

# **United Nations Declaration on the Rights of Indigenous Peoples Act (UNDA)**

## **BC First Nations Leadership Council (FNLC) –Department of Justice Canada Bilateral Engagement Table on the Implementation of the UNDA**

### **FNLC-DOJ Technical Table**

#### **Terms of Reference**

**May 2024**

#### **A. BACKGROUND AND CONTEXT**

On June 21, 2021, the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA) received Royal Assent and came into force. The UNDA requires the Government of Canada to work in consultation and cooperation with Indigenous peoples to take necessary measures to ensure federal laws are consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), to develop and implement an action plan to achieve its objectives and to develop annual reports on progress. On June 20<sup>th</sup>, 2023, the Department of Justice tabled in Parliament the UNDA Action Plan, as mandated by Section 6 of the UNDA.

On February 16, 2023, the Minister of Justice and Attorney General of Canada (the “Minister”) signed a Letter of Understanding with the First Nations Leadership Council (FNLC) (the “Parties”) committing to the establishment of a British Columbia-specific bilateral process between Canada (represented by the Minister) and the FNLC to identify priorities and actions for UNDA implementation consistent with the direction of First Nations in BC, and to set out our mutual commitment of working together.

This bilateral process consists of, but is not limited to, the following:

- 1) A Political Table consisting of the Minister and Political Executives of the FNLC, to:
  - a. Identify priority issues, confirm a shared agenda for the implementation of UNDA and identify whether other federal Ministers should participate in the process for any identified priority issues;
  - b. Determine and direct follow-up work that will be jointly undertaken regarding priority issues and the advancement of a shared agenda; and
  - c. Discuss any other issues related to the effective implementation of this process.
- 2) A Technical Table consisting of senior representatives of the FNLC and the Department of Justice, which will carry out the direction of and report to the Political Table. The Technical Table will be responsible for developing a work plan to advance the shared agenda for approval of the Political Table. The Technical Table will prepare its own terms of reference for approval by the Political Table.

These Terms of Reference set out the mandate, guiding principles, composition, meeting frequency, accountability, dispute resolution and review and amendment for the Technical

Table. They do not replace or affect the Parties' internal decision-making processes and are not intended to create legal obligations. All discussions undertaken in accordance with these Terms of Reference are without prejudice and may be subject to any separate confidentiality agreement that may be signed .

The Parties will work collaboratively to implement Action Plan measures and measures to ensure the consistency of federal laws with the UN Declaration as per Section 5 of the UNDA.

## **B. MANDATE**

The mandate of the FNLC-DOJ Technical Table is to:

1. Carry out the direction of the FNLC-DOJ Political Table;
2. Prepare agendas and materials to support FNLC-DOJ Political Table discussions and deliberations;
3. Prepare annual work plans to support the shared agenda agreed to by the FNLC-DOJ Political Table; and
4. Support any working groups that may be established by the FNLC-DOJ Political Table for specific UNDA implementation matters.

## **C. COMPOSITION**

The FNLC-DOJ Technical Table will consist of 4-7 senior staff and legal advisors of the FNLC (collectively the BC Assembly of First Nations, the First Nations Summit and the Union of BC Indian Chiefs) and 2-4 senior staff and legal advisors of the Department of Justice. FNLC and the Department of Justice will make best efforts to ensure as much consistency in members' participation as possible.

The FNLC-DOJ Technical Table may invite others to its meetings where additional input, perspectives or specific expertise is desired or needed, such as officials from the Department of Crown-Indigenous Relations and Northern Affairs Canada and/or other federal departments.

The Parties may agree to appoint an individual, rotating between FNLC and DOJ, to chair and facilitate meetings of the FNLC-DOJ Technical Table.

## **D. ROLES AND RESPONSIBILITIES**

The FNLC-DOJ Technical Table's role is to carry out the direction of the Political Table. In carrying out this mandate, the members will work in cooperation to:

- Provide recommendations, analysis and expertise to the FNLC-DOJ Political Table regarding the implementation, review and monitoring of the UNDA Action Plan measures;

- Provide technical analysis and recommendations to the Political Table on aligning the laws of Canada with the UN Declaration;
- At the direction of the FNLC-DOJ Political Table, develop a shared agenda, work plan, joint or coordinated communication products, and briefing materials to facilitate the FNLC-DOJ Political Table's work;
- Provide advance technical briefings to our respective leadership to support their participation in Political Table meetings;
- Attend meetings of, and make presentations to, the FNLC-DOJ Political Table, as required.
- Develop agendas for FNLC-DOJ Technical Table meetings, including designating leads responsible for sending out agendas at least two weeks prior to meetings to seek leaders' input;
- Contribute to the development of the UNDA Annual Report, including reporting on progress in relation to Shared Priority 111;
- Undertake annual tracking and reporting to the FNLC-DOJ Political Table regarding the progress of implementing the workplan and meeting the objectives of the Letter of Understanding; and
- Maintain agreed upon records of discussion of FNLC-DOJ Political and Technical Table meetings (primary responsibility for preparing records of discussion may be rotated regularly and equitably between FNLC and DOJ).
- Share records of discussion with Political Table members to keep the updated on the Technical Table's progress.

The work of the Technical Table will be guided by the Guiding Principles set out in the Political Table Terms of Reference.

## **E. MEETING FREQUENCY**

The FNLC-DOJ Technical Table will meet every other month, unless otherwise agreed, to carry out its roles and responsibilities. Sub-tables may be created as required to address specific technical issues.

## **F. ACCOUNTABILITY**

The members of the FNLC-DOJ Technical Table will provide annual progress reports to the FNLC-DOJ Political Table.

## **G. DISPUTE RESOLUTION**

The FNLC-DOJ Technical Table will make best efforts to resolve any disputes that are hindering progress on the work plan and shared agenda through engagement of their respective senior officials and leadership. If timely resolution cannot be reached, disputes will be referred to the FNLC-DOJ Political Table for discussion and resolution.

## **H. REVIEW AND AMENDMENT**

These Terms of Reference may be amended as agreed or directed by the FNLC-DOJ Political Table, to ensure that the cooperative process established through the LOU is working well for all.