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Chair

Mr. Andy Fillmore

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• (1635)

[English]

The Chair (Mr. Andy Fillmore (Halifax, Lib.)): Welcome to the aboriginal affairs and northern development committee. We're going to resume our business here.

For the benefit of committee members, I will be specific and welcome Kevin McKay, co-chair of the Land Claims Agreements Coalition and chairperson of the Nisga'a Lisims Government. He is accompanied today by legal counsel Jim Aldridge.

Cathy Towtongie is co-chair of the Land Claims Agreements Coalition and president of Nunavut Tunngavik Inc. She is accompanied by James Arreak, the CEO of executive services.

Ruth Massie is grand chief of the Council of Yukon First Nations.

Eric Fairclough is chief of the Little Salmon/Carmacks First Nation.

A warm welcome to all of you. Thank you so much for finding time in your busy week to join us while you're in town.

I'm happy to let you know that our proceedings today are being televised, so many others can join us outside of the room. I welcome them as well.

Go ahead, Mr. Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): On a point of order, Mr. Chair, I don't want to interrupt, because this will be a very good meeting. However, I do want to make my colleagues aware that I've filed a motion in response to the emergency crisis that's been declared in Nishnawbe Aski Treaty 9 territory. I think it's very important that we as a committee show leadership here and invite the leaders to meet with us.

I wouldn't normally spring this on people, but in light of a crisis of this magnitude, I think it sends a real sense of respect that we want to talk with the community leaders and just offer, out of this meeting, some solutions that we could bring forward to the government. I'd like to put that on the record.

We can't vote on this today because we should be listening to our guests, but we will have to make a decision on this very soon if we're going to be seen to be responsive.

The Chair: Charlie, thank you for bringing that point forward. We all share your concern for that grave situation. We appreciate that.

I now welcome you to proceed with your presentation as you see fit. We'd like you to talk for about 20 minutes, if you're able to. It can be shorter or longer, as you see fit.

We'll fill the remaining time in the hour, about 35 minutes or so, with questions from the committee members.

Thank you very much.

Ms. Cathy Towtongie (President, Co-Chair of the Land Claims Agreements Coalition, Nunavut Tunngavik Inc.): Mr. Chair, *s'il vous plaît*.

[Witness speaks in native language]

Forgive us; the brochures are not in French, but they're on the land claims coalition. Mind you, a lot of Inuit are trilingual in French, English, and Inuktitut.

Thank you for inviting us.

To begin my presentation to you, on behalf of the land claims coalition, I'd like to thank each of you for listening to us.

I am Cathy Towtongie, and I'm the co-chair and president of Nunavut Tunngavik Inc. I have been in the Inuit leadership for over 30 years. I also sit on the international Inuit circumpolar conference with members from Russia, Greenland, Samis, Canada, and Alaska.

I'm here with Kevin McKay, chairperson of the Nisga'a Lisims Government and my fellow co-chair from the coalition. As you know, along with me are Grand Chief Ruth Massie from the Council for Yukon First Nations and Chief Eric Fairclough from Little Salmon Carmacks First Nation. Also, behind us are Dan Cresswell, one of the chiefs from the Yukon; my CEO, James Arreak; and Jim Aldridge.

The coalition represents aboriginal parties who have signed 24 modern agreements, also called comprehensive land claims agreements. Some of us have signed more than one agreement because we have claims in other jurisdictions. We include Inuit organizations, first nations, and Métis from Labrador to British Columbia. We represent all aboriginal people who have signed modern treaties. We are an informal coalition. We're not incorporated, and we operate by consensus and unity.

This coalition was formed in 2003 because we share many problems relating to the implementation of our modern treaties. To put it in a nutshell, governments have not been meeting their obligations under those treaties.

I will give you a brief overview of modern treaties, since many of you are new to this committee and may not be familiar with them.

Modern treaties, or land claims agreements, are meant to deal with the fact that aboriginal people were living on this continent before European settlers began arriving and that we used and owned the land and had our own social control.

In 1763 King George III recognized we were the first owners of North America and issued a royal proclamation. It said that our lands had to be respected, and non-aboriginal people could not settle on them unless the crown had first made a treaty with us. That means, for those of you who are listening, that we are all treaty people, including yourselves.

The old treaties, called historic treaties and numbered treaties, flowed from the royal proclamation. Sadly, the proclamation was not always followed as it should have been. In the 20th century, after treaties were signed in the Mackenzie Valley and northern Ontario from 1921 to 1930, treaty-making came to an end. Indeed, from 1927 until 1951, it was actually illegal to raise money to pursue an aboriginal land claim.

It was not until 1973, when our friends the Nisga'a went to the Supreme Court, that the Canadian government began to rethink and, in the same year, recognize that aboriginal rights and title had to be dealt with.

