



FOREST PRODUCTS ASSOCIATION OF CANADA

**Submission to the Standing Committee on
Indigenous and Northern Affairs**

**On the Subject Matter of Bill C-15, *An Act
respecting the United Nations Declaration on the
Rights of Indigenous Peoples***

April 8, 2021

EXECUTIVE SUMMARY

Recognizing the important opportunity that this legislation presents to advance reconciliation with Indigenous peoples, the Forest Products Association of Canada (FPAC) would like to provide the Standing Committee on Indigenous and Northern Affairs with the following **recommendations** regarding Bill C-15:

1. To foster a common understanding of the Declaration, including provisions related to the principle of Free, Prior and Informed Consent (FPIC), the Federal Government – in collaboration with Indigenous peoples – should involve Provinces, Territories, industry, and the public in the development of the Action Plan. Therefore, Bill C-15 Article 6(1) should be amended to include these groups.
2. To avoid exacerbating existing uncertainties and to reduce the development of new ones, the Federal Government should integrate more specificity in Bill C-15 based on interpretations of the Declaration implications shared with AFN, ITK, MNC and others. Notably, Bill C-15 should specify how it will impact the current duty to consult, the development of natural resources, as well as its implications for provinces and territories.
3. To achieve the objectives of the Declaration, the Federal Government will need to ensure provisions within Bill C-15 to account for the significant resources that will be needed for effective implementation.



INTRODUCTION

The Forest Products Association of Canada (FPAC) welcomes the opportunity to provide comments on Bill C-15, *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*.

FPAC provides a voice for Canada's wood, pulp and paper producers nationally and internationally in government, trade, and environmental affairs. Canada's forest products industry is a \$73.6 billion dollar a year industry that represents 2% of Canada's GDP. Canada's forest industry operates in more than 600 forest-dependent communities from coast to coast, and directly employs 230,000 Canadians across the country.

FPAC and its members are committed to building, maintaining, and enhancing strong working relationships between Indigenous and non-Indigenous peoples that are built on trust, respect, and mutual benefit.

FPAC and its members recognize the important opportunity that this legislation presents to advance reconciliation with Indigenous peoples, and we look forward to working constructively with Indigenous peoples and governments towards the objectives of the Declaration.

INDIGENOUS PEOPLES AND FORESTRY IN CANADA

FPAC and its members recognize that Canada's forests are uniquely important to Indigenous communities, and that they are a vital component of the cultural, spiritual, economic, and social relationships that Indigenous peoples have with the land.

Indigenous communities participate in the forest sector economy in a multitude of ways including joint ventures, contracting, cooperative agreements, and collaborative initiatives. Moreover, Indigenous peoples now hold approximately 10 per cent of the national wood supply.¹

FPAC and its members are committed to facilitating greater Indigenous participation in a thriving Canadian forest sector as it brings significant opportunities to existing and emerging Indigenous-owned businesses and initiatives.

Canada's forest sector employs approximately 12,000 Indigenous workers, which makes it one of the largest Indigenous employers in the country.² There are also

¹ National Aboriginal Forestry Association. (2020). [Fifth Report on Indigenous Held Forest Tenures in Canada](#).

² Natural Resources Canada - Canadian Forest Service. (2020). [State of Canada's Forest 2020](#).

1,400 Indigenous-owned businesses in the forest sector including sawmills, silviculture businesses, and biomass energy facilities.³

With the growing need for a diversity of skills in the forest sector, it is important to provide training and education opportunities that will enable Indigenous people – particularly youth – to more fully consider and pursue forestry-related careers.

CONSIDERATIONS REGARDING BILL C-15

Enacting the United Nations Declaration on the Rights of Indigenous Peoples (the “Declaration”) and aligning existing federal government laws and policies with it will take a whole of government approach and is likely to be a protracted process occurring over many years. The Declaration is considered a key part of reconciliation and decolonization by many Indigenous and non-Indigenous leaders in Canada and will form a foundational piece in this ongoing process. FPAC is committed to engage in the important discussion with Indigenous, federal, provincial and territorial governments as this long-term undertaking unfolds.

In Canada, the Declaration is not only guiding federal policies but also is being considered by provincial and territorial governments. Given that forest management is primarily conducted on public lands in Canada (that are managed by the provinces/territories), a common understanding of the Declaration across federal, provincial, territorial, and Indigenous governments is highly desirable.

Notably, much debate exists around an appropriate interpretation of Free, Prior, and Informed Consent (FPIC), and FPAC acknowledges the technical and legal complexities inherent in the adoption of FPIC with respect to resource use and land management. In particular, the notion of consent may be understood to mean different things to different people and in different circumstances.

