their governing bodies for inclusion in the *United Nations Declaration Act's* National Action Plan; and
4. The BCAFN Chiefs-in-Assembly direct the Regional Chief to distribute the BCAFN National Action Plan Options Paper to BC First Nations, recognized Nations and/or governing bodies for their consideration and use.

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