



Hupacasath First Nation
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October 8, 2014

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RE: "Canada-China Foreign Investment Promotion and Protection Agreement" (FIPPA)

We, the Sovereign Nation known as Hupacasath First Nation, brought the court challenge to the "Canada China Foreign Investment Promotion and Protection Agreement" commonly referred to as FIPPA. Our legal challenge was based on our aboriginal rights and title recognized in section 35 of the Constitution Act of Canada. In accordance with the rights Hupacasath First Nation possesses, Canada has the duty to consult us when negotiating an agreement such as FIPPA. This consultation requirement was not fulfilled by Canada.

For your reference, s. 35 reads as follows:

35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

Recently, the Supreme Court of Canada in the Tsilhqot'in Nation v. British Columbia decision determined that aboriginal title does exist and with aboriginal title comes the power to decide how the land will be proactively used and managed, and the rights to enjoyment, occupancy, possession, and to the economic benefits of the land. The federal and provincial governments in Canada are required to obtain the consent of First Nations for development on aboriginal title lands. Where a First Nation has not yet proven title, the Court has said that Canada is well advised and encouraged to obtain the consent of those First Nations.

Hupacasath First Nation will not consent to any development in our territory that negatively impacts or abrogates our title and rights. We launched our court action on FIPPA in order to protect our rights and title and our way of life which is dependent on the existence of certain ecosystems and the maintenance of high environmental standards.

In June of 2013, Hupacasath First Nation presented its legal argument to the Federal Court of Canada challenging the ability of Canada to ratify FIPPA without consulting and accommodating Hupacasath First Nation. The court ruled in favour of Canada. Subsequently, Hupacasath First Nation appealed the decision and our arguments were heard on June 10, 2014 at the Federal Court of Appeal. The Court reserved its decision at the conclusion of the hearing.

While this momentous litigation was still being considered by the Court, the Federal Government of Canada ratified FIPPA on September 12, 2014. They did so without any notice to Hupacasath First Nation such that we could not file an injunction to stop the ratification, and are now deprived of receiving any meaningful remedy from the courts. Hupacasath First Nation believes that the Federal Government of Canada's actions are entirely inconsistent with the Honour of the Crown and an affront to the authority of the Canadian Courts.

Hupacasath First Nation is located on west coast of Vancouver Island in British Columbia. Our territory encompasses 232,000 hectares. Hupacasath has never ceded nor surrendered any rights or title to our lands and resources, and are the proper holder of Aboriginal Title. With that comes the right to decide how our title lands will be used. We have included a map that depicts Hupacasath Territory. You must contact us directly and obtain our consent and agreement for any activity on that Territory. We do not accept that FIPPA overrides our rights and title as the First Peoples of our ancestral lands. As a sovereign people, we have the right to govern and protect our land as we so choose for present and future generations.

Without waiting for clarification from the courts of Canada on its obligations to First Nations and their constitutionally protected rights, the Government of Canada has created a needless situation of conflict which creates considerable uncertainty for the People's

Republic of China.

The manner in which FIPPA was ratified has engendered increasingly strong opposition from First Nations and Canadians across the country, and has served to embroil the People's Republic of China in a domestic dispute. This dispute will take the form of resistance from Hupacasath First Nation and many other First Nations to any resource development on our title lands. Opposition will manifest itself in regulatory processes, court cases, and the defense of our lands on the ground.

We feel it important to inform you of Hupacasath First Nation's views and positions before you decide to do any development within our territory. To be clear, our dispute is with Canada and because of the FIPPA the People's Republic of China has become involved with Canada's internal matters. The People's Republic of China is now on notice that any investment or development proposed by China state-owned corporations is not welcome within Hupacasath First Nation territory.

In Peace and Sovereignty,

Cc Honorable David Johnston, Governor General for Canada
Honourable Christy Clark, Premier of British Columbia
Ghislain Picard, Acting National Chief of Assembly of First Nations