

OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL

JUNE 17TH- 19TH, 2019

MUSQUEAM COMMUNITY CENTRE, X^WMƏΘK^WƏY^ƏM (MUSQUEAM TERRITORY)

Resolution no. 2019-23

RE: Draft Principles to Guide Negotiations and Agreements with the Crown

WHEREAS for decades many First Nations have rejected policies and practices of negotiations, including those through the BCTC Treaty Process, that are not based on the recognition and implementation of the inherent Title and Rights of Indigenous peoples and are not respectful of the rights of all Nations;

WHEREAS the courts have affirmed that Aboriginal title is real, meaningful, and territorial in scope, and not dependent on court declaration or recognition by the Crown for its existence and legal strength. As such, the standard of consent must be met before any lands and resources may be used by the Crown or third parties;

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

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;

WHEREAS all negotiation policies and practices by the federal and provincial governments must be transformed to align with the *UN Declaration* and be based on the recognition and implementation of the inherent Title and Rights of Indigenous Nations;

WHEREAS the province has indicated it is making some changes to negotiations and agreements, and we see a few examples of progress, but these changes are not coherent, consistent, or fully transparent;

WHEREAS it has been four years since Canada committed to new relationships with First Nations based on recognition, respect, co-operation and partnership, yet we see no new legislation or policies to guide negotiation and agreements about lands and resources in a manner that upholds Indigenous Title and Rights;

WHEREAS both BC and Canada have worked in isolation with the First Nations Summit and the British Columbia Treaty Commission to develop a new policy for treaty negotiations without any notice or dialogue with the vast majority of First Nations in the province, who this policy stands to impact;

WHEREAS First Nations leaders in BC met on September 9-10th, 2014 and clearly laid out the following Four Principles as foundations that must be the basis of recognition and reconciliation work:

1. Acknowledgement that all our relationships are based on recognition and implementation of the existence of Indigenous peoples' inherent Title and Rights, and pre-confederation, historic and modern treaties throughout British Columbia.
2. Acknowledgement that Indigenous systems of governance and laws are essential to the regulation of lands and resources throughout British Columbia.
3. Acknowledgement of the mutual responsibility that all of our government systems shall shift to relationships, negotiations and agreements based on recognition.
4. We immediately must move to consent-based decision-making and Title-based fiscal relations, including revenue sharing, in our relationships, negotiations and agreements;

WHEREAS by Resolution 2016-30, the Chiefs-in-Assembly endorsed a draft UBCIC political and legal action plan titled "Moving Beyond the BCTC Process and into Proper Negotiations Based on Recognition and Implementation of Aboriginal Title and Rights" which included an action item to "develop, announce and advance the implementation of a new and detailed approach to negotiations and agreement-making grounded in the recognition and implementation of Aboriginal Title and Rights, and Proper Title and Rights holders, that can benefit all First Nations in BC"; and

WHEREAS on May 22–23, 2019, the UBCIC held a symposium, "Implementing our Title and Rights: Upholding Self-Determination through Nation-to-Nation, Consent-Based Negotiations and Agreement-Making," with a goal of articulating principles that First Nations in BC could use to guide negotiations with the Crown and build upon the Four Principles.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council fully supports the outcomes of the Chiefs symposium contained in the "Draft Report- Implementing our Title and Rights: Upholding Self-Determination through Nation-to-Nation, Consent-Based Negotiations and Agreement-Making";

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council endorses the Draft Principles contained in the report as reflecting a starting point for negotiations and agreements

based on the recognition and implementation of inherent Title and Rights and the standards of the *UN Declaration*;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council may continue to revise or add to the Draft Principles based on comments and input from First Nations;

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive to work with like-minded organizations to ensure the following further work takes place:

1. Development of a strategy for advancing and implementing the principles in negotiations through coordinated action to ensure governments respect them;
2. Development of an action plan for transforming negotiations that in addition to the principles, includes models of agreements, steps and processes that may be applied, and standard tools that may assist First Nations (such as language identifying approaches to certainty that reject reliance on legal techniques) in negotiations; and
3. Planning of more forums on key negotiation topics, starting with consent-based decision-making.

Moved: Simon Smith, Tsartlip First Nation (Proxy)
Seconded: Debbie Abbot, Lytton First Nation (Proxy)
Disposition: Carried
Abstention- Cheryl Casimer, ʔaq'am (Proxy)
Date: June 18, 2019