
Assembly of First Nations

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Assemblée des Premières Nations

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SPECIAL CHIEFS ASSEMBLY
May 1 & 2, 2018, Gatineau, QC

Resolution no. 04/2018

TITLE: First Nations Role in Changes to the Fisheries Act

SUBJECT: Bill C-68; Fisheries

MOVED BY: Chief Dalton Silver, Sumas First Nation, BC

SECONDED BY: Chief Scott McLeod, Nipissing First Nation, ON

DECISION: Carried by Consensus

WHEREAS:

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:
- i. 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.
 - ii. Article 19: States shall consult and cooperate in good faith with 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.
 - iii. Article 25: Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.
 - iv. Article 38: States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

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- B. The Assembly of First Nations (AFN) has passed three resolutions directly related to the current legislative review of the *Fisheries Act*: Resolution 21/2017, *Respecting Inherent Rights-Based Fisheries in Parallel with the Review of Canada's Fisheries Act*; Resolution 35/2017, *Clarify the Mandate and Scope of the Ministerial Law and Policy Working Group*; and Resolution 74/2017, *Fisheries Legislative Amendments and the Ten Principles Respecting the Government of Canada's Relationship with Indigenous Peoples*.
- C. The House of Commons Standing Committee on Fisheries and Oceans (SCFO) has begun its study of Bill C-68: *An Act to Amend the Fisheries Act and other Acts in consequence*.
- D. Since Bill C-68 introduces changes to the *Fisheries Act* that will directly impact First Nations rights, the AFN submission to the SCFO Committee intends to address this and the dire need to hold the Government of Canada accountable in addressing the legislative impacts of Bill-68 and any accompanying regulation and policy development for First Nations.
- E. The regulation and policy developments that will follow the legislative amendments to the *Fisheries Act* must be done in collaboration and in good faith with First Nations from the outset, in order to address and prevent any infringements to s. 35 rights as outlined and protected by the *Constitution Act*.
- F. There have been numerous commitments by the current government to engage with First Nations in the development of the *Fisheries Act* regulations and policies, and it is imperative that these commitments be fixed into core funding agreements to work with First Nations nationally, regionally, and directly with First Nations as rights holders.
- G. Bill C-68 provisions for "recognizing social, economic and cultural factors, as well as the preservation or promotion of the independence of licence holders in commercial inshore fisheries" are meant to be taken into consideration in decisions. These are meant to provide clear regulatory authorities to support independent inshore licence holders.
- H. The regulation and policy developments must consider the impacts on First Nations fisheries workers, including the impacts of fisheries closures and their lack of eligibility for Employment Insurance benefits in comparison to non-Indigenous fisheries workers.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Call on the Assembly of First Nations (AFN) to urge the Government of Canada to properly fund the work with First Nations as it relates to regulation and policy development with respect to legislative amendments to the *Fisheries Act*.
2. Direct the AFN to engage with the Department of Fisheries and Oceans (DFO) to release information to First Nations in a timely manner as it pertains to plans for regulations and policies that may affect or infringe on First Nations rights and fisheries to facilitate and ensure proper engagement with First Nations.

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3. Call on the AFN to continue its work with the DFO, and any other related federal government departments as needed, to address issues with respect to: upholding First Nations rights, in particular, Canada's legislation must recognize First Nations' inherent and everlasting responsibilities to their traditional territories, and to hold the Government of Canada accountable to its work concerning the rights and recognition framework; the law and policy review; the Ten Principles Respecting the Government of Canada's Relationship with Indigenous Peoples; and the full and unqualified implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* as it relates to the *Fisheries Act* and other legislation, regulations, and policy.
4. Call on the AFN to continue to advocate that any legislative, policy, and program reforms to the *Fisheries Act* must include equitable employment insurance benefits for First Nations fishermen.

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