Inuit were never part of the old treaty-making process, but we joined the modern process immediately with the hope that our lives would become comparable to other Canadians. We all want what you have: a better cost of living and better lives.

● (1640)

That's what we had expected, but today we can see in the media that our people, the Inuit, are collecting garbage for food in Canada. That's a fact and that's a reality.

It is amazing that the first modern treaty, the James Bay and Northern Quebec Agreement, was signed in 1975, two years after 1973. This treaty was negotiated very quickly. Later agreements have taken decades.

Inuit in Nunavut started documenting our land use. Almost every hunter in Nunavut was interviewed, and in 1976 the government published a three-volume atlas that documented our land use.

In the first preamble of our agreement with Canada, we were insistent that we hold sovereignty for Canada, and it is in our agreement.

It took another 18 years to negotiate the Nunavut agreement. I emphasize that so you will understand the importance it had for us.

We ratified that agreement and signed it in 1993. When we did so, that meant we gave up rights for all time, surrendered and extinguished our rights, including those of our unborn children throughout Nunavut, with the hope that a better future would be present for them.

It is an agreement that is recognized and affirmed in section 35 of the Constitution Act, 1982. It is an agreement that must be carried

out in a way that sustains the honour of the crown. It provides the mission statement of our organization:

Inuit economic, social and cultural well-being through implementation of the Nunavut Land Claims Agreement.

A lot of people are confused about Nunavut. The Nunavut public government is for everyone, but the organization I represent, NTI, Nunavut Tunngavik, represents only Inuit. When we have our elections, only Inuit can vote for my position. I have been the president for more than 16 years.

Sadly, much that needed to be done under our agreement was not done. Of course, parts of the agreement were carried out. Our compensation money was paid, we received title to Inuit-owned lands, and most importantly, a Government of Nunavut was established in 1999. That was a major accomplishment.

However, our agreement is 280 pages long. It includes 42 articles, and many of those articles were not carried out. I'll give you one example.

Our agreement provided for arbitration in the event of a dispute, if we could otherwise not resolve it, but there was a catch: both NTI and the federal government had to agree in advance before any item went to arbitration.

From 1993 to 2006, we attempted to refer 17 disputes with the federal government. In every case, the Government of Canada refused arbitration.

If you can't resolve disputes in any other way, you go to court. In 2006, we began a lawsuit over 16 breaches of our agreement. The 17 cases of the federal government refusing to arbitrate was one of the 16 breaches.

It took us until May of last year. That is almost nine years. After some years of procedural wrangling, discovery, and one victorious summary judgment, the main trial was due to begin. At that point the federal government made an out-of-court settlement because we were able to prove in court that the government, by not implementing those articles, was saving money.

● (1645)

Avoiding implementation does not save money. Our out-of-court settlement involved the federal government paying NTI \$255 million. We can only hope that we have turned the corner. All we look for is that our treaties are with the crown and involve the whole of government; that the government must implement our treaties in a way that meets their broad objectives; that government officials responsible for implementation must be sufficiently senior to make the decisions required to implement our agreements; and that an independent agency that reports directly to Parliament is needed to monitor the implementation of our agreement.

As the committee, we don't want you to go shopping around. The land claims coalition produced a report in 2008 on how to implement modern-day treaties. It was accepted by the Senate, and we would advise you to do the same.

[Witness speaks in her native language]

Merci beaucoup. Thank you for letting me sit here. I'm very honoured. *Nakurmiik.*

•(1650)

The Chair: Thank you so much. It's much appreciated.

Is there more to present? Go ahead, Mr. McKay.

Mr. Kevin McKay (Chairperson, Co-Chair of the Land Claims Agreements Coalition, Nisga'a Lisims Government): Thank you, Mr. Chair, and good afternoon to the members of the committee.

My name is Kevin McKay, and I'm the executive chairperson of the Nisga'a Lisims Government. The Nisga'a Nation, as some of you may or may not know, is located in northwestern British Columbia, just south of the Alaskan Panhandle. We are very proud to be B.C.'s first modern treaty. For your information, on May 11, 2016, we will be celebrating the 16th anniversary of the effective date of the Nisga'a final agreement.

We are, of course, pleased to appear before you today on behalf of the Land Claims Agreements Coalition. We describe ourselves as a coalition because we are just that. This was a deliberate decision that was taken when we were first formed in 2003.

Further to that, we are not a separate political or corporate body. We are not another national organization. The AFN, the Congress of Aboriginal Peoples, and ITK continue as umbrella aboriginal organizations, and our members may be affiliated to one or the other. The coalition is not a similar organization.

