



**FIRST NATIONS SUMMIT**

**"Thunderbird Rising-First Nations on the move"**

**Grand Chief Edward John  
First Nations Summit  
British Columbia, Canada**

**The 7th International Forum on China's Energy  
Strategies and the 8th Canada-China Energy and  
Environment Forum**

**Beijing, China  
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## **OPENING GREETINGS**

### **NI HAU!**

### **HADI!**

Good morning ladies and gentlemen. As is customary with my people, I would first like to acknowledge the Chinese people on whose lands we meet. And thank you to this university for opening your doors to many visitors from different parts of the world so we can exchange ideas and learn from each other.

I also acknowledge the many students from this university who are here listening to these global level discussions about energy security, global trade and investments, environmental issues and the dignity and well-being of peoples and nations...an incredible learning opportunity.

I am Akilech'oh, Uzah- a proud Chief in the traditional ways of my people. I am also an elected leader and spokesperson on behalf of First Nations in British Columbia. I come here with their message of hope, for their survival as Indigenous peoples and for their dignity and well-being. I want you to understand the state of affairs of First Nations and the equally dynamic and evolving nature of relationships between First Nations and the federal and provincial governments, with industry, business and other third parties.

This, I hope, will help in recognizing where the important opportunities lie, in the development of viable business plans and, ultimately inform business decisions which have to be made. But don't just take it from me. My advice is free. There is an army of well paid expertise out there you should consult with.

I would like to thank Wenran Jiang and the hosts of this conference for the generous invitation. Wenran wrote a report, several years ago, titled, "Asia Rising", a candid synopsis of how Canada could better manage its relationship with China.

This report was very well timed, in advance of several high level state missions by Canada to China and an official visit by President Hu Jintao to Canada.

## **DEVELOPING CONSTRUCTIVE RELATIONS AND PARTNERSHIPS**

I am here today to affirm our views for developing constructive working relationships, as a basis for true partnerships with Aboriginal peoples in land, resource and energy projects. It is imperative that Canadian and Chinese companies work with First Nations, Inuit and Metis communities to help them realize benefits arising from development. Of course it does not mean development at any cost.

We are mindful of our important intergenerational responsibilities particularly to future generations, that in their time they will be able to provide for themselves.

We have experienced much of it negative, impacts of someone else's development and often left with its aftermath. The social-economic disparities facing First Nations communities are real and they are deep with devastating consequences. The jobless rates and reliance on State welfare are unacceptably high. We need desperately to address this. And our communities are doing this, some in our traditional ways. Our people continue to depend on food which we get from our lands and waters, through hunting, fishing and gathering. And our people have and will continue to fight to protect this, as for many this is an important source for their daily sustenance.

We have been coming to China for the last six years to tell our stories to Chinese government officials, officials at State owned enterprises (SOEs) and to private business interests. Why? Because we have seen countless government and industry delegations promoting the abundance of natural resources in Canada, encouraging investment and/or looking for markets. We have witnessed that they talk only about their respective interests...and not that of Aboriginal peoples. We have witnessed that the lands and resources they are marketing or wanting to develop are those which are within the traditional territories of Aboriginal peoples.

There are many constructive development proposals where government and industry officials have consulted with and ensured Aboriginal people receive benefits...not just to shareholders and corporate officials in faraway places. Nonetheless there are development proposals which are very controversial because of their incredibly high risks to the environment, to lands and waters, to our people and to all the resources, including foods which we take from the land, on which our people continue to depend for sustenance.

A current example which is drawing tremendous negative fire is Enbridge's proposed oil pipeline from Alberta through First Nations territories in northern BC, and the associated oil tanker traffic on Canada's west coast. There is strong opposition from First Nations communities, many non-Indigenous communities and people who are concerned about the environment along the proposed pipeline route. First Nations people along the pipeline route and those who live along the rugged coast where massive oil tankers are expected are very concerned about oil spill impacts on traditional foods harvested from their lands, inland waters and the coastal seas. No one has forgotten Exxon Valdez and its devastating aftermath.

The proposal is in an environmental assessment (EA) process. While most of the benefits will accrue to the neighbouring province those in BC will receive relatively small benefits while facing enormous risks from oil spills or tanker traffic accidents. It is difficult for First Nations to understand how the federal or provincial government will be able to provide the multiplicity of approvals to support the project. As well, neither the provincial nor federal government has undertaken any consultations, as legally required, with First Nations communities. The EA process cannot pass for the governments' legal duties and responsibilities to consult.

