



First Nations
**FINANCIAL
MANAGEMENT
BOARD**

**CONSEIL
DE GESTION
FINANCIÈRE** des
Premières Nations

A Path Towards Economic Reconciliation That Benefits All Canadians

Support for the Passage of Bill C-15: *An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples*

A Submission to the House of Commons Standing Committee on Indigenous and Northern
Affairs

April 8, 2021

The Need For UNDRIP & Strong Action Plan

There needs to be a place in the Canadian economy for Indigenous communities

- One of the many discriminatory consequences of the Indian Act of 1876 is that it blocked First Nations from participating in the economy in any meaningful way.
 - The Honour of the Crown, treaty rights and Indigenous rights and title create a duty on the part of Canada to accommodate First Nations and to engage them on decisions for activities such as resource extraction.
 - The current uncertainty on rights and title has hindered resource development in this country for the last 10 years.

UNDRIP Provides a Path Forward

- **Passing Bill C-15 begins the process of providing clarity** and is a key step toward reconciliation with Indigenous peoples and unleashing economic growth throughout Canada.
 - Implementing UNDRIP will ensure that the rights of Indigenous people are respected in Canadian law, including establishing the goal of obtaining their free, prior, and informed consent (FPIC) to policies and projects that impact their Aboriginal and treaty rights.
 - **FPIC is not a veto power, nor does it require that every First Nations community agree.**
 - **ESGI (Environmental, Social, Governance, Indigenous) investment trend is already beginning to *de facto* incorporate UNDRIP in investment decisions**

The Implementation of Bill C-15 is More Important than its Passage

- The Action Plan required by Bill C-15 is as essential as the passage of the bill itself.
 - **It is vital that FPIC is not just a term but is actively practiced**
 - The federal government must take a lead role in the practice of FPIC as opposing to leaving these matters to private industry, First Nations and the courts.

Elements of an Effective Action Plan

- The Federal Government must reach out to the private sector and other levels of government to communicate the rights and responsibilities reflected in UNDRIP, particularly FPIC.
- Annual reports to Parliament on UNDRIP must include metrics and targets for advancing reconciliation. The report should be a collaborative effort between Indigenous people, Canada and the private sector.
 - Achieving targets must be a responsibility of every federal department and agency and part of the reporting for all departments and agencies and performance management program for senior officials.
 - One such metric should be increasing the representation of Indigenous people in all ranks of the civil service and federal agencies.
- Invest in the tools that empower self-government.
 - Investment in First Nations communities, infrastructure and institutions is needed **in advance of development** so First Nations can engage with the private sector and the Government of Canada on an equal footing.
 - Create modern day self-government arrangements that reduce the expenditures of ISC and CIRNAC, with funding instead used to support Indigenous governments and their institutions.
 - Communities or aggregations of communities will need strong governance, administrative and financial and investment management capacity to be ready for participating in development and will need capacity to determine economic viability, financing, operations, and wind up.
- Develop more Indigenous professionals through education and workplace opportunities.
 - At present, 10.9% of Indigenous peoples aged 25-64 have a university degree compared to 29.3% of the non-Indigenous population.

- This can change through more high school outreach; Indigenous scholarships for professional programs; co-op, work-integrated learning and other opportunities; and alternative paths to gaining professional designations
- **A framework is required for First Nations that may not have the resources or access to the capacities that they need to deal with the matters that come before them.**
 - The conditions need to exist so that aggregation among First Nations can occur for the purposes of gathering and supporting decisions making.
- **First Nations will also need to access capital on a large scale and at reasonable rates of interest if they want to participate in projects with equity stakes.**
 - The First Nations Fiscal Management Act Institutions and First Nations Major Projects Coalition are the regime through which First Nations can evaluate and fund opportunities.
 - However, these regimes currently face barriers. —There must be more access to capital created through a new fiscal relationship with long term funding.
 - First Nations must be allowed to borrow those income flows (“stacking”) and use the Government of Canada’s balance sheet for guarantees to fund equity participation.

How the First Nations Financial Management Board (FMB) Advances UNDRIP

- FMB is prepared to advance the implementation of UNDRIP by:
 - Continuing our **core activities of building governance and financial management capacity** in First Nations.
 - **Supporting and advancing the work of the First Nations Major Projects Coalition.**
 - Ongoing support of the **development and implementation of the New Fiscal Relationship** between Canada and First Nations, including the 10-Year Grant Program.

- Helping First Nations **gain control of their destinies and out of third-party management** through the Default Management Prevention Pilot Project.
- Implementing our new Financial Management System Support Services pilot program that provides **a platform to some remote First Nations so they can access financial professionals.**
- Starting phase 2 of our First Nations Governance Project, where we provide **a supporting framework for First Nations governments to be full and equal participants** in the creation of the institutions under which they live and to be perpetually in control of their own destinies.
- **Additionally, the *First Nations Fiscal Management Act* should be amended to allow non-*Indian Act* First Nations to work with the FMB and other FMA institutions, so they can control their futures, as is the intent of UNDRIP.**

Conclusion

- The path ahead is clear, passage of Bill C-15 offers opportunities for economic reconciliation, resource development and Indigenous prosperity that will benefit all Canadians.
- The implementation of a strong Action Plan will help unleash the Indigenous economy with a potential boost to the Canadian economy of [up to \\$100-billion according to the Indigenomics Institute](#).



