SPECIAL CHIEFS ASSEMBLY
DECEMBER 8, 9 & 10, 2009, OTTAWA, ON

Resolution no. 44/2009

TITLE:	Federal Imposition of Legislation on First Nations
SUBJECT:	Duty to Consult and Accommodate
MOVED BY:	Ava Hill (Proxy), Six Nations, Ontario
SECONDED BY:	Chief Cyrus Standing, Wahpeton Dakota Nation, Saskatchewan
DECISION:	Carried by Consensus

WHEREAS:

A. The Crown duty to consult has been well articulated by the Supreme Court of Canada and applies to any action or initiative that will affect First Nations' aboriginal or treaty rights.

B. In Resolution 22-2008, Chiefs-in-Assembly affirmed consultation, accommodation, and the free, prior and informed consent of First Nations is a requirement with regard to all legislative measures that affect First Nation aboriginal and treaty rights.

C. Water rights, access to land and Citizenship are First Nations jurisdictions and fundamental to First Nation aboriginal rights.

D. The Government of Canada is pursuing legislation in a number of areas (notably, Water, Citizenship and Matrimonial Real Property) that will have detrimental impacts on First Nations' interests, rights and title including, without consulting with First Nations.

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

1. Call on the Government of Canada to withdraw all legislation potentially affecting First Nations jurisdictions and rights unless and until it meets First Nations' standards and definition of Consultation, including accommodation with full, free and informed consent.

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2. Further call on the Government of Canada to work collaboratively with First Nations to develop a consultation policy and process that includes clear standards and a commitment to provide adequate resources for First Nations to engage whenever laws are contemplated.
3. Direct the AFN Secretariat, with input from Regions, to plan, organize and implement a national advocacy and education effort for all Members of Parliament (MPs) to gain support for ensuring full consultation and accommodation including full, free and informed consent of First Nations interests in the development of legislation.
4. Call on all Chiefs and Provincial and Territorial Organizations (PTOs) to participate in national advocacy and education wherever possible, to work with AFN in the development of materials and perspectives and to lobby their own local MPs on a priority basis.

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