

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

FOUNDING HEAD OFFICE
209 - 345 Yellowhead Highway
Kamloops, B.C. V2H 1H1
Tel: 250-828-9746
Fax: 250-828-0319



VANCOUVER OFFICE
5th Floor, 342 Water Street
Vancouver, B.C. V6B 1B6
Tel: 604-684-0231
Fax: 604-684-5726
1-800-793-9701
Email: ubcic@ubcic.bc.ca
Web: www.ubcic.bc.ca

March 16, 2011

Independent Panel
HST Information Office, Ministry of Finance
Via facsimile: 604-775-0727
Via email: submissions@bchstinfo.ca

RE: UBCIC Submission to Independent Panel Analysis of HST Initiative Vote

Dear Independent Panel,

We are writing as per your invitation to provide submission to the Independent Panel Analysis of the HST Initiative Vote (Referendum) Options. UBCIC shares your desire for fact-based information on the impacts of the HST to First Nations individuals and families. In order to carry out the detailed, technical, professional analysis necessary, UBCIC has been working to attain resources from the Ministry of Finance, but unfortunately we have not received any response yet.

The Union of BC Indian Chiefs is mandated by resolution to carry out work regarding HST, as overseen by the UBCIC HST Committee. This work includes seeking adequate resources to support the HST Committee work, including engaging technical advisors to prepare economic and legal analysis of the impacts of HST on First Nations in BC. We continue to state that:

- a) First Nations in BC were not consulted about the shift in the new tax regime;
- b) First Nations are sovereign nations who enjoy international recognition through the United Nations *Declaration on the Rights of Indigenous Peoples*, and Constitutional and judicial recognition of our Title, Rights, and Treaty Rights, including the right to tax, and that the province's unilateral imposition of the HST on First Nations is beyond your jurisdiction;
- c) First Nations in BC experience a disproportionately high level of poverty that is rooted in government policies, legislation, and colonialism, and that the HST stands to maintain and further increase our level of poverty.

In 2009, UBCIC commissioned an initial report analyzing HST and its impacts on First Nations in BC; however, in order to carry out high-level analysis necessary to understand the economic and legal impacts of the HST on First Nations in BC, resources are needed to secure professional expertise. On June 24, 2010, representatives from the UBCIC HST Committee, UBCIC Executive, and First Nations Summit met with then-Finance Minister Colin Hansen to discuss the impacts of the HST and begin an ongoing

dialogue. At this meeting, Hon. Hansen agreed to review a proposal for further in-depth dialogue about the implementation of HST, including a budget and expected outcomes.

The UBCIC HST Committee developed a workplan and budget (enclosed) that would enable collection of the necessary technical information about the HST's impact on First Nations in BC. This budget and workplan was tabled in-person to Hon. Hansen at a meeting on October 4, 2010, and includes the following anticipated outcomes:

- Analysis of economic impacts of HST on First Nations in BC and determined process for addressing;
- Understanding of legal grounding for taxation rights of First Nations in BC;
- Effective communication to First Nations in BC on how HST impacts them;
- Action items under Resolutions 2009-41 and 2010-21.

Given the time-sensitive nature of the required work, and hearing no response, we sent a follow-up letter on November 10, 2010. In this letter, we emphasized that a quick response was needed due to public perception around the HST, and the need to properly understand and communicate how the HST will impact First Nations in BC. We received a response from Hon. Hansen on January 6, 2011, in which he noted:

“In your letter you reiterate your concerns about the harmonized sales tax (HST), including that First Nations in British Columbia were not consulted about the HST, and that the HST will further increase the poverty of First Nations. You also request funding to study the impact of the HST on First Nations in British Columbia. We are reviewing your request and considering potential options.”

Despite the urgency of this work, particularly given Premier Christy Clark's recent suggestion to move the HST referendum up to June 24 from September 24, we have still not heard a response from the Ministry of Finance regarding our workplan and budget. At this point, we have serious concerns that there will not be sufficient technical analysis of how the HST is impacting First Nations in BC prior to the HST referendum.

A stark and extreme gap currently exists in fact-based, economic and legal analysis on how the HST impacts First Nations in BC, despite our continued advocacy, and we encourage the Independent Panel to make this clear in your report. We also suggest that your report recommend providing funding to the UBCIC HST Committee in order to carry out legal and economic analysis, and do follow-up communications work, in advance of the HST referendum.

Should you wish copies of our correspondences with the Ministry of Finance, please contact Andrea Glickman, Policy Analyst with UBCIC via email (andrea@ubcic.bc.ca) or telephone: 604-684-0231.

On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip
President



Chief Robert Chamberlin
Vice-President



Chief Marilyn Baptiste
Secretary-Treasurer

HST Committee Budget Proposal- October 1, 2010

UBCIC HST Committee Budget

Purpose:

To secure funding from the Provincial Ministry of Finance for the operations of the UBCIC HST Committee, who have been mandated by the UBCIC Chiefs Council to determine how the implementation of the HST impacts First Nations in BC, to advocate on behalf of First Nations for appropriate consultation and accommodation, and to secure funding for operations. Funding anticipated from October 2010 to end of fiscal (March 31, 2011).