Following our 2003 conference, it was decided that we would work together on modern treaty implementation issues. Our principles, as described by co-chair Towtongie, were put forward in 2003, against the background of frustration and disappointment with the way our agreements were being implemented.

For your information, we were close to an agreement with the former Liberal government of Prime Minister Martin in December 2005, when, as we all know, the writ was dropped and discussions ended.

In 2008, the Standing Senate Committee on Aboriginal Peoples issued a report entitled "Honouring the Spirit of Modern Treaties: Closing the Loopholes", in which it agreed with most of our suggestions. We would respectfully recommend that the members of the committee refer to that important document.

In partial response to these concerns and our demand for the adoption of a federal implementation policy in accordance with our four principles, the previous government, after 12 years of continuous lobbying by the LCAC, took some steps forward with the adoption of the cabinet directive on a federal approach to modern treaty implementation.

The directive outlined a whole-of-government approach to implementation. The LCAC has committed to working with Indigenous and Northern Affairs officials to further develop the federal processes and approaches that we are told should improve the federal system of implementation.

The cabinet directive is generally limited to establishing processes which, while constructive, are focused on holding the various federal departments to account. In our view, there are still steps needed to ensure effective and efficient treaty implementation. These include a

public policy, an external oversight body, identification of the broad objectives of modern treaties within the context of the new relationships, and measurement of progress against these modern treaty objectives rather than against a unilateral list of narrow legal obligations.

Additionally, the previous government also took a significant step that, in our view, undermines the success of many modern treaties by adopting "Canada's Fiscal Approach for Self-Government Arrangements" in July 2015.

•(1655)

This fiscal approach purports to be an important step in making funding processes transparent. However, despite certain limited engagement with members of the LCAC, questions and concerns of coalition members were ignored or deferred. The new approach was then produced and adopted behind closed doors, with no meaningful consultation as to its contents. The result is a policy that is in direct contradiction to the solemn promises contained in many of our treaties. It is a policy that seems based upon the idea that Indian Act band funding is the appropriate foundation for aboriginal self-government.

This is the opposite of the nation-to-nation approach to which your government has committed itself. Assurances that the treaties will nonetheless be complied with have not been accompanied by any detailed description about how this can be accomplished.

With the election of Prime Minister Trudeau in 2015, we have been pleased to see that the current federal government has set an overarching goal for the renewal of the relationship between Canada and indigenous peoples, based on recognition, rights, respect, co-operation, and partnership. Our modern treaties were entered into precisely upon this understanding. They represent a reconciliation of our rights with the interests of the crown, and they require co-operation and partnership to be implemented.

Consistent with the mandate letter for Indigenous and Northern Affairs, we wrote to the Minister of Indigenous and Northern Affairs in November 2015, calling upon the honourable minister to, number one, continue to engage with LCAC members on the development of a modern new treaty implementation policy intended to replace current federal operational practices and policies, which are inconsistent with the terms of our constitutionally protected agreements; number two, continue the mandate of the LCAC-INAC working group to collaborate on the implementation and improvement of the federal cabinet directive; number three, immediately suspend the previous government's fiscal approach, as it is a policy developed without consideration for, and is incompatible with, the terms of our agreements; number four, revisit existing negotiation mandates and conclude current fiscal renewal and other financial capacity-building negotiations in an expedited manner, and in accordance with our agreements; and, finally, number five, engage with our members in a meaningful, collaborative manner to develop a proper approach to fiscal relationships between the parties that is based on the principles of the agreements.

We met with the minister on December 7, 2015, in discussions that were brief but that signalled a promising opportunity for renewal and change. Unfortunately, we must report to the committee that certain vestiges of the old top-down approach continue to manifest themselves in the federal bureaucracy in a manner that, in our respectful view, is contrary to the Government of Canada's commitment to a nation-to-nation relationship.

However, notwithstanding that, we are in the early days of developing this new relationship, and we hope to work with the government to change the fiscal approach.

Thank you very much.

• (1700)

The Chair: Thank you very much for that, Mr. McKay.

There are two more speakers, I believe.

Grand Chief Ruth Massie (Grand Chief, Council of Yukon First Nations): Good afternoon. I'm Ruth Massie, the Grand Chief of the Council for Yukon First Nations, and I work for nine self-governing first nations within our organization.

Thank you, committee members, for the invitation to speak to you today about our treaties and the challenges we have experienced to implement them over the past 20 years.

Our treaties are constitutionally protected, and they were negotiated with the spirit and intent of co-governing and co-managing our lands and resources with other governments in our region. "Constitutionally protected" means the provisions in our treaties trump any other federal policy and legislation that affects our treaty regions.

