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## Assembly of First Nations

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## Assemblée des Premières Nations

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**SPECIAL CHIEFS ASSEMBLY**  
**December 5, 6 & 7, 2017, Ottawa, ON**

**Resolution no. 74/2017**

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**TITLE:** Fisheries Legislative Amendments and the Ten Principles Respecting the Government of Canada's Relationship with Indigenous Peoples

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**SUBJECT:** Fisheries

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**MOVED BY:** Chief Dalton Silver, Sumas First Nation, B.C.

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**SECONDED BY:** Chief Charles Morven, Gitwinksihlkw Village Government (Nisga'a), B.C.

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**DECISION:** Carried; 1 abstention

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### WHEREAS:

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) states:

- i. 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.
- ii. Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
- iii. Article 32 (3): States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

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- B.** The Principles Respecting the Government of Canada's Relationship with Indigenous Peoples states:
- i. Principle 1: All relations with Indigenous peoples need to be based on the recognition and implementation of their right to self-determination, including the inherent right of self-government.
  - ii. Principle 2: Reconciliation is a fundamental purpose of section 35 of the *Constitution Act*, 1982.
  - iii. Principle 3: The honour of the Crown guides the conduct of the Crown in all of its dealings with Indigenous Peoples.
  - iv. Principle 6: Meaningful engagement with Indigenous peoples aims to secure their free, prior and informed consent when Canada proposes to take actions which impact them and their rights on their lands, territories, and resources.
  - v. Principle 7: Respecting and implementing rights is essential and that any infringement of section 35 rights must by law meet a high threshold of justification which includes Indigenous perspectives and satisfies the Crown's fiduciary obligations.
- C.** The Prime Minister mandated a Working Group of Ministers to examine relevant federal laws, policies, and operational practices to help ensure the Crown is meeting its constitutional obligations with respect to Aboriginal and Treaty rights; adhering to international human rights standards, including the UN Declaration; and supporting the implementation of the Truth and Reconciliation Commission's Calls to Action.
- D.** The Government of Canada made a strong statement when releasing its Ten Principles; it was done at the same time as the move to amend legislation, however the legislation and amendment process has been done contrary to ten principles.
- E.** First Nations are aware of legislative amendments such as the Fisheries Act, the Navigation Protection Act, the Oceans Act (Bill C-55), and the proposed Aquaculture Act and accompanying regulations, moving forward without proper consultation with First Nations and in contradiction of the Ten Principles respecting the Government of Canada's relationship with Indigenous peoples and the mandate of the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples.

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

1. Direct the Assembly of First Nations (AFN) to call on the Government of Canada, to respect its own Ten Principles respecting the Government of Canada's relationship with Indigenous peoples within the context of legislative and regulatory reform that impacts First Nations generally, and as it relates to amendments to the Fisheries Act, the Navigation Protection Act, the Oceans Act, and the proposed Aquaculture Act and accompanying regulations.

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2. Direct the AFN to call on the Government of Canada to identify the legislation, regulations, and policies under the scope and review of the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples.
  - a. Seek clarity on the federal government's development of the recognition of rights framework with respect to legislative and regulatory amendments that impact First Nations fisheries.

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