



ANNUAL GENERAL ASSEMBLY
July 9, 10, 11, 2024, Montreal, QC

Resolution no. 29/2024

TITLE: Removing Impacts and Reasserting First Nations Jurisdiction and Authority in Carbon Pollution Pricing

SUBJECT: Environment, Climate Change, Jurisdiction.

MOVED BY: Chief Byron Louis, Okanagan Indian Band, BC

SECONDED BY: Judy Wilson, Proxy, Osoyoos Indian Band, BC

DECISION Carried by consensus.

WHEREAS:

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

- i. Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs.
- ii. Article 19: States shall consult and cooperate in good faith with the Indigenous peoples and obtain their free, prior, and informed consent (FPIC) before adopting and implementing legislative or administrative measures that may affect them.
- iii. Article 29(1): Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement programmes for indigenous peoples for such conservation and protection, without discrimination.
- iv. Article 32(1): Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories
- v. 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.

B. The First Nations-in-Assembly have passed several resolutions related to carbon pricing, the centrality of First Nations jurisdiction and authority, and the importance of exemptions for First Nations, including: Resolution 24/2023, *Support for an Equitable Carbon Tax on Industrial Fossil Fuel Protection*; Resolution

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25/2023, *Call for an Exemption to the Federal Carbon Levy for First Nation Governments in Rural and Remote Communities*; and Resolution 09/2018, *Develop First Nations-Specific Solutions for the Green House Gas Pollution Pricing Act*.

- C. A central pillar of Canada's approach to climate change is carbon pricing. Since 2019, and the adoption of the *Greenhouse Gas Pollution Pricing Act*, all provincial and territorial governments have been required to have a carbon pricing system in place. Those without a carbon pricing system are subject to the Federal Carbon Pricing Backstop ('Federal Backstop'), comprised of two revenue neutral elements: i) a levy on fossil fuels; and ii) an output-based pricing system for facilities producing high volumes of greenhouse gases.
- D. As of June 2024, the full Federal Backstop applies in Manitoba, Nunavut, Prince Edward Island, and Yukon. The federal fuel charge applies, alongside provincial carbon pricing systems for industry, in Alberta, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, and Saskatchewan. British Columbia, Quebec, and the Northwest Territories have created their own carbon pricing systems that meet the federal benchmark stringency requirements.
- E. In those areas where the Federal Backstop applies, all proceeds must be returned to their province/territory of origin. The federal government has approached this in two ways: i) 90% is returned to individuals through the Climate Action Incentive Payment (now titled the Canadian Carbon Rebate); and 10% is targeted to small and medium enterprises, farmers, and Indigenous Governments.
- F. Starting in 2024-25, the allocation for Indigenous Governments has been increased from 1% to 2%. This amount was determined by the Minister of Finance, without the free, prior, and informed consent from First Nations.
- G. Though Environment and Climate Change Canada has committed to design the mechanisms for return of proceeds to First Nations, the amounts collected from 2021–2023 in Alberta, Saskatchewan, Manitoba, and Alberta have not been distributed to First Nations.
- H. Over the five years of collecting, the amount available to Indigenous Governments will total \$139.8M in Alberta; \$37.7M in Saskatchewan; \$30.6M in Manitoba, \$291.6M in Ontario, \$10.5M in Nova Scotia; \$7.3M in New Brunswick; \$1.69M in Prince Edward Island; and \$7.8M in Newfoundland.

THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:

- 1. Reiterate the call from the First Nations-in-Assembly (Resolution 09/2018, *Develop First Nations-Specific Solutions for the Green House Gas Pollution Pricing Act*) that the *Greenhouse Gas Pollution Pricing Act* must respect:
 - a. First Nations Inherent rights, Treaties, title and jurisdiction, and recognize First Nations Inherent responsibilities to our traditional territories;
 - b. the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), including reference to the standard of free, prior, and informed consent; and
 - c. First Nations right to self-determination, including the creation of First Nations Carbon Pricing Regimes.

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2. Call on Canada to demonstrate transparency by disclosing the allocation formulas underlying the allocation of proceeds to First Nations governments to ensure that First Nations are not being disproportionately impacted and are receiving the entirety of the fuel charge they are paying.
3. Direct the Assembly of First Nations (AFN) to urge Canada to restructure the carbon pollution pricing system to ensure that First Nations can access rebates through means other than the Canada Revenue Agency.
4. Call on Canada to tangibly respond to the outlined requests from First Nations or ensure that First Nations are fully exempt from paying the carbon charge on and off-reserve.
5. Call on the Ministers of Environment and Climate Change Canada, Finance, and other departments to provide adequate financial support for First Nations to minimize the impacts of carbon pricing and explore the implications of carbon pricing on their territories, as well as opportunities for their participation in resource-revenue sharing and in the clean energy economy.

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