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Chair

The Honourable Judy A. Sgro

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• (1530)

[English]

The Chair (Hon. Judy A. Sgro (Humber River—Black Creek, Lib.)): I call to order this meeting of the Standing Committee on Transport, Infrastructure and Communities. Pursuant to the order of reference of Wednesday, October 4, 2017, we are examining Bill C-48, an act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast.

Good afternoon. Welcome, invited guests. I would like to begin by acknowledging that the land on which we gather is the traditional unceded territory of the Algonquin Anishinabe people.

For witnesses on this panel, we have from the Council of the Haida Nation, Peter Lantin. From the Heiltsuk Nation, we have Marilyn Slett and Reg Moody-Humchitt. We have two by teleconference. We will start with Mr. Lantin.

Go ahead, sir.

Mr. Peter Lantin (President, Council of the Haida Nation): Good afternoon to everybody back east, and greetings from Haida Gwaii. My name is kil tlaats 'gaa Peter Lantin. I am the president and official spokesperson for the Haida Nation.

Generally, the Haida Nation supports Bill C-48, but we propose changes to strengthen the bill to protect Haida interests and rights. I'll begin by providing some context to our submissions.

In the Haida language, Haida Gwaii means "the islands of the people". Haida oral traditions tell the origins of these islands and our origin from the oceans of Haida Gwaii.

Our territory includes the islands and the surrounding waters, which include the entire Dixon Entrance; half of Hecate Strait, north and south; Queen Charlotte Sound halfway to Vancouver Island; and westward into the abyssal ocean depths, including the 200-nautical mile limit of the exclusive economic zone.

The Haida Nation has worked with Canada and the Province of B.C. to protect sensitive areas within the Haida territory. This includes the Gwaii Haanas marine area, which has been called and "one of the world's great ecological and cultural treasures." Other protected areas include Sgaan Kinghlas - Bowie Seamount marine protected area, jointly designated with the Government of Canada. As well, we manage marine areas with the Province of B.C. under both the Haida Gwaii marine plan and land use plans.

The Haida protected areas protect a diversity of habitats and numerous species, including marine mammals, seabirds, fish, invertebrates, and microalgae. These areas are essential for the health and well-being of Haida citizens and Haida culture and are vulnerable to shipping, underwater noise, and the introduction of aquatic invasive species and oil spills. The Haida territory and Haida protected areas are well-known to the Government of Canada.

For those reasons, the Haida Nation joined other indigenous nations and environmental organizations to oppose the Enbridge northern gateway pipeline project that would have seen the transport of crude oil through Haida territorial waters. Together we overturned the federal approval of the project.

The proposed moratorium is an important first step towards achieving long-term protection from the risks of oil tankers and oil spills. We propose the following changes that could help strengthen the proposed bill. I will provide some proposed amendments from the Haida perspective.

First, there are plans to construct oil refineries and to transport refined oil products on the north coast. In the event of a spill, these projects carry great risk to ecosystems, communities, and the economy. The moratorium must be expanded to also ban the transport of large quantities of refined oils, such as gasoline, jet fuel, and diesel oil.

Second, further measures are required to keep large vessels at a safe and sufficient distance offshore from the west coast of Haida Gwaii. At a minimum, the area of the moratorium must apply to the current voluntary tanker exclusion zone.

The risk of harm to Haida Gwaii is largely driven by the absence of emergency towing vessels. A dedicated tug located in Haida Gwaii to provide emergency towing to vessel traffic transiting Haida territorial waters is therefore our third proposal.

Fourth, we urge the federal government to pursue international marine organization sensitive area designations to apply to all shipping to complement regulatory measures.

Fifth, the Haida Nation and Transport Canada must prioritize and complete our work of updating the Pacific places of refuge contingency plan.

Sixth, we have negotiated with Canada and B.C. collaborative management agreements covering the entire terrestrial and portions of the marine areas of Haida Gwaii. These agreements, upheld by the Federal Court of Canada, provide the federal government the unique and powerful opportunity to implement the United Nations Declaration on the Rights of Indigenous Peoples in a way that genuinely respects and implements reconciliation.

Seventh, a broad power to set limits or conditions on tankers, coupled with timely and sufficient access to information, will allow the management bodies under the Haida agreements to regulate the transport of essential oil products for communities through Haida territorial waters. The Heiltsuk Nation will speak further about this amendment.

• (1535)

We support West Coast Environmental Law in requesting an amendment to limit ministerial exemptions to the moratorium in case of emergencies. We also support the submissions of the Sierra Club of B.C. regarding expanding the moratorium to include decreased tonnage thresholds and to ban the transport of oil products, not just the loading and unloading.

In conclusion, the Haida Nation understood that the federal government had committed to ban crude oil tankers transiting and transporting oil products through the north coast. As drafted, the bill does not go nearly far enough to protect the Haida and other communities of the north coast from the devastating impacts of an oil spill. Our proposed amendments will help strengthen the moratorium to provide real protection to Haida Gwaii and the north coast.

Hawaa.

Thank you.

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

Ms. Slett, please, for five minutes.

Chief Marilyn Slett (Chief, Heiltsuk Nation): Good afternoon.

My name is Marilyn Slett. I am the chief councillor of the Heiltsuk Tribal Council, which is the elected leadership for the Heiltsuk First Nation.

Heiltsuk would like to thank the committee for this opportunity to talk about the proposed oil tanker moratorium act. Heiltsuk people have lived on the central coast of B.C. and harvested marine resources for thousands of years. Archeological evidence dates our fisheries back 14,000 years. Harvesting is central to our health and well-being, and it lies at the heart of our culture. We depend on the fish and the health of their waters.

