OUR LAND IS OUR FUTURE

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UNION OF B.C. INDIAN CHIEFS
42ND ANNUAL GENERAL ASSEMBLY
SEPTEMBER 15TH-17TH, 2010
VANCOUVER, B.C.

Resolution no. 2010-43

RE: UBCIC HST Committee Terms of Reference

WHEREAS the provincial government of British Columbia announced its intentions on September 1, 2009 to adopt the proposed Harmonized Sales Tax (HST), combining BC's 7% provincial sales tax with the 5% federal sales tax, and implemented the HST on July 1, 2010;

WHEREAS First Nations in BC were not consulted about the shift to, and imposition of the new tax regime;

WHEREAS 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. The province's unilateral imposition of the HST on First Nations is beyond provincial jurisdiction;

WHEREAS First Nations in BC experience a disproportionately high level of poverty that is rooted in government policies, legislation, and colonialism, and the HST stands to further increase our level of poverty;

WHEREAS the Union of BC Indian Chiefs-in-Assembly created the UBCIC HST Committee through UBCIC Resolution 2009-51 which sets out its mandate:

> The HST Committee are tasked to complete the action items of UBCIC Resolution 2009-41, *Support for work regarding Harmonized Sales Tax (HST) and related tax matters;*

Certified copy of a resolution adopted on the 16th day of September of 2010 in Vancouver, British Columbia

Grand Chief Stewart Phillip, President

WHEREAS the HST Committee mandate was expanded by Resolution 2010-21, *Support for Legal Challenge to Implementation of HST*;

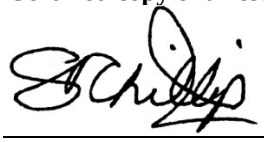
WHEREAS the HST Committee has worked for over a year to advocate for First Nations jurisdiction over taxation in the area of HST;

THEREFORE BE IT RESOLVED that the Union of BC Indian Chiefs-in-Assembly hereby endorse the draft Terms of Reference for the UBCIC HST Committee;

THEREFORE BE IT FINALLY RESOLVED that the UBCIC Chiefs-in-Assembly direct the UBCIC HST Committee to fulfill its mandate as described in the Terms of Reference, and continue reporting regularly to BC First Nations.

Moved: **Chief Ko'waintco Michel, Nooaitch Indian Band**
Seconded: **Chief Janet Webster, Lytton First Nation**
Disposition: **Carried**
Date: **September 16, 2010**

Certified copy of a resolution adopted on the 16th day of September of 2010 in Vancouver, British Columbia



Grand Chief Stewart Phillip, President

UBCIC Harmonized Sales Tax (HST) Committee
Terms of Reference- Draft Two

1.0 Purpose

The HST Committee is tasked to complete the action items of Union of BC Indian Chiefs (UBCIC) work regarding HST and related matters. The HST Committee works with the UBCIC Executive to carry out these action items, and reports to the UBCIC Chiefs Council. The UBCIC Chiefs Council and HST Committee maintain the position that as Indigenous Peoples exercising our sovereignty, First Nations in B.C. have the right to tax.

2.0 Background

The UBCIC Aboriginal Title and Rights Position Paper, revised in 1985, provides a mandate to address issues of jurisdiction and economics including that:

- Only through a process of informed consent may our governing powers of our land be shared;
- The modern expression of our Sovereign Title is called Jurisdiction;
- Each First Nation has the right to define and enforce the areas of Jurisdiction necessary to protect that Nation's Sovereign Title;
- Areas of Jurisdiction over which First Nations may make laws include but are not limited to [areas including]: Economic Rights including resource development, manufacturing, trade, and commerce and fiscal relations.

The UBCIC Chiefs-in-Assembly created the UBCIC HST Committee through UBCIC Resolution 2009-51 which sets out its mandate:

> The HST Committee are tasked to complete the action items of UBCIC Resolution 2009-41, *Support for work regarding Harmonized Sales Tax (HST) and related tax matters.*

The UBCIC HST Committee mandate was expanded by Resolution 2010-21, *Support for Legal Challenge to Implementation of HST.*

3.0 Activities

3.1 The HST Committee carries a mandate to complete the action items in Resolutions 2009-41 and 2010-21. Ongoing action items include (but are not limited to):

- Provide direction on UBCIC work related to HST;
- Provide accountability to UBCIC Chiefs Council through regular reports;
- Work with Fight HST Campaign and other like-minded organizations to publicize impacts of HST on First Nations in BC;
- Seek adequate resources to support HST Committee work, and engage technical advisors to prepare a discussion paper analysing other adverse tax policies affecting First Nations;

- Support the Fight HST Campaign in exploring legal options including a constitutional challenge to the implementation of the HST.