Canada, as a signatory, has the fiduciary obligation to implement the responsibilities and the provisions set out in its treaties with us. Implementation of the agreements has been our biggest challenge from day one. We have spent an incredible amount of time and money defending our treaties. These delays cause our goals to be set aside. Our number one goal is to become self-sufficient and self-reliant as first nation governments.

Self-government should be viewed as a return on investment for Canada. First nations have contributed greatly to the Canadian economy in the past 20 years in our region. We implore you, when considering how to resolve implementation issues, to look directly to the provisions set out in our agreements. Also, the policies that government adopts and works within need to be supportive of the existing provisions set out in our treaties. Government mandates have to be based on the commitments the Prime Minister stated publicly recently. Implementing our treaties together puts us on the path to reconciliation.

I'm joined today by one of my chiefs, Eric Fairclough, who will continue with us.

Thank you.

Chief Eric Fairclough (Chief, Little Salmon Carmacks First Nation): Thank you very much for allowing us to be in front of you to say a few words.

My first nation has about 700 people. We're in the central part of the Yukon. We signed off our final agreement in 1997 and have been working to implement it ever since then.

The Prime Minister of Canada, Justin Trudeau, said that he wanted to promote reconciliation and he wanted to make it a reality. I'll refer back to the letter to Minister Bennett. We believe this committee can play a key role in the promotion of reconciliation. Indian Affairs, or INAC, has been focused on Indian Act bands. The department and the committee need to place a higher priority on modern treaties and self-government.

I'll try to be quick, as I know we're running a bit behind time.

Yukon first nations have signed off on the umbrella final agreement, and 11 of us have final agreements out of the 26 that are in Canada right now, so we do play a major role. We are major contributors to the economic situation in the Yukon. We are partners with the Yukon government on resource management and co-management of lands. Our final agreements have led to a new way of governing. I've always said this to people. Our final agreements have changed the way in which all parties—territorial, federal, and Yukon—govern forever. That change is there. We're not an Indian Act band and we're not a municipality. We are an order of government with powers equal to the provinces and territories.

Yukon first nations, as I said, sacrificed an enormous amount to reach these agreements. It was 30 years of negotiations and millions of dollars to negotiate them, which we paid back. In 93% of our traditional territory, over the last 20 years Canada has done nothing to change its internal policies and practices to make them consistent with the treaties, and more often than not, when policy does change, it takes us backwards instead of forward. The proposed fiscal approach is an example of this. Its implementation will drag us back into the Indian Act world.

The fiscal approach contradicts and violates our final agreements. In several fundamental ways Canada cannot implement its fiscal approach and meet the modern treaty agreement commitments under self-governing Yukon first nations. For example, it does not provide us with the ability to negotiate or reconcile. The modern treaties commit the parties to negotiate an agreement every five years in the Yukon. This new fiscal approach dictates that Canada exclusively provides the transfer solutions. That's not right. If Yukon first nations follow that approach and Canada follows that approach, we all would be breaching the agreements that we've signed together. The land claims agreements are based on objectives that the fiscal transfer will enable the self-governing Yukon first nations to provide programs and services comparable to those prevailing in the Yukon, but the fiscal approach is based on Indian Act band funding.

The land claims agreement recognizes that self-governing Yukon first nations have thousands of square miles of settlement land, co-manage our traditional territories, and are responsible for citizens throughout the territory. It is important to note that the fiscal approach is based on Indian band on-reserve responsibilities. It's a big difference there. The fiscal approach is unacceptable. It's a step backwards for self-governing Yukon first nations. Its implementation will violate the commitments of the Yukon first nations final agreements rather than promote reconciliation. It's not what the Prime Minister said, and it's not what the INAC minister said either, according to their own words.

Thank you.

• (1705)

The Chair: Thank you very much, Mr. Fairclough.

Ms. Cathy Towtongie: Mr. Chair, before we stop, I have just one final example so you'll get a crystal-clear picture.

In December 2010, one staff member from the Department of Fisheries and Oceans banned 17 communities in Nunavut from hunting narwhals. Our land claims coalition agreements are constitutional in nature. They are not agreements with Indigenous and Northern Affairs; they are with the whole of government. We were able to work with Minister Valcourt about a cabinet directive. It's not what we wanted, but it's a first step forward. It's to prevent government administration from breaching our constitutional agreements. Right now, we are at the mercy of the federal government's administration. We need your help.

Thank you.

The Chair: Thank you for that.

I am pleased to tell you that we have committee members who are eager to ask questions of you and to learn from you. To keep things moving, we've developed a little bit of a speaking order. I'm going to turn now to that speaking order.

I'll let you know that we've had to adjust the times, but we've done it equitably for everyone. We're going to have three-minute questions in this round.

Michael McLeod, go ahead, please.

Mr. Michael McLeod (Northwest Territories, Lib.): First of all, thank you for coming on relatively short notice. I appreciate hearing from you.

