

OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
49TH ANNUAL GENERAL ASSEMBLY
SEPTEMBER 27TH TO 29TH, 2017
MUSQUEAM COMMUNITY CENTRE, X^WMƏΘK^WƏY^ƏM (MUSQUEAM TERRITORY)

Resolution no. 2017-44

RE: Creation of an Independent Process for Resolution of Specific Claims

WHEREAS the historical actions illegally undertaken by the colonial government of British Columbia and successive governments of Canada since BC entered confederation in 1871 have resulted in the dispossession of our Indigenous Nations, including the illegal alienation of our lands; the failure to protect Indian reserves, villages and fishing areas; the systematic denial of rights to fish and access to water; and the illegal disruption and removal of sacred sites and grave sites;

WHEREAS compensation and redress for these illegal actions has either been improperly administered or systematically denied and these illegal actions continue to impact Indigenous Peoples economically, socially, and spiritually;

WHEREAS for almost 50 years, Indigenous peoples have sought an independent, impartial, and just process for the resolution of specific claims and for a dispute resolution mechanism designed to provide redress by resolving these grievances without conflict of interest or systemic unfairness and inequality;

WHEREAS the *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of BC committed to implement, affirms:

Article 8: (2): States shall provide effective mechanisms for prevention of, and redress for:

(b): Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c): Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

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Grand Chief Stewart Phillip, President

2017-44
Page 1 of 3

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 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;

Article 28: (1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

(2): Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress;

WHEREAS the Truth and Reconciliation Commission “Calls to Action” call for the adoption and implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as the framework for reconciliation;

WHEREAS article 5(a) of the *International Convention on the Elimination of All Forms of Racial Discrimination* stipulates that States must guarantee the right of everyone to equal treatment before all institutions and bodies administering justice;

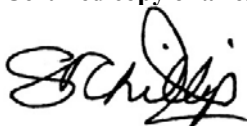
WHEREAS article XXIV(1) of the *Organization of American States Declaration on the Rights of Indigenous Peoples* articulates Indigenous Peoples' right to the “recognition, observance, and enforcement of all treaties, agreements, and other constructive arrangements concluded with states and their successors” and article XXIV (2) states that “When disputes cannot be resolved between the parties in relation to such treaties, agreements and other constructive arrangements, these shall be submitted to competent bodies”;

WHEREAS Canada's specific claims process has, since its inception, been plagued by institutionalized conflict of interest, delays, barriers, and systemic bias against Indigenous peoples, a fact recognized by the authors of the Report of the Royal Commission on Aboriginal Peoples (1996), the 2006 Standing Senate Committee on Aboriginal Peoples (*Negotiation or Confrontation: It's Canada's Choice*), and in 2016 by the Office of the Auditor General (*Report 6—First Nations Specific Claims—Indigenous and Northern Affairs Canada*), which concluded that Canada's Department of Indigenous Affairs grossly mismanaged the specific claims process and that its implementation introduced new barriers for Indigenous peoples seeking just resolution of their specific claims;

WHEREAS BC is uniquely affected by these pervasive failures of the specific claims process to resolve claims and has a disproportionately high number of total claims (40–50 percent of all claims in Canada) and rejected claims, while unresolved claims continue to have significant, tangible impacts on communities;

WHEREAS the UBCIC and, more recently, the BC Specific Claims Working Group (BCSCWG) have played a pivotal leadership role in advocating for a fair specific claims resolution process in which all

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Grand Chief Stewart Phillip, President

2017-44
Page 2 of 3

parts of the processes are independent of Canada's Department of Indigenous Affairs, and which is based on a Nation-to-Nation approach, with Indigenous peoples as equal partners;

WHEREAS on September 6, 2017, in response to the Auditor General's Report and strong advocacy by Indigenous peoples, the Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, and the Honourable Carolyn Bennett, Minister of Crown-Indigenous Relations and Northern Affairs publicly acknowledged that "the existing specific claims policy and processes [...] are not in keeping with a recognition of rights, or a reconciliation-based approach to addressing issues between the Crown and Indigenous peoples," and announced that Canada is working to completely overhaul the policy in cooperation and collaboration with Indigenous peoples;

WHEREAS the AFN-INAC Joint Technical Working Group (JTWG) is currently the body tasked with reforming the process, "engendering constructive dialogue" on seven topics of specific claims reform (enhanced information sharing and communication; specific claims processing and funding; negotiations; access to mediation; claims valued at over \$150 million; the *Specific Claims Tribunal Act* and other relevant policies, processes, and legislative considerations);

WHEREAS the UBCIC is integral to the JTWG process through the participation of Research Director Jody Woods and the guidance of the BCSCWG;

WHEREAS the BCSCWG is engaging directly with Canada to eliminate the barriers, systemic inequalities, and conflict of interest in all parts of the specific claims process; and

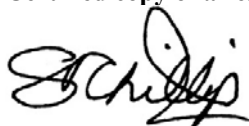
WHEREAS any process for specific claims reform must be accountable, first and foremost, to Indigenous claimants and Indigenous Nations.

THEREFORE BE IT RESOLVED that the UBCIC Chiefs-in-Assembly directs the UBCIC Executive and staff to work with the BCSCWG and like-minded organizations to call on the Government of Canada to establish a truly independent process for the administration, assessment, and adjudication of specific claims that eliminates Canada's conflict of interest and that includes ongoing joint reviews and oversight; and

THEREFORE BE IT FINALLY RESOLVED that the UBCIC Chiefs-in-Assembly directs the UBCIC Executive and staff to work with the BCSCWG and like-minded organizations to call on the Government of Canada to create a clear and definitive timeline of tangible outcomes leading to the formation of this independent specific claims process; this timeline should be jointly agreed upon *prior* to the acceptance of any interim measures or new review processes.

Moved: Kukpi7 Judy Wilson, Neskonlith Indian Band
Seconded: Chief Don Tom, Tsartlip First Nation
Disposition: Carried
Date: September 29, 2017

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Grand Chief Stewart Phillip, President

2017-44
Page 3 of 3