

ASSEMBLY OF  
FIRST NATIONS

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ASSEMBLY



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DES CHEFS

# Carbon Pricing in Canada:

A Constitutional Question Currently Before the Courts

DECEMBER 4-6, 2018



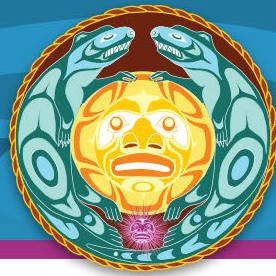
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## Global Climate Change

### International Efforts have been taken:

- United Nations Framework Convention on Climate Change (Paris Agreement) (2016).
- Reducing Emissions from Deforestation and forest Degradation in developing countries (REDD+) (2005, 2015).
- Pan-Canadian Framework on Clean Growth and Climate Change(2016)
- Canada's *Greenhouse Gas Pollution Pricing Act* (2018):
  - United Nations Declaration on the Rights of Indigenous Peoples.



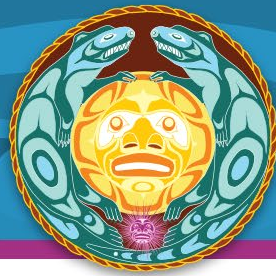
## Is the *Greenhouse Gas Pollution Pricing Act* Constitutional?

The Attorney General of Saskatchewan has asked the Question:

- Does Canada have the authority to impose the charge / tax on Provinces?
  - AFN says yes
- The Federal Government must consult First Nations and authorize our governments to participate in existing carbon pricing regimes or First Nation's generated regimes.

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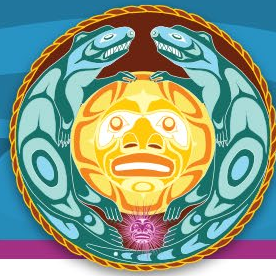
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## UN Declaration– Right to Self- Determination

### First Nations Right to Implement Measures in Traditional Territories

- First Nations people should not be excluded from stewardship efforts taking place in their traditional territories.
- First Nations should play a role in determining the how carbon emissions are reduced.
- First Nations which implement carbon pricing regimes should retain the funds allocated from the regulatory charge.





## Right to Participate in the Economy

### First Nations Economies must be Promoted and Protected

- Canada and other nations have industrialized at a certain pace and it would be unfair to preclude First Nations developing at an accelerated pace using similar methods.
- First Nations are entitled to resources derived from carbon pricing regimes which are implemented across the country (Taxes, Rebates, Exemptions).

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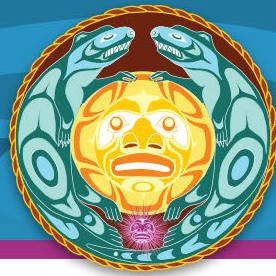
## Free, Prior and Informed Consent

### First Nations have not been adequately consulted

- Implementation of the Greenhouse Gas Pollution Pricing Act has occurred without the Federal Government obtaining free, prior and informed consent (FPIC) from First Nations across Canada.
- First Nations may choose to challenge the Act outside of the current Court case if intervenor status not granted or if the question of FPIC not considered.

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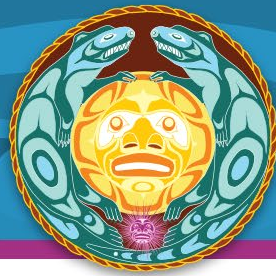
# What we are asking for

## Potential Remedies

- First Nations are given time to create and implement their own regimes which will address the reduction of Greenhouse Gas Emissions:
  - First Nations carbon pricing or other incentive programs.
- Federal and Provincial governments engage First Nations with the aim of incorporating First Nations into existing regimes:
  - First Nations exemptions, rebates and special funds allocated to First Nations Specific programs and services.

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## What we are advocating!

- The larger picture is forward looking.
- First Nations must be further included in Canada's decision-making and development of legislation if the Nation-to-Nation relationship is to develop in a mutually beneficial way.
- The authority Provinces are given over Indigenous lands must be lessened while First Nations governments are properly supported and capacity is built.
- First Nations authority over their people, lands and resources must be respected. Newly developed legislation and policies must reflect First Nations right to participate in governmental process.