Canada recently concluded a Foreign Investment Promotion and Protection Agreement with China. Of course this is not the only such agreement Canada or China has concluded. Both have entered into many such agreements with other nations.



Notwithstanding this however this particular agreement has received some negative responses from many First Nations because they are concerned that the lands and resources within First Nations territories will become pawns in a much larger global game, over which they will have little or no say or role. As well Canada's fiduciary obligations to aboriginal peoples may well end up in conflict with Canada's international obligations. The underlying concern is that their aboriginal and treaty rights and interests will be sacrificed at the altar of international trade. There are obligations in some modern day land claims agreements such as with the Maa-nulth First Nations, which stand to be impacted. The provisions in these agreements state that if Canada enters into international arrangements it must consult with them. To my knowledge this has not been the case. Of course as is self-evident there was, and are still no consultations by Canada with First Nations.

### **FIRST NATIONS STEPS IN CHINA**

In our missions to China over the last 6 years we have worked diligently: to better understand China's interests and needs to support its economy and its people; to develop relationships; and create expertise for business and investment opportunities. We see a country on the move, fast becoming a major global economic force. Everywhere we travelled we witnessed transforming changes. We see the large, unprecedented and growing needs and gaps, which a country of 1.3 billion people must meet. The population shift to urban areas and a growing middle class population is astounding.

During and following these missions we are faced with unprecedented number of inquiries from private or State owned companies interested in investing in resource development and looking for market opportunities. The practical problem for First Nations is that, although there may be abundant lands and resources within their territories, the lack of investment capital becomes a major impediment. Of course we do see companies in Canada which offer First Nations equity positions in development proposals knowing full well that to raise the necessary capital is extremely difficult. If however First Nations are able to access or develop this investment capital base it will change the game enormously.

### **TOTEM POLE DIPLOMACY**

In July 2008 a group of First Nations leaders from British Columbia were in China on a forestry mission. One day during breakfast in Beijing a leader brought to the attention of the delegation a picture on the front page of China Daily. The photo was of a Qiang elder holding a drum in front of the ruins of his home in Beichuan, Sichuan. Their city was devastated during the May 12, 2008 earthquake which saw 90,000 people perish. A small delegation of First Nations leaders eventually received access to meet the people impacted by the earthquake, the first high level delegation from Canada to be invited to the old city of Beichuan. We, as we do in our own communities, brought our drums, regalia and songs to support those families who were grieving. Somehow this quickly lead to a level of trust and the start of an important relationship based on cultural values

and exchange. One thing we have come to understand is how important culture is to the Chinese. It is a basis for developing a different set of relationships...not just one based purely on commerce.

After returning to Canada and some internal discussions, the Chiefs decided to have a totem pole carved...to support those in mourning, but also as a small gesture to acknowledge, but not replace, the many cultural treasures lost in the earthquake. In 2010 I was fortunate to be invited to join Michaelle Jean, then Governor General of Canada, on her final official State visit, which was to China. We requested that we bring the 5m totem pole on her military jet and to her credit she agreed. As it turned out, with the delivery of the pole to the Qiang people in Chengdu it became, not just a gesture of goodwill from First Nations in Canada, but one on behalf of all Canada. We were extremely proud to be involved in this effort. In a farewell reception in Beijing for the Governor General, President Hu Jintao graciously acknowledged the gift in the following statement:

"I want to thank the Chief for the totem pole to the Qiang people. This symbolic and generous gesture is very much appreciated. It helps to build an understanding between our peoples. It is important for a community that has experienced so much difficulty to have this support".

Last autumn, on the day the Qiang people celebrated their new year, a delegation that included the National Chief of Canada, helped raise that totem pole outside the beautiful new museum in the new city of Beichuan. It was certainly a proud and inspiring moment to witness the spirit of survival, pride and dignity of the Qiang people. The people who lost loved ones were able to move on, even if just for a moment. It was a celebration of cultures and a culmination of four years of diplomacy.

Because it was based on strong cultural values and underpinnings some have resorted to calling it "totem pole diplomacy".