I've spent my whole life waiting for land claims to be settled in the area where I live. I was hoping that once they were settled, we would drift into a happy future, but it doesn't sound as though that's the case.

We heard from the AFN the other day. They talked about how our policies were outdated and how the government needs to review some of the policies, such as the comprehensive claims policy and others. I watched the Déline, for example, negotiate self-government. In one community, it cost \$70 million to negotiate. It took over 20 years and was a very slow process.

The treaties were supposed to renew the agreements. They were supposed to take the uncertainty out of how to deal with land and self-government and services and the fiscal compensation that were all included in the agreement, but it doesn't sound as though the government is eager, or has been eager during your time, to move forward.

I have three questions. I'll just ask them, and you can answer them as you see fit.

First of all, how does the existing fiscal policy impact your ability for implementation?

Second, what recommendations would you like to make to this committee?

Third, do you feel as though you're working in a nation-to-nation environment now with this situation?

• (1710)

Ms. Cathy Towtongie: Thank you, Michael, for those questions.

A lot of us signed these agreements to get out of the Indian Act, but our experience has been that Indian Act-based funding premises are the key for the administration of government. Not to talk about the failed policies of the past, but fiscal relationships cannot be built upon this fundamentally flawed foundation. A lot of us signed these treaties to ensure we would start from a new foundation that recognized that Indian band funding cannot be the starting relationship, as it was under the Indian Act.

The machinery of government is very deep-rooted. It has to change and shift so that the implementation of this constitutional agreement can be directly carried out, either through a cabinet directive or through the Privy Council, and there can be an independent body to assess how the implementation of these agreements is going, such as the Auditor General's report. That's what Canada needs in order to monitor how the implementation of these agreements is going, where they are at, and how the objectives can be reached. That currently does not exist in the machinery of government.

Chief Eric Fairclough: Perhaps I can answer some of the question in terms of how the existing fiscal policy impacts the implementation. I have a few points.

First of all, the previous government basically adopted this policy, two weeks before the writ was dropped, without consultation with our members. That's important to note. We cannot implement this policy without breaching our agreements. It conflicts with existing terms of our agreements, which require that our fiscal renewal must be negotiated. It's stated clearly in our final agreements in the Yukon that the Government of Canada "shall" negotiate, but the policy uses a formula-based approach that is grounded in the Indian Act. Modern treaties were signed in order to move forward and away from the Indian Act, and our new fiscal policy brings us full circle back to what we have spent decades working to get free from.

It's important to know, too, that the fiscal approach undermines the foundation of modern treaties. It is a key tool that government uses to reconcile the honour of the crown for our people. If Canada wants to change the treaty bargains, then you need to do this through the front door, not by determining our agreements through backdoor policies like this. It's very important.

I just want to add that the new fiscal policy was developed for status Indians under the Indian Act. The biggest thing to recognize here is that our agreements, modern treaties, have done away with the Indian Act, so what is it doing here in the first place?

The other thing is that it recognizes Indians under the Indian Act on settlement land, on reserve land. We provide services throughout our territory and Canada to our citizens. We cannot be lumped into a small group like that. It would tremendously reduce the funding that's available to us.

The Chair: Go ahead, Ms. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): On a point of order, Chair, I know we're a new committee, but certainly in my past, when we created sort of standing orders and time frames and lists, typically if we changed the time frame it was by consensus within the committee.

Obviously there are times when you don't get through your whole speaking order. I just wanted to query the process for this particular committee, because it's not in line with what I've dealt with in the past.

Thank you.

•(1715)

The Chair: Thank you.

My apologies to our guests that you have to see us work through our processes. It certainly wasn't my intention.

We do have a compressed timeline today, so we will move on to the first part of the speaking order as follows: Ms. McLeod will have seven minutes, Mr. Angus will have seven minutes, and Mr. Rusnak will have seven minutes.

That's the best and I think most equitable thing we can do, given our time situation.

If there's agreement, can we proceed?

Ms. McLeod.

Mrs. Cathy McLeod: Thank you.

In the—

Mr. Charlie Angus: I'm very sorry, but I'm looking at the time. If we have to be done by 5:30 p.m., then I would....

You're such a great and nice guy, Mr. Chair. You never say when time's up. If it's seven minutes, you have to beat the clock at seven minutes. Otherwise, it's not going to happen.

The Chair: I'll wave my arms. I'm loath to interrupt our guests.

Mr. Charlie Angus: I'm just asking you to be a little meaner than you normally are.

As well, it's Mr. Saganash who will be speaking.

The Chair: Okay. Thank you.

Go ahead, please, Ms. McLeod.

Mrs. Cathy McLeod: Thank you.