And specifically:

- The UBCIC Executive raises concern with Ministries of Finance of provincial and federal governments regarding HST and impacts on BC First Nations, and calling for meaningful consultation and accommodation including:

    a) Commitments to develop appropriate information packages regarding the application of HST to First Nations;
    b) Inclusion of specific non-derogation language regarding the preservation of section 87 of *Indian Act* tax exemption and continuing rights of First Nations taxation rights under the *First Nations Goods and Service Tax Act* and First Nations Sales Tax prior to B.C. and Canada signing the Comprehensive Integrated Tax Co-ordination Agreement (CITCA) on September 30, 2009;

Completed action items to date include:

- Prepared report for Chiefs Committee analyzing HST and its impacts on First Nations in BC;

- The UBCIC Executive took immediate action to raise concerns with the Ministries of Finance of provincial and federal governments respectively regarding the prospective implementation of a CITCA and call for the establishment of distinct consultation mechanisms and processes for inclusion of First Nations in all implementation.

- Engaged technical advisors to:

    - Prepare a report analysing the HST and its potential impact on First Nations, including the impact on business developments being advanced by First Nations on lands off-reserve;

4.0 Guiding Principles

4.1 The HST Committee's work will be guided by the principles and approaches in the following documents that constitute part of our UBCIC organizational history:

- The UBCIC Constitution, Bylaws and Resolutions that outline the mandate and direction for all UBCIC work, in particular:

    - UBCIC Resolutions 2009-41, 2009-51, and 2010-21 provide direction for all HST work.

- The *Leadership Accord* that commits the UBCIC to working with the other parties to a just resolution of Aboriginal Title and Rights in British Columbia.

- *Transformative Change Accord* recognizes the importance to First Nations' economic development of supporting First Nations' business and entrepreneurial activity;

- "The New Relationship" documenting the Province of BC and the Leadership Council's commitment to work together to achieve "strong governments, social justice and economic self-sufficiency for First Nations," including "realizing the economic component of Aboriginal Title."

- The “Unity Protocol” signed by First Nations involved in the BC Treaty Process demanding (among other items) that taxation exemptions remain; and by UBCIC Resolution 2007-16, the Chiefs Council supports the position and principles contained in the Unity Protocol.

5.0 Membership and Committee Structure

5.1 The HST Committee will be made up of three (3) representatives of the UBCIC Chiefs Council and one (1) member of the UBCIC Executive for a total of four (4) members.

a) By UBCIC Resolution 2009-51, the UBCIC Chiefs-in-Assembly appointed three representatives of the UBCIC Chiefs Council to the HST Committee.
b) The UBCIC Executive will appoint one of its members to serve on the HST Committee.

5.2 The UBCIC Chiefs Council will appoint HST Committee members through UBCIC Resolution and these appointments will be held until:

a) Voluntary resignation by the HST Committee member;
b) The HST Committee member’s First Nation/Indian Band fails to be a member- in-good- standing at the UBCIC Chiefs Council;
c) The UBCIC Executive determines they have fulfilled their term.

5.4 The HST Committee will select one of its members to serve as Chair. The HST Committee Chair will be responsible for chairing meetings and speaking on behalf of the HST Committee when reporting to the UBCIC Chiefs Council.

6.0 Roles and Responsibilities of HST Committee members

6.1 HST Committee members are responsible for working in the best interests of the UBCIC membership.

6.2 HST Committee members will conduct themselves at meetings with respect for all present.

6.3 Each HST Committee member is responsible for keeping up-to-date with Committee issues, activities and meetings.

6.4 Any HST Committee member who misses three (3) consecutive meetings will be asked by the Chair to determine their ability to actively participate in the HST Committee.

6.5 HST Committee members are responsible for working with technical staff to ensure consistent and effective communication amongst UBCIC membership and staff takes place.

6.6 HST Committee members are responsible for working as a cohesive and collaborative group, including collective reporting to the UBCIC Chiefs Council and to UBCIC member communities as requested.

6.7 As per UBCIC Resolutions 2009-41 and 2010-21, the UBCIC HST Committee will work with the UBCIC Executive to communicate with government, other First Nations/Aboriginal political organizations, communities and others with respect to HST Committee work.

7.0 Technical Support

7.1 The HST Committee will receive technical support from UBCIC policy staff.

7.2 UBCIC policy staff will accompany HST Committee members to external meetings when necessary.

8.0 Meetings and Decision-Making

8.1 The HST Committee will meet as required and contingent on funding, and will meet by teleconference when possible.

8.2 A quorum of the HST Committee will consist of a majority of members (50% + 1).

8.4 The HST Committee will strive to make decisions by consensus. When consensus is not possible, the HST Committee will consult with the UBCIC Executive to determine what is in the best interests of the UBCIC.

8.5 The HST Committee will rely on the Chair to work with the technical staff in preparing for meetings, including agendas, briefing materials and reports. If the Chair is not in attendance at an HST Committee meeting, the HST Committee members in attendance will determine a chair for the meeting.

8.6 When relevant, the HST Committee will report on their work at UBCIC Executive meetings during the HST portion of the agenda, either via teleconference or in person.

9.0 Reporting

9.1 As per Resolution 2009-41, the HST Committee will be responsible for reporting to the UBCIC Chiefs Council on current HST Committee work.

12.0 Term

12.1 The HST Committee is a permanent UBCIC committee until it is dissolved through resolution by the UBCIC Chiefs Council.