

Proposed LAB-FNTC Legislative Agenda to Build a More Competitive First Nation and Canadian Economy

Background

As a result of the proposed American tariffs on Canadians exports and other American proposals, there is an emerging federal political consensus (Liberal leadership candidates and Conservatives) about prioritizing stronger Canadian economic growth, border security, defense and reducing the federal deficit and eliminating the consumer carbon tax. It is expected that in the coming months a federal election will be called that will focus on these issues and how best to change our relationship with the USA. It is noteworthy that during the Liberal leadership campaign there have been no new reconciliation commitments, but it is possible that there will be First Nation related promises made in the platforms once an election is called.

In the last few months both the LAB and the FNTC have met with political representatives of the Liberals and Conservatives to advance legislative proposals that could possibly be included in their platforms. In February, the Chair of the LAB, Chief Robert Louie and Chief Commissioner Manny Jules met to discuss a potential joint legislative proposal focused on supporting First Nation and Canadian economic growth to be advanced to both parties so that it could be part of their platforms to be implemented early in their mandate. They agreed to present the proposed joint legislative proposal to their executives in March for their review and possible approval.

Increasing numbers of First Nations are using both the FMA and Framework Agreement on First Nation Land Management to advance their priorities and many are realizing additional benefits by exercising critical governmental authority to greatly increase the value of their lands, improve First Nation law, enforcement, increase land certainty, reduce land transaction costs and generate new areas of revenue.

The FA-FMA Economic Case

First Nations using both the Framework Agreement (FA) and Fiscal Management Act (FMA) have proven that they can grow their economies faster, manage their jurisdictional risks better and implement public sector efficiencies better than government created programs. First Nations using an FA-FMA economic strategy not only grow their own economies faster, but by doing so they speed up Canadian economic growth through higher productivity of people, lands, and resources. This occurs because the FA-FMA jurisdictions are being used to systematically restore a competitive First Nation investment climate that the Indian Act and federal bureaucracy destroyed. In particular, the FA-FMA jurisdictions and capacity support efficiently and effectively close many of the public sector gaps limiting investment in First Nation location and resource economic advantages caused by the Indian Act. Those First Nations that have closed these gaps using the FA-FMA jurisdictions have facilitated more investment and improved infrastructure and services for members and residents (see Ch'íyáqtel First Nation as one example). For more information on the strong FA-FMA economic case see the attached document the economic case for the FMA-FA-Tulo Centre strategy.

As a result of this economic success, it is no coincidence that there is growing political support from First Nations to expand the FA and FMA to support more economic growth. There is also interest from both main

federal political parties in FA-FMA legislative proposals to speed up First Nation and Canadian economic growth through faster ATRs, an improved land registry and greater tax and environmental review jurisdictions.

A Joint LAB-FNTC Policy and Legislative Proposal

It is proposed that the LAB and FNTC support each other in advancing the following:

The FNTC is advancing the following policy and legislative proposals to support more land acquisition for interested First Nations.

- Standard changes to support the expanded use of current FMA revenue options to support land acquisition for the purpose of ATR
- Increase the following First Nation fiscal powers to support more land acquisition (among other First Nation expenditure priorities)
 - Improve the proposed FACT sales tax legislative amendments to include casinos and ATMs, eliminate revenue sharing, support economic land acquisition and development and enable this fiscal power within the FMA.
 - Legislatively enable the collection of FACT excise taxes by interested First Nations within the FMA
- Establish a First Nation Assessment Authority to support improvements for First Nation tax systems, the more efficient acquisition of First Nation lands and to enhance the LAB's proposed new land registry.

The LAB is proposing at least the following proposals:

- A new First Nation land registry and surveying authority to facilitate efficient transfer of interests to First Nation jurisdiction
- A First Nation ATR approval institution
- A possible First Nation communal land title option to move lands directly from provincial to First Nation jurisdiction
- The necessary transfer of authorities so the LAB and registry and survey institution can make required standards and regulations to support better, faster ATRs and other policy objectives.

Other First Nation Institutes

The FNTC and the LAB also propose to work with the First Nation Finance Authority to expand its First Nation self-insurance framework for interested First Nations to support a better ATR risk management system, an improved framework for First Nations to lower insurance premiums for First Nation infrastructure and other critical service systems.

The FNTC and the First Nation Infrastructure Institute (FNII) are also proposing to work with the FNFA and FMB on an improved infrastructure risk management system to support monetization of federal infrastructure transfers to support First Nation location advantages.

Supporting More First Nation Resource Advantages through the FNRT and LAB Supported Environmental Review and Management

The FNTC is proposing that the federal government pass enabling federal amendments to the corporate income tax act to implement the First Nation Resource Tax (FNRT) for interested First Nations and enable FNRT law making powers within the FMA. The FNTC is also proposing that the federal government pass the necessary legislative amendments to enable interested provinces to coordinate their revenue sharing frameworks with the FNRT to create greater certainty (similar to provincial tax agreements with First Nations under the FNGST). The successful implementation of the FNRT will enable First Nation tax jurisdictions in their treaty and title territories.

To potentially complement the FNRT proposal, the FNTC supports proposed FA amendments for interested First Nations to implement FA environmental review and management systems within their treaty and title territories. The FNTC also supports the expanded use of the proposed new registry system into treaty and title territories to operationalize First Nation land, resource, environmental, and cultural land interests.

Other Potential Legislative and Supportive Proposals

In addition to these legislative proposals, the FNTC is working to advance these initiatives that may be of interest to the LAB.

- Implement other legislative changes necessary to transfer lands faster to First Nations:
 - Options for land transfers instead of cash from specific claims settlements
 - A land donation tax credit to support faster First Nation land acquisition.
- Building on the success of the LAB's appointment process, amend the FMA to create an institutional Commissioner/Board appointment and reporting body to provide more accountability to First Nations who exercise jurisdictions under the FMA and their investors instead of the federal government.
- Support the expansion of the Tulo Centre of Indigenous Economics as the only university in Canada that provides accredited training to use the FMA-FA framework for their economic and other priorities, and to implement these proposed FA-FMA enhancements efficiently and effectively.

Proposed Next Steps

1. FNTC presentation at LAB AGM
2. FNTC and LAB review and improvement of joint legislative proposal
3. FNTC and LAB work together to advance improvements to the self-insurance and monetization proposals with other FMA institutions.
4. Subject to LAB and FNTC approval work together to advance joint proposal politically and within government
5. Subject to approval work together on the development and coordination of legislative proposals as necessary