SPECIAL CHIEFS ASSEMBLY
DECEMBER 6, 7 & 8, 2011, OTTAWA, ON

Resolution no.68/2011

TITLE:	Support for Possible Intervention in Nuu-chah-nulth Fishing Rights Litigation (Ahousaht et al v. Canada)
SUBJECT:	Fisheries and Aquatic Resources Management
MOVED BY:	Chief Doug White, Snuneymuxw First Nation, BC
SECONDED BY:	Chief Ian Campbell, Squamish Nation, BC
DECISION:	Carried by Consensus

WHEREAS:

A. The *United Nations Declaration on the Rights of Indigenous Peoples* states in Article 26: "Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired."

B. On November 3, 2009, the BC Supreme Court (BCSC) held that five Nuu-chah-nulth Nations have Aboriginal rights to fish and sell any species of fish available to them in their respective territories (the "BCSC Decision"). The BCSC Decision also held that Canada's regulatory regime relating to commercial fishing infringes the Nuu-chah-nulth aboriginal rights.

C. On May 18, 2011, the BC Court of Appeal (BCCA) substantially upheld the BCSC Decision.

D. Canada has applied to the Supreme Court of Canada (SCC) for leave to appeal the BCCA Decision. If leave is granted, the decision of the SCC will shape the law on aboriginal economic fishing rights generally.

E. The BCSC and BCCA Decisions are significant wins, not only for the Nuu-chah-nulth Nations, but for all First Nations. Thus, an appeal of the BCCA Decision, if the SCC grants leave, is of great interest to all First Nations in Canada.

F. In July of 2010, the Chiefs-in-Assembly resolved to fully support Nuu-chah-nulth Nations and the Nuu-chah-nulth Tribal Council in their ongoing legal battle with Canada to firmly establish First Nation Rights to economic fisheries.

Certified copy of a resolution adopted on the 8th day of December, 2011 in Ottawa, Ontario

SHAWN A-IN-CHUT ATLEO, NATIONAL CHIEF

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Reaffirm their strong support for Nuu-chah-nulth Nations and Nuu-chah-nulth Tribal Council in their ongoing legal battle with Canada to firmly establish First Nation rights-based economic fisheries.
2. Direct that, if the Supreme Court of Canada (SCC) grants Canada's application for leave to appeal in *Ahousaht et al v. Canada*, the AFN intervene on behalf of First Nations nationally in support of Nuu-chah-nulth Fishing Rights.

Certified copy of a resolution adopted on the 8th day of December, 2011 in Ottawa, Ontario

SHAWN A-IN-CHUT ATLEO, NATIONAL CHIEF