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News Release

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FIRST NATIONS LEADERSHIP COUNCIL WELCOMES INDEPENDENT BODY ON SPECIFIC CLAIMS

Coast Salish Territory (Vancouver, BC) – The First Nations Leadership Council is cautiously optimistic regarding the federal government's announcement today of a new independent body mandated to make binding decisions with respect to the resolution of specific claims. Legislation for the establishment of this body is expected to be considered by the House of Commons in September 2007.

"An independent panel on specific claims is long overdue," said Regional Chief Shawn Atleo of the BC Assembly of First Nations and a member of the First Nations Leadership Council. "Given this body will possess the necessary mandate with full decision-making authority and an appropriate level of financial and human resources, we expect they ensure that specific claims are fairly considered and equitably resolved in a timely manner."

"The Government of Canada acting as both the judge and jury in the specific claims process has been in a clear conflict of interest. Removing this conflict through the creation of an independent body will ensure that we do not have to wait ninety years to resolve the existing backlog of claims," said Grand Chief Stewart Phillip, President of the Union of BC Indian Chiefs and a member of the First Nations Leadership Council. "Furthermore, an effective Specific Claims Policy must be fully committed to addressing, and not side-stepping, all types of claims regardless of size and scope."

In December 2006, the Standing Senate Committee on Aboriginal Peoples released a report on specific claims entitled, "Negotiation or Confrontation: It's Canada's Choice". The Committee made the following four recommendations:

1. *An increase in funds available for settlements*
2. *The establishment of an independent body on specific claims within two years*
3. *Adequate resources for the existing process*
4. *The adoption of new guiding principles*

"We fully support the recommendations of the Standing Senate Committee on Aboriginal Peoples," said Grand Chief Edward John of the First Nations Summit Political Executive and First Nations Leadership Council. "In particular, we fully agree with the recommendation that First Nations need to be "full partners" with the Government of Canada in the development of legislation and policy to ensure that Canada meets its lawful obligations to First Nations in the resolution of specific claims."

Specific claims arise from Canada's breach or non-fulfilment of lawful obligations found in treaties, agreements or statutes (including the Indian Act). The existing 25-year old federal Specific Claims policy sets out the process for the resolution of these claims through determination of their validity and subsequent negotiations. Of the nearly 900 specific claims currently designated as "under review" by Canada, almost half originate from BC First Nations. Of the more than 300 claims currently with the Department of Justice awaiting legal review, 65 per cent originate from BC First Nations.

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The First Nations Leadership Council is comprised of the political executives of the First Nations Summit, Union of BC Indian Chiefs and the BC Assembly of First Nations. The Council works together to politically represent the interests of First Nations in British Columbia and develop strategies and actions to bring about significant and substantive changes to government policy that will benefit all First Nations in British Columbia.

For more information:

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Background Information

British Columbia First Nations Leadership Council's Issues List Summary Points from February 14, 2007 Letter to CERD

- The British Columbia First Nations Leadership Council takes exception to the manner, tone and content of paragraphs 27 - 42 and 306 - 311 in CERD/C/CAN/18 (5 April 2006), Reports Submitted by States Parties under Article 9 of the Convention.
- Canada purports to champion human rights elsewhere in the world and condemns those who violate international human rights standards, but Indigenous peoples have had to resort to the judicial processes in Canada for the recognition and implementation of their rights. Canada was also one of only two countries on the Human Rights Council to vote against the adoption of the UN Declaration on the Rights of Indigenous Peoples on June 29, 2006.
- Despite the fact that section 35 of Canada's Constitution Act (1982) recognizes and affirms aboriginal and treaty rights Canada as a matter of policy, systematically and continuously denies and rejects the very existence of Indigenous peoples and Indigenous rights to lands, territories and resources as well as Indigenous rights and authorities to self government. Current case law in Canada further defines and supports these section 35 rights but Canada continues to maintain policies consistent with the denial of those rights.
- Despite the many positive decisions by the Supreme Court of Canada in favour of Indigenous peoples and rights, Canada falls back to its historic position, advocating "terra nullius" arguments and that there is "considerable uncertainty about the existence, content and scope of specific aboriginal rights of ownership and use of lands and resources, as well as uncertainty about who are the specific holders of such rights." In other words, Canada argues, it does not know if there are Indigenous peoples or the rights they may have unless these matters are dealt with through expensive and often inaccessible legal processes through Canada's judicial system.
- Crown denials of Aboriginal title and rights are evidenced in litigation with First Nations in British Columbia as well as in land and governance treaty negotiations mandates. This information is provided in greater detail in the First Nations Summit's document entitled Implementation of National Legislation and Jurisprudence concerning Indigenous Peoples' Rights: Experiences from the Americas which have been provided to CERD on a CD and by email.
- In 2005 there were approximately 15 cases before the courts in British Columbia that involved Aboriginal peoples and the federal Crown, provincial Crown, or both and involved Aboriginal rights and title. In 14 of those 15 cases involving Aboriginal rights and title, the federal and provincial Crown advanced various defences that denied the existence of the Aboriginal title in question, asserted that such title remains unproved, or alleged that the Aboriginal title in question was extinguished.
- In 2007 those types of denial arguments are still raised by the federal and provincial Crown.

**Submission to CERD by
First Nations in the British Columbia Treaty Process
Joint Unity Protocol Chief Negotiators Initiative**

Re: Canada's Approach to Treaty Negotiations with First Nations in B.C.

1. Canada has not significantly changed its approach on extinguishment and refusal to recognize aboriginal rights and title.
 - a) Canada refuses to negotiate Treaties based on recognition of aboriginal rights and title. Instead it brings a long list of fixed bottom line positions to the Table. If First Nations want a Treaty, they have to agree. Canada refuses to allow First Nations to hold Treaty lands as aboriginal title lands. The lands must be held as private fee simple lands under provincial government jurisdiction. There is no room to negotiate.
 - b) The recent report from the federal Auditor General states that Treaty negotiations are one of the "most controlled and inflexible processes in the federal government" and that federal Treaty negotiators act "as if the main risk faced by the federal government in treaty negotiations is that of deviating from existing mandates, rather than that of not signing treaties".
2. Canada refuses to commit in Treaties to improve vast gap between the high level of employment, education, health, and social conditions enjoyed by non-aboriginal Canadians and the crushing poverty, unemployment and poor health and living conditions suffered by aboriginal Canadians.
 - a) In fact, Canada potentially makes the situation worse by forcing First Nations to hand over 50% of revenues they generate post Treaty (including property tax revenues from former Reserve lands) to the federal government and by imposing discriminatory double taxation of First Nation corporations that pass on a portion of their profits to the First Nation government.