Uncertainty about the intent of governments with respect to FPIC introduces differing expectations and with them risks to existing relationships that industry has within the communities where they operate. Discordance in expectations around what FPIC means to governments, Indigenous peoples, industries, and other members of the public could also complicate the growth of new relationships and partnerships. Thus, there is a need to resolve different interpretations of FPIC given the central importance of trusting relationships to the forest sector and to build common understanding and language to underpin these important relationships.

³ National Aboriginal Forestry Association. (2011). [Assessment of Market Development Needs of Aboriginal Forest Products Companies](#).

Recommendation 1: To foster a common understanding of the Declaration, including provisions related to the principle of Free, Prior and Informed Consent (FPIC), the Federal Government – in collaboration with Indigenous peoples – should involve Provinces, Territories, industry, and the public in the development of the Action Plan. Therefore, Bill C-15 Article 6(1) should be amended to include these groups.

As mentioned by Perry Bellegarde in the Toronto Star of January 11, 2021 *“The bill is short. It is one of the simplest pieces of legislation likely to come before Parliament this session”*⁴. While Bill C-15 is short and simple, the Declaration included in schedule is complex and raises many questions as to how it will be implemented. The interpretation of the Declaration and the expectations for its implementation remain highly variable. Thus, we collectively run the risk of having to seek clarifications one question at a time from the legal system. This approach risks undermining economic reconciliation, at least in the short and medium term.

We recognize that not all aspects of implementing the objectives of the Declaration can be specified upfront in Bill C-15 and that co-creating the action plan is important to appropriately uphold the right to self-determination. Still, we believe the government should strive to minimize uncertainties by integrating some key elements of interpretation in the act or in policies related to its implementation.

Since former Bill C-262 was introduced and since Canada became a full supporter of the Declaration “without qualification”, plenty of discussion about the implementation of the Declaration took place. Based on these, the Federal government has started to build and defend an interpretation of what the Bill C-15 will imply as it is now reflected in the Bill Backgrounder⁵ as well as in statements by Honourable David Lametti, Minister of Justice and Attorney General of Canada⁶.

These interpretations are relevant and reduce some of the significant uncertainty that hangs over the implementation of the Declaration, regarding:

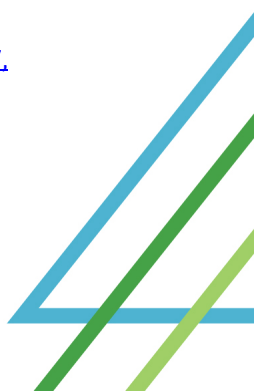
- the implications of Bill C-15 on the current duty to consult,
- the development of natural resources, and
- the role of the provinces and territories.

Currently, these interpretations do not have the force of law and are not enshrined in the Bill. If these interpretations are grounded in the last several months of work with the

⁴ Perry Bellegarde (2021). [Potential to implement UN Indigenous rights declaration a sign of hope for the New Year](#)

⁵ Government of Canada (2021). [Backgrounder: Bill C-15 – United Nations Declaration on the Rights of Indigenous Peoples Act](#)

⁶ Hon. David Lametti, Minister of Justice (2021). [Hansard, Volume 150, No. 060, Wednesday, February 17, 2021](#)



Assembly of First Nations (AFN), the Inuit Tapiriit Kanatami (ITK), the Métis National Council (MNC) and others, and if the government is confident about these interpretations, it would be appropriate and useful to build such details in the Bill. On the other hand, if such interpretations are not shared between those who co-developed Bill C-15, this should be made explicit and addressed through upfront dialogue.

Recommendation 2: To avoid exacerbating existing uncertainties and to reduce the development of new ones, the Federal Government should integrate more specificity in Bill C-15 based on interpretations of the Declaration implications shared with AFN, ITK, MNC and others. Notably, Bill C-15 should specify how it will impact the current duty to consult, the development of natural resources, as well as its implications for provinces and territories.

Finally, the Federal government should keep in mind that many objectives of the Declaration will not be achieved through the mere adoption of Bill C-15 and upholding of the human rights it stresses. Achieving the objectives of the Declaration will require that significant resources be provided to Indigenous communities to support self-determination, their autonomy or self-government and ultimately transition towards ways and means for financing their autonomous functions.

The Federal government need to ensure that long-term, stable, and predictable funding and capacity supports are available for both the development of the Action Plan and its implementation.

Recommendation 3: To achieve the objectives of the Declaration, the Federal Government will need to ensure provisions within Bill C-15 to account for the significant resources that will be needed for effective implementation.

CONCLUSION

FPAC would like to thank the Committee for the opportunity to provide our submissions on this important matter. We look forward to working constructively with Indigenous peoples and governments towards the objectives of the Declaration.