In the spirit of co-operation, if I finish my questions early.... I will try to be somewhat precise.

First of all, I want to congratulate all the members of the coalition. Back in the nineties I participated; I sat at the In-SHUCK-ch and N'Quatqua treaty table as they were working through their process. That was 1995, and they're still not at final agreement. I can just imagine the enormous energy and challenge it has been for all of you to move through this process. I guess to some degree it's a little bit disappointing, because I think it was always the dream that once we got there, we were there. In my riding, the northern part of the Secwepemc is in process and the southern area is not, but hopefully it's not all bad.

Can you perhaps share what some of the benefits have been so that people from the communities that I represent are hearing...? I mean, I think I would be turning away from the process right now. Can you just share a couple of positive things that have come out of this process?

Chief Eric Fairclough: I'll share a couple of things. One thing I said in my opening remarks is that we're major contributors to the economy in the Yukon. The other is we are partners and co-managers with the Yukon government. We have a different style of doing things here.

Out of the final agreements, we have the ability to create laws that could supersede the territorial or federal government's, and those are positive things that could come out of this. You get hampered if you cannot negotiate a fiscal agreement with the Yukon or with the Canadian government to implement your treaties properly.

Mrs. Cathy McLeod: Did shared royalties create some finality in resource development? Was that completed comprehensively within your agreements?

Grand Chief Ruth Massie: I think the resource development royalties are identified in our agreements. The Council of Yukon First Nations has the umbrella agreement. It has established the legislative processes and boards and committees to work with both governments. We really are making great strides to educate the general public so they can also contribute their share to our issues as well.

I see lots of benefits from our agreements. Our agreements in our region are 20 years old. We have new government structures. They've enabled us to employ a lot of our own citizens. There are better programs and services directly at the community levels. We don't have to ask, hat in hand. We also co-manage and share programming with the Yukon government.

It's not always a straight line. Every once in a while we have our difficulties in working with another government, with sharing. First nations have always shared. We've always cared. We've always helped. It's not always that way coming toward us. A lot of it is a learning experience. A lot of it is public. Perception has been positive.

We don't say our agreements in the Yukon are first nations agreements. They're agreements for our region, and that includes every person there. There isn't one resident in our Yukon territory who has not benefited from our agreements. They're employed. It's increased the GDP in our region. It's brought up the population.

I don't know whether some of the new committee members know that under self-government we pay taxes, just like every other Canadian. I know there was a Canadian perception many years ago that you were giving the first nations all this money. We borrowed that money from Canada and we paid back every penny, plus 6%. The Canadian government charged us 6% interest on our land claim loans over a 15-year period. It's almost as if we bought our own land back again.

Now we're working with industries that want access to our resources. We want to be interested in development as well, but we want responsible development, and that's what these agreements are all about. There are rules and regulations on how you play in our backyard, and industry gets that. They're a little more positive than Canada or the Yukon government has been, and they're respectful. That's all we ask: be respectful in our yard, because when you leave, these are our homelands, and we're still here. We don't want any more messes to clean up.

• (1720)

Mrs. Cathy McLeod: Okay, thank you. I'll tell them not to despair. There's still some good hope out of this.

The Chair: Mr. Fairclough, you had your hand up. There are about 20 seconds left in this—

Ms. Cathy Towtongie: The benefits for Nunavut are in our land deal. We knew there was something there, so when they found Sir John Franklin, after 200 years, we own half of that. We get exciting vehicles. Last year a vehicle came over the North Pole from Russia, and a sailing ship came from Romania trying to emigrate to Canada, so we get a lot of excitement when we see these strange vehicles in the Northwest Passage.

That said, I'll give it over to the CEO, but come to Nunavut and you'll see a different part of Canada. I've always said if we weren't part of Canada, we would have been a different country. The cost of living in Nunavut is very high. The structures are designed as if we're living under the regime. The Canadian taxation system is designed as if we're living in the south, because we're always paying taxes.

Thank you.

The Chair: Thank you.

I'm afraid we're well over on that question, so we're going to have to move along.

I was remiss earlier in not also welcoming our colleague from the House, MP Romeo Saganash, who will be asking a question on behalf of Charlie Angus.

Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP): Thank you, Mr. Chair.

Mr. Charlie Angus: He's acting on behalf of the NDP, but he does act as my lawyer as well.

Voices: Oh, oh!

Mr. Romeo Saganash: Thank you, Mr. Chair.

I want to first welcome our witnesses to this committee and especially thank them for their presentations and their contributions to this important committee. I happen to believe this one theme: it's the most important committee on this Hill because of the impacts it has on natural resources and the economy.

You're right, Grand Chief, when you say that signing agreements with aboriginal peoples in this country is not only good for the environment, but it's also good for the economy of this country. I think it's a good path that we're on in signing these agreements.

