



BC ASSEMBLY OF FIRST NATIONS

1004 Landooz Road
Prince George, BC V2K 5S3
Website: www.bcafn.ca

BCAFN ANNUAL GENERAL MEETING
October 8, 9 & 10, 2024
Hybrid - In person & online via Zoom

Resolution 25/2024

SUBJECT: SUPPORT FOR INDIGENOUS BORDER MOBILITY INTERIM MEASURES

Moved by: KUKPI7 ROSANNE CASIMIR, TK'EMLÚPS TE SECWÉPEMC

SECONDED BY: CHIEF JERRY JACK, MOWACHAHT/MUCHLAHT FIRST NATION

DECISION: CARRIED

WHEREAS:

- A. Canada's international borders have divided Indigenous territories, communities and families across the country.
- B. First Nations divided by international borders face unique challenges, including loss of culture, access to food, familial division, loss of membership and a loss of access to territory, land and resources.
- C. The UN Declaration, which the government of Canada has adopted without qualification and has, alongside the government of BC, passed legislation committing to implement, affirms:
 - Article 9:** Indigenous peoples and individuals have the right to belong to an indigenous community or nation in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from exercising such a right.
 - Article 10:** Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

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Article 12: (1) Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to use and control of their ceremonial objects; and the rights to the repatriation of their human remains.

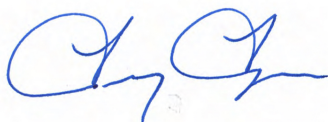
Article 24 (1): Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

Article 33: (1) Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live. **(2)** Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 36: (1) Indigenous people, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders. **(2)** States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

- D. The *United Nations Declaration Act's* National Action Plan identifies Shared Priority – Action Plan Measure #52, which states that the Government of Canada will take the following actions in consultation and cooperation with Indigenous peoples:
- a. Pursue legislative amendments to the *Immigration and Refugee Protection Act*, amendments to relevant regulations and revisions to policies in order to address complex border crossing and migration challenges faced by Indigenous peoples divided by Canada's international borders, including options to amend Canada's right to entry provisions, and work and study permit requirements.
 - b. Engagement with Indigenous peoples and their representative organizations to implement the action plan measure was initiated in 2023, with a view to advancing amendments and policy reforms in 2024. In parallel, the Government of Canada will continue discussions with international partners on Indigenous border crossing issues.
- E. In fulfillment of the UNDA NAP Shared Priority-APM #52, Canada Border Services Agency (CBSA) and Immigration, Refugees and Citizenship Canada (IRCC) hosted regional roundtables with First Nations on potential amendments to the right to enter and remain in Canada, traveller modernization, travel documentation and other accompanying issues, including trade and entry of goods, and training of border service agents.
- F. The CBSA is responsible for managing and enforcing over 100+ Acts of Parliament for Canada's international borders and Ports of Entry. CBSA's Indigenous Affairs Secretariat was established

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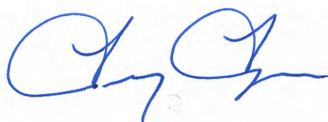
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in February 2018 to address border crossing issues for Indigenous peoples, including the facilitation of Indigenous travellers and their sacred goods.

- G. The IRCC's Indigenous Border Crossing Division is responsible for the right to enter and remain in Canada under the *Immigration and Refugee Acts*.
- H. BCAFN Resolution 05/2024, *Indigenous Rights and Border Mobility*, called on the Government of Canada to fully engage First Nations in BC on necessary legislative, regulatory and policy amendments related to Action Plan Measure #52, including the provision of capacity funds to First Nations in BC to engage in the development of these legislative, regulatory and policy amendments.
- I. CBSA and IRCC have not yet responded to BCAFN's request for funding or for the creation of a joint table on legislative development.
- J. The 1794 Jay Treaty, signed by the US and Great Britain recognized the inherent right of free passage by First Nations Peoples and their personal goods across what is now the Canada-US border. Though recognized by the US, Canada has not recognized that inherent right, restricting access of First Nations peoples from the US into Canada.
- K. The Jay Treaty Border Alliance (JTBA) was formed in 2017 by tribal governments and First Nations communities to collaborate on efforts to protect our rights preserved in the Jay Treaty, create effective working relations with the United States Customs and Border Protection and Canadian Border Services Agency, and address issues unique to the US-Canadian border.
- L. CBSA and IRCC are preparing to develop legislation to address Indigenous Border Mobility Issues, which could:
 - a. Provide right of entry to members of First Nations, Inuit and Métis collectives in Canada
 - b. Provide the ability to work and study without a permit
 - c. Ensure that Indigenous persons with a right of entry are no longer considered 'foreign nationals.'
- M. As legislation is being developed, the Government of Canada, supported by the Jay Treaty Border Alliance, has proposed a number of Interim Measures to address the immediate needs of First Nations persons divided by Canada's borders to reunite with family members who already have a right of entry to Canada. Potential conditions applicants would need to meet include:
 - a. Born in the United States or a United States citizen
 - b. Being a member of a specified Indigenous group
 - c. With anchor family member who is a Canadian citizen, permanent resident or person registered under the *Indian Act*.

THEREFORE BE IT RESOLVED THAT:

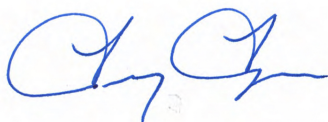
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1. The BCAFN Chiefs-in-Assembly calls on the Government of Canada to acknowledge unceded First Nations' Title, Rights and sovereignty with respect to Border Mobility;
2. The BCAFN Chiefs-in-Assembly calls on the Governments of Canada and BC to ensure the safety and security of our children and families when entering into or returning from the United States of America;
3. The BCAFN Chiefs-in-Assembly reiterate their support for BCAFN Resolution 05/2024, calling upon the government of BC to fully engage First Nations in BC on the development and implementation of legislative, policy or regulatory amendments related to Action Plan Measure #52;
4. The BCAFN Chiefs-in-Assembly supports the adoption of Interim Measures to address the immediate needs of Indigenous persons divided by Canada's borders. These measures will reunite family members who already have a right of entry into Canada while permanent solutions are co-developed with First Nations; and
5. The BCAFN Chiefs-in-Assembly direct the BCAFN Regional Chief and staff to write a letter articulating this support and the need for further engagement with the BC Region to CBSA, IRCC and the Jay Treaty Border Alliance.

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