ANNUAL GENERAL ASSEMBLY
JULY 12, 13 & 14, 2011, MONCTON, NB

Resolution no. 11/2011

TITLE:	First Nations and Inuit Health Branch (FNIHB) Consolidated Contribution Agreement and First Nations Intellectual Property Rights
SUBJECT:	Health
MOVED BY:	Chief Shining Turtle, Whitefish River First Nation, ON
SECONDED BY:	Chief Dennis Cameron, Tootinaowaziibeeng Treaty Reserve No. 292, MB
DECISION:	Carried by Consensus – 1 abstention

WHEREAS:

A. Considering the following articles of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP):

Article 21

1. "Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, *inter alia*, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security."

Article 23

"Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, Indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions."

Article 24

1. "Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services."

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2. "Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right."

Article 29

3. "States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented."

B. Health Canada has released new templates for Contribution Agreements for 2011-2012 with significant modifications.

C. The modifications to the Contribution Agreement templates include a clause whereby an automatic full license to the Minister to use all materials produced by the recipient of funds under the Contribution Agreement. This allows the Minister to reproduce those materials and disclose them to the public.

D. In past Contribution Agreements, copyright of all materials produced by the recipient remained with the recipient. The Minister could ask for copies of any materials, but could not disclose or distribute the material outside of government.

E. The original provision whereby First Nations retained copyright in materials produced is fair and respectful of a First Nation right to create relevant and targeted materials.

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

1. Mandate the Assembly of First Nations (AFN) to ensure that Health Canada reinstate the original provision respecting the intellectual property rights and documents produced by First Nations whereby the copyright and ownership of such documents remains with the First Nation and their respective organizations and research partners in question. This reinstated clause will replace the new clause that was placed in all new First Nations and Inuit Health Branch (FNIHB) Consolidated Contribution Agreements effective April 1, 2011.

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