

FIRST NATIONS LEADERSHIP COUNCIL

Nov 01, 2023



BRITISH COLUMBIA
ASSEMBLY OF
FIRST NATIONS

1004 Landooz Rd.
Prince George, BC
V2K 5S3

Ph: 778-945-9910
Fx: 778-945-9916



FIRST
NATIONS
SUMMIT

1200-100 Park Royal South
West Vancouver, BC
V7T 1A2

Ph: 604-926-9903
Fx: 604-926-9923
Toll Free: 866-990-9939



UNION OF
BRITISH COLUMBIA
INDIAN CHIEFS

401 – 312 Main Street
Vancouver, BC
V6A 2T2

Ph: 604-684-0231
Fx: 604-684-5726

Honourable Arif Virani
Minister of Justice and Attorney General of Canada House of Commons
Ottawa, Ontario, K1A 0A6
Via email only: Arif.virani@parl.gc.ca

RE: Current Funding Is Woefully Inadequate, Additional Resources Required for UNDA NAP Implementation.

Dear Minister Virani:

The BC First Nations Leadership Council (FNLC) is calling you, as the Minister of Justice, Attorney General of Canada, and as the Minister responsible for overseeing the implementation of the *United Nations Declaration Act*, to seek additional, critically needed funds, to support First Nations participation in the co-implementation of the UNDA National Action Plan.

This funding is critical to achieving the standards of the *United Nations Declaration on the Rights of Indigenous Peoples*. Such Foundational standards include:

Article 3: Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

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 the 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 rights 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.

In alignment with these standards, the FNLC insists that all of the Action Plan Measures (APMs) which impact the rights of First Nations must be co-implemented with First Nations and their representatives. It is essential that First Nations are engaged as full partners in the implementation of the following measures:

APM #1 – Develop and implement a process and further direction to ensure bills and proposed regulations are consistent with the UN Declaration.

APM #2: Identify and prioritize existing federal statutes for review and possible amendment.

APM #3: Where a statute requires periodic review, responsible departments will conduct that review in a manner that ensures consistency with the UN Declaration and meets applicable consultation and cooperation requirements in the UNDA.

APM #19: Establish independent Indigenous rights monitoring, oversight, resource or remedy mechanisms or mechanisms to provide Indigenous peoples with access to and prompt decisions through just and fair processes for dispute and conflict resolution and effective remedies for infringements/violations of their individual and collective rights.

APM #21: Co-develop and implement a process to review and update the action plan every five years and a process for making amendments.

APM #22: Remove and address jointly identified barriers to settlement and co-develop approaches for the implementation of the right to self-determination through treaties, agreements and other constructive arrangements, as well as through new policies and legislative mechanisms.

APM #66: Develop a coordinated, whole-of-government approach to the implementation of the right to participate in decision-making related to legislative, policy and program initiatives consistent with the UN Declaration, including articles 18 and 19.

APM #67: Work with Indigenous partners to ensure co-development of legislation, policies, programs, regulations, and services furthers the right of Indigenous peoples to self-determination, led by priorities and strategies determined and developed by Indigenous peoples, and that co-development processes result in initiatives that comply with Indigenous rights and advance Indigenous priorities.

APM #68: Strengthen Indigenous peoples' participation in decision-making through an improved whole-of-government approach to consultation and accommodation, which is aligned with the UN Declaration by:

- Co-developing consultation arrangements with Indigenous partners that establish an agreed-upon duty to consult and engagement processes.
- Co-develop information on Aboriginal and treaty rights through a system newly co-managed with Indigenous Partners.
- Establish a permanent Indigenous advisory committee to guide the federal approach to consultation and to explore considerations for an Indigenous-managed consultation capacity support fund.

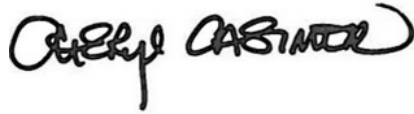
The co-implementation of these APMs requires a formalized engagement process designed to obtain the free, prior and informed consent of First Nations whose rights are impacted, and it requires an adequate budget to ensure that First Nations have the technical and legal capacity to respond to co-development and implementation requests in a timely fashion.

As you are aware, the Province of BC and the FNLC have worked closely together on the implementation of the UN Declaration in a provincial context. Through this process, BC has recognized that the success of its implementation efforts was dependent on First Nations being funded to adequately participate in the process. In recognition of this, the Province of BC created the Declaration Act Engagement Fund with a one-time investment of \$200 million dollars. This fund is dedicated to supporting Indigenous participation in a government-to-government relationship in ongoing efforts to implement the BC action plan, including addressing the alignment of laws alongside various legislative and policy initiatives.

It is our understanding that there is only \$11M dollars earmarked for UNDA NAP implementation, inclusive of the shared priorities, First Nations, Inuit and Métis sections of the NAP. This is an entirely inadequate amount, which will severely hamper the participation of First Nations, and, thus, the effectiveness of the NAP in realizing the rights of Indigenous peoples. Consequently, without the adequate resourcing of the NAP implementation, the legitimacy and success of the NAP and Canada's efforts to implement the UNDA in bringing its laws, policies and practices in alignment with the UN Declaration will be unsuccessful and will fail to meet the minimum standards identified previously.

Sincerely,
FIRST NATIONS LEADERSHIP COUNCIL

On behalf of the FIRST NATIONS SUMMIT



Cheryl Casimer



Robert Phillips

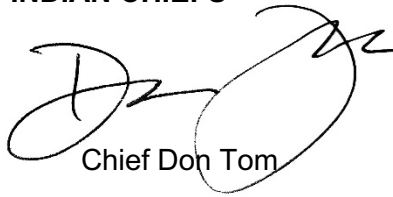


Hugh Braker

On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip



Chief Don Tom



Chief Marilyn Slett

On behalf of the BC ASSEMBLY OF FIRST NATIONS:



Regional Chief Terry Teegee

CC: All First Nations in BC