I first want to start with a very philosophical question, I guess. In the second paragraph of your letter to the Minister of Indigenous and Northern Affairs, you talk about your group advocating for modern treaty implementation policies since 2004, and at the end of that paragraph you mention that:

In absence of this policy, the successful implementation of our treaties has been undermined by current federal operational practices and policies, which are inconsistent with the terms of our Constitutionally-protected agreements.

I want to ask somebody from your group to elaborate on this point because I think it's a fundamental one. I come from a land claims agreement area in northern Quebec, where we have the James Bay and Northern Quebec Agreement, and I think this point is very fundamental because it determines the relationship between your nations and the crown, which is a legal and constitutional relationship as opposed to a political, policy-driven approach at the civil servant level in an era of nation-to-nation relations and reconciliation. I think that's a fundamental point, so maybe one of you can elaborate on it.

The second question is related to the fiscal policy. It is my understanding that the Conservatives quietly imposed—and the word “imposed” is important here—their new fiscal approach days before the election. Given the Liberal commitment to a nation-to-nation relationship, their commitments to treaty and aboriginal rights, their commitment to remove issues from the courts, what has the government or the department told you on this point? Can you describe in concrete terms how this fiscal approach will impact your communities? How will it impact your budgets and services?

I believe that the terms of our treaties contain a constitutional recognition of rights, interests, and benefits, so how will this new fiscal approach impact your communities?

•(1725)

The Chair: I'm afraid there's just about three and a half minutes left there, so please do your best to be crisp. Thank you.

Grand Chief Ruth Massie: Thank you for the question.

You're right. This fiscal policy is being imposed. We have not accepted it because of the language in our agreement. How is it going to affect us if it goes forward? We will have no choice but to defend our agreements. That means going back to court, because that's not what the provisions in our agreements say. Our agreements say "shall negotiate". If you impose something on us, that's not negotiation. I think that what they want to do brings us back to being glorified Indian Act bands again, with a plus. We would not be independent, self-governing first nations trying to look after our communities and our citizens.

Also, in the agreements we have the language defining our citizenship. It was our citizens who voted on those agreements. If we go back to this policy, it speaks to status Indians. Not all of our citizens are status Indians, but we are still responsible as first nation governments to provide programs and services for the whole of our citizenship.

As an example, my first nation is Ta'an Kwäch'än Council. It is a self-governing first nation. We have 432 citizens, I believe. Right now, though our negotiations, we get funding for 212 people, but we have to provide 100% of the programs and services to our citizens. Otherwise, we're discriminating against our citizens, and then you have two classes of people. You have the haves and have nots, and that's not appropriate. As indigenous people, that's not how we treat our people. We're all equal.

The Chair: Thank you.

Mr. Fairclough wanted to weigh in. There is still a minute and 10 seconds left.

Chief Eric Fairclough: We'd like to see the government suspend this approach to fiscal policy. We feel that if it is implemented, you violate the treaty. When you violate the treaty, which we signed together with you, you put into question the honour of the crown. To put it simply, we, together, should be defending the crown in this matter.

It's not good for our final agreements. It's very different from the rest of Canada, in that our agreements have been negotiated and protected in the Canadian Constitution. These things can't just be overlooked when developing policies like this.

A prime example of where we took action in the Yukon was the Canadian Environmental Assessment Act. It was the same thing. It went down the road of violating our final agreements. We're in a court position, and the federal government is now reconsidering and wanting to amend those four points that we feel are in violation of our agreements.

I think this committee needs to examine that very carefully. We have a lot of professional people who know our agreement inside out. Work with us and help us get through this. The policy isn't working, and it needs to be suspended.

•(1730)

The Chair: Thank you for that.

Before I invite the final question from Mr. Rusnak, I'm afraid I have to beg your forgiveness. I must get on an airplane, so I'm going to ask our vice-chair, David Yurdiga, to take over as chair to close the meeting.

Thank you very much for your time today. I'm very grateful.

Mr. Don Rusnak (Thunder Bay—Rainy River, Lib.): I'm going to get started right away, as David is in his seat now.

First of all, Kevin, I've been in Nisga'a Lisims territory. I was with the BC Treaty Commission as a placement student while I was in law school at Osgoode Hall. It's a beautiful area. I was in New Aiyansh. I stayed at Lorene's Lava Lodge, which is probably still there, a fine operation. I travelled to Gitwinksihlkw and Laxgalts'ap. I always have problems pronouncing that. It is beautiful territory.

What has happened with all of your agreements over the last 10 years under the former government is unfortunate. They've made them extremely difficult to implement. One of the questions I wanted to ask is whether there any dispute resolution mechanisms within the agreements that don't involve litigation, don't involve your going to the courts.