### **FIRST NATIONS 'CHINA STRATEGY'**

More recently, due to increased interest in investments in British Columbia from China, First Nations, in collaboration with the Asia Pacific Foundation developed a plan called: "First Nations and China: Transforming Relationships". This multifaceted plan outlines opportunities for trade, investment, cultural and education exchanges. The intent is to work in collaboration with the federal and provincial governments to better the situation for First Nations. I thank Mr. Woo Pau Yuen for allowing access to his "good offices" and staff to provide the best advice possible for the development of this plan. I also want to thank Wenran Jiang and Wei Shao who were key advisors.

Our commitment to build the processes and institutions referred to in the plan is moving forward:

- In 2007 BC First Nations developed and approved a First Nations Energy Plan;

- In 2008 First Nations created the First Nations Mineral Exploration and Mining Action Plan.
- These two plans form the mandate for the BC First Nations Energy and Mining Council.

It is important to note that it is not just China that has an interest in economic opportunities with Canada. The Canadian Embassy in Japan recently approached the BC First Nations Energy and Mining Council to get a better understanding of First Nations and who they should talk to with regard to natural gas. The 2011 natural disaster in Japan has focused their attention on moving away from their reliance on nuclear power to other possible sources of energy. Malaysia, Korea, India, Indonesia and others are also experiencing tremendous growth and these are economies that we must also engage.

Last month the Japanese Minister of Economy, Trade and Industry acknowledged the "shale gas revolution in British Columbia." This is not an easy development idea. It is fraught with environmental challenges and difficulties. Can it be managed and developed responsibly? This will require our intense examination. Of course we realize the economic potential...but again it cannot be development at any cost.

In BC we have begun to see signs that the provincial government is interested in collaborating on our 2011 First Nations-China Strategy: Transforming Relationships. And yes, it sort of begs the question doesn't it? "If we can build relationships with China shouldn't we able to build relationships at home?". Of course this needs to happen.

## **FIRST NATIONS AND RELATIONS WITH FEDERAL AND PROVINCIAL GOVERNMENTS**

It is estimated by the federal government, that there is \$650 billion worth of resource activities pending in First Nations territories in the coming years.

Every resource project now being pursued, proposed or envisioned in Canada, involves lands and resources in First Nations territories.

The old approach by governments of limited, back-end consultation must stop. It only leads to frustration, conflict and litigation. The new standard of engaging with First Nations, as articulated in the UN Declaration on the Rights of Indigenous Peoples, is "free, prior and informed consent". The Supreme Court of Canada has already articulated some of this in their many decisions on consultation and accommodation.

## **FIRST NATIONS-'STRATEGIC PLAYERS'**

First Nations governments in BC are now better organized to advance our collective interests and to support those who are involved in development initiatives which benefit their communities. It is clear to us that the greatest source of wealth generated in Canada and the provinces comes from the development of lands and resources from



our traditional territories. It is also absolutely clear to us that the greatest source of poverty in Aboriginal communities is the dispossession of, and our inability to access, our lands and resources within our respective territories. These lands were wrongfully taken during the colonial era of the province. It is our fundamental aim to change this. Why shouldn't aboriginal peoples benefit from the development of lands and resources in their territories?

Although First Nations may not be big players in the scheme of things, they are "strategic players" because most of the lands and resources considered for development are located within their traditional territories.

We are building our capacity to negotiate and work with other governments and industry. Our youth are attending universities, colleges and trade institutions in unprecedented numbers. Like anyone else they need a good education as well as access to business and work opportunities to provide for themselves and their families.

### **THE "LAND QUESTION"**

First Nations land rights in BC have not been properly, nor fully resolved. Colonial period authorities in the mid-1800s unilaterally took Indigenous lands without the knowledge of, consent from, compensation for or agreement with First Nations. Current negotiations in BC are fraught with difficulties. From those First Nations in land rights negotiations one of the largest issues is the "take it or leave it" approach of governments. This is premised on governments' unilateral underlying policies mired in tired colonial attitude of denial and superiority do not lead to good faith negotiations.

With limited resources and capacity we have had some strategic successes in the courts. Since aboriginal and treaty rights were "recognized and affirmed" in Canada's 1982 Constitution there have been some 40 cases from the Supreme Court of Canada which have clarified the nature and scope of the rights.