Background on FMB & how its activities will support UNDRIP

About the First Nations Financial Management Board

- FMB is an Indigenous led organization that was created by *the First Nations Fiscal Management Act*, which was passed with all party support in 2005.
- Our role is to support First Nations in the development of strong governance and financial management systems.
- It is optional to work with us and our services are free of charge, to date 312 First Nations from across Canada have scheduled to our *Act*.
- FMB helps First Nations:
 - Pass their own Financial Administration Laws
 - Develop their own financial management and governance capacity
 - Acquire certifications that indicate good financial management to their community and potential creditors
 - Access long term affordable financing through the First Nations Finance Authority (FNFA)
 - Gain eligibility for the Indigenous Services Canada 10-Year Grant
- 183 First Nations have received Financial Performance Certification from FMB, allowing them access to the 10-Year Grant and to raise capital through the FNFA.
- To date First Nations have raise about \$1.3 billion through the FNFA, which they've been able to invest in their economies.
 - Notably the recent Clearwater transaction in Atlantic Canada was made possible by seven First Nations certified by FMB raising capital through the FNFA.

The First Nations Major Projects Coalition

- In 2014, a group of First Nations asked FMB for support to make decisions on possible major projects affecting their traditional lands.
- The FMB assisted these Nations in finding financing options for major projects and becoming better equipped to make informed business decisions.
- As a result, the First Nations Major Projects Coalition was created as an independent organization from the FMB to provide this type of support.
- FNMPC provides First Nations the advice and support they need so they can take their Indigenous rights and title and do the due diligence required to see how they can implement projects instead rejecting them because of a lack of capacity
- FNMPC has developed environmental stewardship frameworks and helped First Nations advance some important projects within their traditional territories.
- There are thirty-five Nations now participating in the FNMPC.
- **The success of the FNMPC has taught that communities can come together and support one another on projects they choose to participate in.**

New Fiscal Relationship and the 10-Year Grant Program

- ISC and the Assembly of First Nations co-developed the 10-Year Grant as part of their report “[A New Approach: Co-development of a New Fiscal Relationship Between Canada and First Nations](#)”.
- The 10-Year Grant allows First Nations to do the following:
 - Better manage finances over a longer period to meet changing community needs
 - Keep unspent funds (no clawbacks of surplus funds at year end)
 - Reduce the amount of reporting and resources needed by First Nations
- The FMB’s governance and finance practices were selected by ISC and the AFN as the framework that should be used in the 10-Year Grant.
- FMB analyzes the financial performance of First Nations and confirm whether grant eligibility criteria are met.

- If the criteria are not met, FMB can work with First Nations to gain eligibility.
- FMB prepares and issue compliance opinion reports on grant eligibility to ISC.
- **FMB supports AFNs calls to implement guaranteed inflationary and population escalators into the 10-Year Grant to support the growth and development of First Nations.**

Financial Management System Support Services

- Remote and smaller First Nation governments have difficulty accessing quality, affordable professional services.
- The inability to access timely and accurate financial information prevents First Nation governments from making informed decisions, which has a direct impact on community well-being, prosperity, and ability to manage their own affairs.
- FMB is setting up a pilot project to provide bookkeeping, accounts payable, accounts receivable, payroll and financial reporting services to 10 First Nation governments through a shared services platform.
- This will allow First Nations as a group to access services and expert advice that they could not have access to individually.

Default Management Prevention Pilot Project (DMPPP)

- In 2016, five First Nations in third-party management across Canada asked the FMB to support them in building strong governance and finance practices to help them get out and stay out of default management.
- FMB started the Default Management Prevention Pilot Project (DMPPP) to help these Nations build the capacity to make informed decisions and create a roadmap for community development and well-being.
- Through the DMPPP, each Nation has access to intense FMB capacity development resources over a three-year period.
- In January 2019, DMPPP added another 20 First Nations to the program.

- FMB considers DMPPP an important tool in enabling First Nations to have control of their own destinies, one of the core values of UNDRIP.

First Nations Governance Project

- In 2018 FNFMB was asked by ISC to examine the characteristics of First Nations governance, and intergovernmental relationships, to support their transition out from under the *Indian Act* to a renewed Nation to-Nation relationship.
- FNFMB established a partnership with the Institute on Governance provide research and analytical support.
- The First Nations Governance Project was organized into two phases:
 - [Phase I](#) defined how Indigenous peoples envision a renewed Nation-to-Nation relationship with Canada in a post-Indian Act, UNDRIP-defined environment, and detailed questions about how Indigenous Nations will interact with Canada and other governments.
 - Phase II will provide answers on how Indigenous Nations will interact with Canada and other governments; and suggest support mechanisms and structures to ensure that Indigenous Nations and Canada successfully engage in an UNDRIP-defined relationship.
- The Indigenous Self-Determination and Governance Framework created in Phase 1 situates the role of good governance by:
 - Providing an overview of the components of First Nations' self-determination within the legislative framework of section 91(24) of the *Constitution Act*;
 - Examining the state of First Nations' self-determination under s.91(24);
 - Suggesting a set of core principles that could form the basis of a renewed Crown-Indigenous relationship, setting the stage for transition out of the *Indian Act*.



- Phase 2 will identify opportunities for First Nations to work together through new models of service aggregation, external training partners, skills development, principled Crown-Indigenous engagement, and other means of realizing greater self-determination within the Canadian federation.
- If and when ISC provides FMB with the mandate and funding for Phase 2, FMB is prepared to deliver what could be a very useful component of the Action Plan to implement UNDRIP.