I don't know where you want to start.

Grand Chief Ruth Massie: Go ahead, Jim.

Mr. Jim Aldridge (Legal Counsel, Nisga'a Lisims Government): Among the different coalition members, there are different provisions. Virtually all of them include something about dispute resolution.

There is a range from the Inuvialuit agreement, for example, that includes the possibility of binding arbitration through a series of other agreements. Far and away the most common is arbitration only if both parties consent, and, as President Towtongie indicated, the federal government was loath to ever consent to arbitration.

Part of the NTT's settlement with the government includes amendments to the agreement to enable a unilateral demand for arbitration in specified circumstances, all the way through to the James Bay and Northern Quebec Agreement, which includes the Cree-Naskapi Commission as a very effective, albeit non-coercive or non-binding, dispute resolution body.

The short answer to your question is that yes, they have a variety of provisions for mediation, discussion, and negotiation, but rarely for binding arbitration, and that, unfortunately, is one of the reasons so many disputes have ended up in litigation, when one would think that litigation should be the last resort.

Mr. Don Rusnak: I don't know how much time I have, Mr. Chair.

You touched on the subject of an independent commission. Do you have a recommendation for what that commission would look like, and what exactly that commission would have the power to do? Has the coalition contemplated that, and if you haven't, can you do that and provide that to this committee?

Mr. Jim Aldridge: That has been fleshed out in a certain amount of detail in documents that have been developed over the years, including what we provided to the Senate standing committee back in 2007.

We can most certainly provide material on that to the committee for its careful review and study.

Mr. Don Rusnak: As is the case with a lot of things that have been done in the past, such as studies by the Royal Commission on Aboriginal Peoples and so many other studies that have been done by Parliament and the Senate, we don't seem to learn from those lessons.

A lot of hard work went into a lot of those documents. Often it's just a matter of going and brushing them off and sitting down with groups like yours and coming up with solutions that work today.

It's frustrating to see that you guys came up with these agreements and that over the last 10 years they've been essentially stifled. It really breaks that trust going forward. It's supposed to be a partnership. When I was in Nisga'a territory, there was a high level of excitement after the agreement was beginning to be implemented. It's sad to hear what has happened under that agreement over the last 10 years.

Is there any final comment on what can be done and what you see as we go forward?

• (1735)

Chief Eric Fairclough: I'll just say this very quickly and I'll let Kevin answer too. I think what you can do is study our implementation of our final agreements. This committee should be doing that.

Surprisingly enough, when we go to lobby and talk with different MPs and different parties, not many people know about what is in the final agreements. There are only 26 or 28 of them in Canada. It seems as though the focus of the federal government is always on the Indian Act bands and never on the proper implementation of our final agreements.

One thing we all agree on, I think—Canada and the rest of the first nations—is that we want to move forward. We have these agreements to do that. I believe Canada would like to see first nations actually negotiate a final agreement and get on the road to self-sufficiency. This new fiscal policy takes us backwards. We shouldn't go there. As you said, let's learn from our mistakes.

Mr. Don Rusnak: I'm probably out of time.

The Vice-Chair (Mr. David Yurdiga (Fort McMurray—Cold Lake, CPC)): You have a minute and a half.

Mr. Kevin McKay: Thank you.

In support of my colleague from the coalition, I want to make it very clear to the committee that we're not here to tell you that the coalition members regret signing their treaties. That's not what we're saying. Not one coalition member here regrets signing their treaties. I want to make that clear. What we're here to tell you is that those treaties are sacred. They represent a hard-fought compromise.

I say, with all due respect, that nobody compromised more than the aboriginal signatories to those treaties. Of course we have a lot invested in them, and we want to see them work not only for our aboriginal groups and governments, but indeed all of Canada.

Let's be perfectly clear here. What our treaties call for is institutional change. That's what we're asking for. Notwithstanding the political goodwill from whichever government happens to be in power, without that significant institutional change, nothing will change, and the sad reality is that our treaties will not be able to maximize their potential value.

The Vice-Chair (Mr. David Yurdiga): Thank you very much. The time has run out.

On behalf of the committee, I would like to thank the coalition members for being here today. It was very informative. We really appreciate the effort that you made to be here today. Hopefully in the future, our paths will cross once again.

The next meeting is on March 8, so put that on your calendars.

The meeting is—

Ms. Cathy Towtongie: Excuse me, Mr. Chairman. David—

The Vice-Chair (Mr. David Yurdiga): Yes.

Ms. Cathy Towtongie: I would like to thank you and the committee. I travelled for three days and spent \$6,000 and I appreciate your time.

Thank you.

The Vice-Chair (Mr. David Yurdiga): Well, thank you.

The meeting is adjourned.

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