To my knowledge, in all proceedings before the courts we have never once seen any government (federal or provincial), or corporate interests, on our side of the court room. They are always on the other side, protecting their own interests, spending incredible amounts of money in their continued fight against our interests, despite the fact that they have fiduciary responsibilities as determined in numerous court decisions.

The Supreme Court of Canada has determined that: "aboriginal title" to lands and resources is an aboriginal right; it has never been extinguished; it is a legal interest in land; it includes an "economic component" and; it provides First Nations with authorities to continue to make decisions over these interests. And because of these substantive underlying legal rights (aboriginal rights and aboriginal title) governments have legal duties to consult with First Nations when the lands and resources in First Nations territories are considered for development. It is not optional. The governments, and resource based industries, simply cannot continue on a path of unilateral decision making. Those days are over.

These same governments and industry interests which continue to deny our rights to our lands and resources, the source for our greatest potential for development are very same ones who condemn our people for dependency on government fiscal transfers to support staggering rates of poverty, unemployment, homelessness, poor housing and water quality, incarceration levels for men, women and juveniles and so on. The unacceptable social-economic disparities are a national disgrace. We need to change this.

Meanwhile the continued unresolved "land question" in much of BC creates an even greater need to work in collaboration prior to any type of development. Otherwise the "uncertainty" facing domestic and foreign investors and developers will continue.

## **INTERNATIONAL STANDARDS**

At the international level, 5 years ago, the United Nations adopted the "Declaration on the Rights of Indigenous Peoples" confirming rights which are considered minimum standards for the "survival, dignity and well-being" of the world's Indigenous peoples. It provides an additional normative framework for improved State-Indigenous relations. As well it is an important remediative instrument for reconciliation of historic and continued injustices and violations of human rights.

There are significant efforts underway to "implement" the rights, norms and standards in the Declaration. For example a handbook for Parliamentarians will be released soon to guide them in determining how States will be able to incorporate the Declaration's provisions in the law and policy making initiatives.

The UN Global Compact, a strategic initiative to support business to align their operations to include standards relating to human rights, labour, environment and anti-corruption, is in the process of developing a "guide" on the implementation of the Declaration. (see: Michelle Lau; [http://unglobalcompact.org/Issues/human\\_rights/indigenous\\_peoples\\_rights.html](http://unglobalcompact.org/Issues/human_rights/indigenous_peoples_rights.html)). This initiative would support industry to develop policies, standards and practices to respect Indigenous rights and engage Indigenous peoples more effectively.

It goes without saying that First Nations are not against development. It is development at any cost, which destroys what sustains our people that is not supported. For us, the protection of the environment is critical. We have a teaching from our elders which says: "take care of the land and the land will take care of you." This is underscored with the principle that we have responsibilities to each other, to the land, environment and ecosystem and, to future generations.

Development initiatives which respects and incorporates these fundamental principles are always welcomed by First Nations.

In September 2011, BC Premier Christy Clark announced the BC Jobs Plan called "Canada Starts Here". This plan is built on the following pillars:



- Expanding markets to Asia;
- Strengthening infrastructure;
- Working with employers and communities to enable job creation.

We firmly believe that, if executed in genuine collaboration and partnership with First Nations, this plan could create thousands of jobs and increased business opportunities in the mining, forestry, energy, agri-foods, tourism, transportation, and technology sectors.

But to be candid we have not yet developed the requisite degree of collaboration needed. We have made many workable proposals (i.e. an international desk which involves First Nations) which unfortunately have been caught up in the bureaucracy. In the future though, we will continue to pursue stronger and better working relationships. In BC we understand that governments come and go.

First Nations' future depends on developing sustainable, beneficial, environmentally sound ways to benefit from the lands and resources in our territories.

As I said earlier, in the past when the resource sectors were proceeding at full bore we did not benefit. Our communities were forced to the courts to block attempts to impose new projects upon us.

Resource exploration and development was booming last year with a record year for expenditures. Besides ongoing mineral and oil and gas exploration there are 5 major natural gas pipeline and LNG proposals to the north coast of BC. Some of these initiatives have involved First Nation. Some have already seen benefits and others are negotiating agreements on LNG terminals and proposed pipelines. For example First Nations currently hold equity positions in the proposed Trans Mountain Pipeline and negotiations are now underway on the proposed Pacific Trails pipeline. The Haisla First Nation, near Kitimat, recently finalized a deal to take ownership of some coastal waterfront lands that could be used to build natural gas export facilities.

