ANNUAL GENERAL ASSEMBLY
July 15, 16, & 17, 2008, Quebec City, QC

Resolution no. 11/2008

SUBJECT:	Bill C-51: An Act to Amend the Food and Drugs Act
MOVED BY:	Chief Don Maracle, Mohawks of the Bay of Quinte First Nation, ON
SECONDED BY:	Chief Tim Thompson, Mohawk Council of Akwesasne, QC
DECISION:	Carried by consensus.

WHEREAS:

A. Bill C-51, *An Act to amend the Food and Drugs Act and to make consequential amendments to other Acts*, was introduced in the House of Commons by the Minister of Health, the Honourable Tony Clement, on April 8, 2008. The legislative package proposes amendments to the Food and Drugs Act as well as a new Canada Consumer Product Safety Act;

B. The AFN has conducted an independent legal review of the current draft bill and is particularly concerned that "therapeutic products", as broadly defined in section 3(6) of Bill C-51, would include traditional Aboriginal medicines;

C. It is the opinion of the Chiefs-in-Assembly that the proposed Bill C-51 which involves significant changes to the current Food and Drugs Act, would remove accountability from Health Canada and could endanger our inherent rights and cultural privileges;

D. The AFN is concerned that Bill C-51 has a number of new broad components which may have adverse impacts on Aboriginal and Treaty rights;

E. There is precedent in provincial legislation for the acknowledgement of First Nations rights in relation to traditional medicines;

F. Any aspect of Bill C-51 that limits the fundamental rights of First Nations people to practice or use traditional medicines must be examined to see if it meets the test for justification of infringement of an Aboriginal or Treaty right, and it is the Crown's burden to prove justification;

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Phil Fontaine, National Chief

G. The drafting and subsequent tabling of Bill C-51 was done without appropriate consultation with First Nation governments or citizens and the justification test requires that the federal government engage in effective consultations with First Nations;

H. The proposed legislation would provide the government with relatively unencumbered regulatory power giving them the right to enter private property for the purpose of search and seizure of health related products and traditional medicines without a court appointed warrant and without right of return or right of recourse through the judicial system (Section 23); and

I. The proposed legislation would provide the government with power to designate any natural health product and traditional medicine a prescription drug, making it available by prescription only (Section 15.1(4)).

THEREFORE BE IT RESOLVED that:

1. The Chiefs-in-Assembly direct the AFN to develop a Bill C-51 advocacy and communications plan, if it becomes necessary, which would highlight First Nations concerns about the Act.
2. That the Chiefs-in-Assembly direct the AFN to continue pressuring government to engage with First Nations in a bilateral legislative exercise to ensure that proper consultation is conducted and Aboriginal and Treaty rights are protected.
3. The Chiefs-in-Assembly direct the AFN to advocate for the amendment of Bill C-51 to accommodate First Nations' Aboriginal and Treaty rights to practice and use traditional medicines.
4. The Chiefs-in-Assembly oppose Bill C-51 as presently constituted, and we oppose its enactment as it infringes upon our rights as Indigenous Peoples of this Land to have access to our traditional herbs and remedies and to seek out the assistance of our traditional medicine people.
5. The Chiefs-in-Assembly encourage all Members of Parliament to vote against this proposed legislation as it infringes on the rights of all Canadians as granted under the Canadian Charter of Rights and Freedoms.

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Phil Fontaine, National Chief