

Pre-Budget Submission, 2015

**A SUBMISSION TO THE HOUSE OF COMMONS STANDING
COMMITTEE ON FINANCE**

AUGUST 6, 2014



Submitted by

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

500 – 342 Water Street

Vancouver, B.C. V6B 1B6

Ph: (604) 684-0231 Fax: (604) 684-5726

ABOUT THE UNION OF BC INDIAN CHIEFS

The Union of British Columbia Indian Chiefs (UBCIC) is an organization of Indigenous Nations in British Columbia, founded in 1969 and dedicated to promoting and supporting the efforts of Indigenous peoples to affirm and defend Aboriginal Title and Rights. The UBCIC has achieved recognition as a non-governmental organization with special consultative status of the Social and Economic Council of the United Nations. The UBCIC represents 108 Indigenous Nations, more than half of the Indigenous Nations in British Columbia and it is the goal of UBCIC to work with Indigenous Nations to exercise their inherent rights, to assert and implement their Title, Rights and Treaty Rights and to hold the Crown to its obligation to honour and respect those rights.

EXECUTIVE SUMMARY

The UBCIC appreciates the opportunity to provide to the House of Commons Standing Committee on Finance our recommendations with respect to 3 of the 6 thematic areas that are of particular importance to the Standing Committee:

- Supporting families and helping vulnerable Canadians by focusing on health, education and training
- Ensuring prosperous and secure communities, including through support for infrastructure
- Maximizing the number and types of jobs for Canadians

The UBCIC respectfully makes the following recommendations:

Recommendation One: Continue to support First Nations communities and organizations through ongoing investment into local communities, tribal, regional and provincial representative bodies to ensure that Indigenous peoples continue to actively participate in the Canadian economy.

Recommendation Two: To promote social and economic well-being in all communities by focusing on strategic investments on health, education and training which will assist in building mutual understanding and trust within the First Nations-Crown relationship.

Recommendation Three: Advance and equip First Nations peoples with support and resources to adequately engage and fulfill the skills shortages that Canada is now experiencing due to population and labour fluctuations.

Recommendation Four: Investment is required into developing an adequate, effective and productive consultation process with respect to resource development activities on First Nations territories, particularly with respect to fostering and developing mutual understanding and relationships that will contribute to Canada's growing economy.

Recommendation Five: Substantial capacity and resource investment is required to review and revise the federal government's comprehensive claims process. The basis of the BC Treaty Process, the comprehensive claims process seeks to extinguish Aboriginal Title and Rights through a modified or non-assertion models. It is an outdated policy and does not reflect current common law, particularly in the aftermath of the Supreme Court of Canada's *Tsilhqot'in (William)* decision, and is often considered an impediment to the reconciliation of Crown and Indigenous relations.

RECOMMENDATION ONE

Continue to support First Nations communities and organizations through ongoing investment into local communities, tribal, regional and provincial representative bodies to ensure that Indigenous peoples continue to actively participate in the Canadian economy.

Former United Nations Special Rapporteur on the Rights of Indigenous peoples, James Anaya, recently released a report on the situation of indigenous peoples in Canada, in which he noted that the “most jarring manifestation of those human rights problems is the distressing socioeconomic conditions of Indigenous peoples in a highly developed country.” Anaya notes that Canada must intensify measures to close the human development indicator gap between Indigenous and non-Indigenous populations. UBCIC supports Anaya’s call for increased efforts to provide sufficient funding for services for Indigenous peoples both on and off reserve and to insure that the quality of these services is at least equal to that provided to other Canadians.

In 2011, the Auditor General of Canada (AG) to the House of Commons provided a Status Report for programs for First Nations on Reserves. In this Report the AG noted that over the years and decades there have been established organizations and structures to support delivery of programs and services however many local, tribal and regional organizations lack the required capacity and support to deliver important programs and services that would help to close the gap between Indigenous and non-Indigenous citizens. Fundamental changes are needed if meaningful progress is to be realized and substantial funding supports are required to see an increase in the improvement of the lives and well-being of First Nations citizens. If further investments are made at all levels required to provide support and capacity to First Nations citizens, the Canadian economy will continue to grow with robust participation of the growing Indigenous population in Canada.

RECOMMENDATION TWO

To promote social and economic well-being in all communities by focusing on strategic investments on health, education and training as well as building mutual understanding and trust within the First Nations-Crown relationship.