## **FUTURE OPPORTUNITIES**

Despite all the major exploration expenditures referred to, what is before us is mostly potential opportunities.

Obstacles which include past failures of government and industries to fully involve, recognize, and respect First Nations have to be removed. While First Nations may not yet be major players in land and resource development initiatives they are none the less "strategic" players.

The lands and resources forming the basis of any development are in the traditional territories of respective First Nations. They are not sitting back and allowing projects to proceed without their direct involvement and say.

I am certain no one wants to continue with what we have today: uncertainty and ongoing litigation. First Nations are able to provide certainty and security of investment and development, provided they are directly involved, that the environment is protected and that their communities benefit.

### **SOME KEY POINTS**

Some keys to creating less conflict, more certainty and positive conditions for First Nations to welcome sustainable resource development include:

- a. corporate and government policies which fully and properly engage First Nations while recognizing and respecting their constitutionally recognized and affirmed aboriginal and treaty rights, including aboriginal title throughout their traditional territories;
- b. support First Nations in developing "strategic level" plans for traditional, contemporary and future sustainable uses of lands and resources within their territories;
- c. ensure the international standards and principles of "free, prior and informed consent" are applied in all aspects of exploration and development in First Nations territories (see Global Compact on "guide" for business relations with Indigenous peoples; and UN Reports on extractive industries and Indigenous peoples including: A/HRC/EMRIP/2012; and A/HRC/21/47);
- d. direct benefits, including fair and equitable revenue sharing, by the Crown, for all exploration and development initiatives and, social impacts mitigation arising from these;
- e. comprehensive "impact benefit" arrangements by industry interests which include early engagement, profit sharing, social impacts mitigation, equity participation, capacity funding and development, jobs and business opportunities;
- f. ensuring State policy and legislative initiatives to address current tenuring system and environmental review processes which fully engage First Nations as rightful holders of legal and constitutional interest to and in their respective traditional territories;
- g. Negotiations policies and mandates by the federal and provincial governments must be consistent with the aboriginal and treaty rights found in section 35 of Canada's 1982 Constitution as has been interpreted by the Supreme Court of Canada; and must also be consistent with the rights in the UN Declaration on the Rights of Indigenous Peoples, the minimum standards to support the survival, dignity and well-being of Indigenous peoples.

## **THE ROAD AHEAD**

The road ahead does not need to be difficult or challenging. We can develop a common agenda. We can find common and practical solutions. We can develop constructive and workable relationships. Certainty for development and investment is within our grasp.

Given the social and economic disparities First Nations face we need real and genuine effort to realize the transformative changes required to make a difference. There is absolutely no reason that First Nations, while protecting important ecosystems on which they continue to rely, cannot benefit from any and all lands and resources development in their traditional territories.

The days of beads and trinkets are long gone. Negotiations must, as the Supreme Court of Canada has repeated said, reflect the "honour of the Crown" and conducted in "good faith" resulting in fair and equitable agreements. The current "take it or leave it" strategies of the federal and provincial governments are not in good, nor reflect the honour of the Crown. Marginalization, denial and minimization of Indigenous rights belong to the dust bins of history.

The structural and human resources capacities necessary for First Nations to fully and properly engage in informed decisions impacting them and, their traditional lands and territories are critical.

First Nations must have the support and resources to build business and marketing capacity, engage in research and development and apply their traditional knowledge to find environmentally sustainable solutions to economic development.

This is not just important to First Nations. It is in our collective interest, including for governments and businesses. For international trade to be better positioned this is essential. There is no shortage of men and women of vision, leadership and business acumen in this room.

We have not walked together. We cannot continue to build on the backs of other peoples and call it development or progress. If you want First Nations cooperation and support...don't continue to walk all over us. Come to our house, knock on our door and ask to come in. I know you will be welcomed. How long you stay, of course, will depend on the relationships you develop.

There are many solid examples of real and genuine steps being taken by First Nations, governments and industry. We should learn from these and apply the important lessons they provide. The Chinese Philosopher Confucius (551-479 BC) had a profound but simple quote: "A journey of a thousand miles begins with a single step."

We need to embark on this together.

**XIE XIE  
SOO OHT'EH!  
AWET ZA!**