Operational:

- HST Committee is mandated by UBCIC Resolution 2009-41, 2009-51, and 2010-21
- Structure: Terms of Reference, ratified by Chiefs-in-Assembly in September 2010
- Three (3) members appointed by UBCIC Chiefs Council, one (1) member of the UBCIC Executive
- Policy support provided by UBCIC

Anticipated Outcomes:

- Analysis of economic impacts of HST on First Nations in BC and determined process for addressing
- Understanding of legal grounding for taxation rights of First Nations in BC
- Effective communication to First Nations in BC on how HST impacts them
- Action items under Resolutions 2009-41 and 2010-21

Deliverables:

- Comprehensive and professional report on economic impacts of HST on First Nations in BC
- Legal Brief on taxation rights of First Nations in BC, and impacts of HST
- Workplan
- Communications plan
- HST Committee meetings- approximately 10 internal and external (with Finance Minister)

HST Committee Budget: August 2010-March 31, 2011

Activity	Cost	UBCIC contribution	Request from MoF
Meeting Costs (10 days)	\$8,849	N/A	\$8,849
Economic Analysis	\$25,000	N/A	\$25,000
Legal Brief	\$20,000	N/A	\$20,000
Communications to First Nations in BC	In kind	In kind	N/A
Sub-total	\$53,849	In kind	\$53,849
Administration (5%)	\$2,692.45	N/A	\$2,692.45
GRAND TOTAL	\$56,541.45	N/A	\$56,541.45

UBCIC HST COMMITTEE WORKPLAN V.2, October 2010- April 2011

1.0 Establish UBCIC HST Committee Operations

Tasks	Tools	Responsibilities	Outcomes	Deadline & Status
1.1 Terms of Reference for UBCIC HST Committee	- Draft a Terms of Reference for review by HST Committee -Prepare UBCIC AGA resolution to ratify Terms of Reference	- UBCIC HST Committee -UBCIC policy	UBCIC HST Committee Terms of Reference	-Draft ToR complete -Resolution and final ToR September 17, 2010
1.2 Obtain funding for UBCIC HST Committee	-Budget and Workplan for Minister Hansen	-UBCIC HST Committee -UBCIC policy	Funding for operations, legal brief, and economic report	-Meet with Minister Hansen Oct. 4, 2010
1.3 Determine meeting schedule (internal and external)	- Contingent on funding	-UBCIC HST Committee, UBCIC Executive -UBCIC policy	Meeting schedule	-Determine following Oct. 4, 2010

2.0 Conduct Legal-Economic Research on how HST impacts First Nations in BC

2.1 Determine economic impact of HST on First Nations in BC

Tasks	Tools	Responsibilities	Outcomes	Deadline & Status
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2.1.1 Obtain funding to carry out economic analysis	- Meeting with Finance Minister Hansen	- UBCIC HST Committee and Executive -UBCIC policy	- Funding to proceed with economic analysis	- October 4, 2010
2.1.2 Economic consultant to conduct a detailed analysis of impacts of HST on First Nations in BC	- Economic consultant service	- UBCIC HST Committee	- Professional report on economic impacts of HST on First Nations in BC	-Received quote for analysis; performance dependent on funding
2.2 Determine the legal grounding for taxation rights of First Nations in BC re. HST and in follow-up to UBCIC Resolution 2010-21				
Tasks	Tools	Responsibilities	Outcomes	Deadline & Status
2.2.1 Obtain funding for a legal brief	- Meeting with Finance Minister Hansen - Include funding for legal brief in HST Committee budget	- UBCIC HST Committee and Executive - UBCIC policy	- Funding to proceed with legal brief	- Oct. 4, 2010
2.2.2 Lawyer to provide legal brief	- Mandell Pinder has agreed to do this work.	-UBCIC admin	-Legal brief	-contingent on funding
3.0 Determine strategy and goals of UBCIC HST Committee				
Tasks	Tools	Responsibilities	Outcomes	Deadline & Status
3.1. Using economic report and legal brief, and grounded in resolutions, craft an action plan to encompass strategy and goals of UBCIC HST Committee, and ratify at UBCIC AGA.	- Economic report (contingent on funding) -Legal brief (contingent on funding) -UBCIC Resolutions	-UBCIC HST Committee -UBCIC policy	-UBCIC HST Committee Action Plan to next year.	-November 1, 2010

3.2 Adjust workplan to reflect Action Plan	-UBCIC HST Committee Action Plan and Work Plan V.1	- UBCIC policy	-Updated Workplan	November 1, 2010
3.3 Implement Action Plan	-Action Plan	-UBCIC HST Committee, Executive	-Achieve goals in Action Plan	-November 1, 2010 to March 31, 2011
4. 0 Communicate how HST affects/will affect First Nations in BC				
Tasks	Tools	Responsibilities	Outcomes	Deadline & Status
4.1 Determine communications plan	-Action Plan -Meeting with HST Committee	-UBCIC HST Committee and Executive -UBCIC admin and policy	-Communications plan	Following funding and work, November 15, 2010
4.1. Communicate how HST affects/will affect First Nations in BC	-Communications plan - Economic report - Legal brief - Resolutions -General policy research on HST -UBCIC website	-UBCIC HST Committee and Executive -UBCIC admin and policy	-Information for First Nations in BC on impact of HST	-Ongoing
4.2 Communicate UBCIC HST Committee work and priorities from Action Plan	-UBCIC HST Committee work to date -Communications Plan -Action Plan	- UBCIC HST Committee - UBCIC admin and policy	-Information for First Nations in BC on Actions undertaken by UBCIC HST Committee	-Ongoing -Action Plan November 1, 2010 to March 31, 2011