UBCIC strongly asserts that the funding flowing from the Crown with respect to health, education and training is insufficient and unpredictable and as a result continues to undermine the relationship between First Nations and the federal government. UBCIC submits that strategic investment in education is critical to building healthy, prosperous and safe communities. It is widely recognized that education is a powerful factor and would have substantial influence in bringing about robust improvements in all social and economic spheres. Adequate, sustained and needs-based funding for education is required to provide stable, predictable and adequate support First Nations education systems. As former UN Special Rapporteur James Anaya noted in his recent report,

“The Government should work with indigenous peoples to enhance education opportunities for them and in particular should consult with indigenous peoples, through their representative institutions, to address any outstanding concerns they may have related to the proposed First Nations Education Act, including with respect to adequate funding.”¹

UBCIC also submits that improving health, wellness and safety outcomes for First Nations citizens would also have great potential to improve our communities’ prosperity and economic prospects at large. The gap that exists between non-Indigenous and Indigenous populations with respect to quality of life, health and wellness and safety issues continue to persist due to the historical and ongoing processes of colonization, oppression and dispossession. There continues to exist in very real ways systematic racism against First Nations citizens and the UBCIC continues to assert that government must address these issues in a real and tangible way which includes comparable and needs-based funding with respect to health, wellness and community safety.

¹Anaya, James. Report of the Special Rapporteur on the rights of indigenous peoples. July 4, 2014. Recommendation 87, page 21.

RECOMMENDATION THREE

Advance and equip First Nations peoples with support and resources to adequately engage and fulfill the skills shortages that Canada is now experiencing due to population and labour fluctuations.

It is widely known that the Indigenous population in Canada is far outpacing that of the non-Indigenous population. As well, the median age for First Nations is 25 years compared to 40 years for the non-First Nation population. It is estimated that over 600,000 Indigenous youth will enter the labour market between 2001 and 2026 and recognizing and realizing this potential is paramount for the Federal Government. The UBCIC submits that in order for Canada to maximize the number and types of jobs is to ensure a system of supports and sufficient funding for education and skills training directed at Indigenous youth which in turn will fulfill skill shortages that Canada is experiencing due to labour fluctuations. Not only is support and resources are required for the needed capacity building, but investment must be sought to ensure access is facilitated with greater ease by First Nations citizens. Support for reconciliation, community, tribal and regional organizations will only further to strengthen Canada's economy and First Nations access and participation within it.

RECOMMENDATION FOUR

Investment is required into developing an adequate consultation process with respect to resource development activities on First Nations territories, particularly with respect to fostering and developing mutual understanding and relationships that will contribute to Canada's growing economy.

It is clear Canada and First Nations are faced with a significant opportunities and challenges with respect resource development on unceded territories in British Columbia. The federal government has a legal and constitutional duty to meaningfully consult with and accommodate First Nations on any contemplated decision that may impact our Title and Rights. Further to this, with the June 26th Supreme Court of Canada *Tsilhqot'in* decision, it is now necessary that Canada must exercise due diligence, adequate and meaningful consultation with the intent to seek free, prior and informed consent of BC First Nations where potential impacts on territories and resources are considered. UBCIC submits that the federal government must make significant investments into the process and products with respect to consultation and accommodation and reconciliation between First Nations and Crown interests. Establishment of appropriate and collaborative approaches and frameworks to define approaches of engagement with First Nations on resources revenues is now fundamental to doing business within BC.

Former UN Special Rapporteur James Anaya notes in his recent report that there is a dramatic contradiction that face Indigenous peoples in that they often live in poverty within their traditional territories which in turn are full of valuable and plentiful resources. He notes that these resources are often targeted for extraction and development by industry and non-Indigenous interests. He details that the current framework of engagement as a "situation that is an adversarial formwork of opposing interests, rather than facilitating the common creation of mutually beneficial development plans."² Further to this, Anaya recommends that:

"In accordance with the Canadian Constitution and relevant international human rights standards, as a general rule resource extraction should not occur on lands subject to aboriginal claims without adequate consultations with and the free, prior and informed consent of the indigenous peoples concerned. Also, Canada should endeavour to put in place a policy framework for implementing the duty to consult that allows for indigenous peoples genuine input and involvement at the earliest stages of project development."³

² Anaya, James. Report of the Special Rapporteur on the rights of indigenous peoples. July 4, 2014. Para 76, page 20.

³ Ibid, Para 98, page 22.

RECOMMENDATION FIVE

Substantial capacity and resource investment is required to review and revise the federal government's comprehensive claims process (CCP). As the basis of the BC Treaty Process the comprehensive claims process seeks to extinguish Aboriginal Title and Rights through modified or non-assertion models. It is an outdated policy and does not reflect current common law and is often considered an impediment to the reconciliation of Crown and Indigenous relations.

The CCP is not the appropriate vehicle through which to address the Land Question because the negotiating mandates that governments bring to these processes require the de facto extinguishment of Aboriginal Title. The majority of the Indigenous Nations who are members of the UBCIC have chosen not to negotiate modern treaty agreements with the federal government under the BC Treaty Process, largely because of deficiencies in the CCP, which reflects a denial of Aboriginal Title and a surrender and grant-back process. To this end, UBCIC strongly advocates a broad and inclusive approach with respect to any efforts by Canada to discuss questions pertaining to our Aboriginal Title. Due to the problematic nature of this policy, UBCIC requests adequate resources and support directed to developing a framework of engagement and consultation process that incorporates current common law principles and addresses and builds upon processes and reconciliation/relationship building models outside of the Treaty process that are currently being advanced by non-Treaty negotiating First Nations.