A recent spill of 110,000 litres of diesel and lubricant oils into the waters of one of our major harvesting sites has been devastating for the Heiltsuk. That was only the bunker fuel from the tug, and not the cargo of the attached barge, which thankfully was empty at the time.

The consequences of a larger spill, especially in a major harvesting area, are unfathomable, given the harm caused by the recent spill.

Heiltsuk supports the tanker moratorium act and recognizes the importance of protecting the coast from oil spills. However, speaking for indigenous communities that will be most impacted by a large oil spill, the measures can and should be strengthened.

Heiltsuk has two propositions for the proposed act, and a third concern, about the breadth of the ministerial power to exempt tankers under section 6, is set out in our brief.

First, we understand that the bill has to allow for international traffic through Canada's territorial waters. As people who live on the sea, we understand the safety concerns that explain why the sea traffic would prefer the more sheltered waters of the Inside Passage. However, some of these areas in the internal waters are vital ecological areas that would be among the worst possible places in terms of oil spill impacts.

Heiltsuk proposes that the bill create a power of government to create regulations that could restrict where tankers of different sizes may go, or set limits or conditions on their travel. This would allow the government, after proper study and consultation, to decide where traffic should continue for vessels of different sizes and cargo, and where regulation should restrict traffic for safety reasons or to protect sensitive ecological areas.

This regulation would allow for a flexible approach to tanker traffic controls as the oceans protection plan develops, as environmental regulations are put in place or improved, and as spill response technology advances.

Heiltsuk proposes that the power be a broad one, so that the regulations may include financial obligations on tankers and owners that elect to use certain passages.

Heiltsuk proposes wide powers because its experience with the *Nathan E. Stewart* spill has highlighted gaps in the law, which Heiltsuk hopes these regulations will eventually fill. These gaps include the lack of any duty of a "cruder" to perform or pay for impact assessments that are necessary for anyone to actually measure and understand how the spill has affected a complex ecological system.

The financial risk should be borne by the business that chooses to conduct their business in our waters, not by indigenous communities and B.C. taxpayers. The context of any no-go zones and any limits or conditions would be for later study and consultation. Heiltsuk is only proposing at this point that the bill include a wide power for the government to regulate tankers along the north coast.

Second, Heiltsuk proposes that the coastal first nations have access to tanker information required by this bill. It proposes a power of government to create regulations that may address access by first nations or the public to information about tankers that sail in our traditional waters.

Again, the content of such regulations should be for later consultation in a nation-to-nation approach, which the government has affirmed would make information-sharing appropriate, but for now, Heiltsuk proposes that only the bill include such a power. It would be a good step forward around shared marine management.

This bill is an opportunity for Canada to implement its commitment to the United Nations Declaration on the Rights of Indigenous Peoples and to the 10 nation-to-nation principles. In the big picture, this is one step towards reconciliation, but for Heiltsuk, this bill has the potential of being a part of a family of marine legislation that prevents another devastating oil spill in our territory.

• (1540)

Giaxsixa. Thank you.

The Chair: Mr. Moody-Humchitt, please. The floor is yours for five minutes.

Mr. Reg Moody-Humchitt (Assistant Negotiator, Gladstone Reconciliation Office, Heiltsuk Nation): Thank you.

Good afternoon, committee members. Thank you for inviting me to present to you. I also thank the indigenous nations whose territory we are standing on.

My name is Reg Moody-Humchitt, and I am a member of the Heiltsuk Nation.

You have already heard from Heiltsuk's chief councillor, Marilyn Slett. I am not here to repeat what Chief Slett has already said on behalf of our people but to focus on one particular issue of great importance to the Heiltsuk that is relevant to your inquiry: the Heiltsuk aboriginal right to harvest herring spawn-on-kelp, SOK, for social, food, and commercial purposes, and the potential devastation of our rights in the event of an oil tanker disaster.

As was mentioned by Chief Slett, in 1996 in *R. v. Gladstone*, the Supreme Court of Canada affirmed what the Heiltsuk have always known, that our right to harvest SOK and to utilize it for all purposes, including commercially, is an integral part of our distinctive culture and has been since time beyond memory. The court said our right is second only to conservation and takes priority over all other users.

Gladstone is a landmark decision. It affirms one of the very few commercial aboriginal rights in Canada, and it is constitutionally protected under section 35.

To the Heiltsuk, Gladstone is real. It is not just a court case. I am here as a negotiator for the Gladstone Reconciliation Society. I work with William Gladstone, who is the chief negotiator on behalf of the nation. With our team, we are attempting to achieve final resolution of the matters still outstanding more than 20 years since the Supreme Court of Canada decision.

For William and his late brother Donald, the struggle goes back even further, to 1988 when they were arrested and treated as common criminals for exercising their aboriginal right.

The Heiltsuk Nation has benefited from the Gladstones' persistence. The economic circumstances of Indian reserves in Canada is well documented, and our village of Bella Bella is no different. For many of our people, engaging in the SOK harvest is their only source of income. To be able to earn a living on the water harvesting a traditional resource just as our ancestors did is a source of cultural pride that is immeasurable.

An oil tanker mishap on our waters would render the Gladstones' hard-fought battle and our constitutionally protected aboriginal right meaningless. To be clear, our concern is not just with potential economic loss. The Heiltsuk depend on SOK for spiritual, cultural, physical, as well as economic well-being, and all of this would be irreversibly impacted in the event of an oil spill. No amount of compensation could account for the loss to us as Heiltsuk people. This is a matter of food and cultural security.

Some of you might not be familiar with SOK and how we harvest it, and I'd be happy to answer any questions you might have during the question and answer period.

SOK has always been of critical significance to us because it's the first fresh food of the year and highly nutritious. The Heiltsuk have always collected and preserved vast amounts of SOK, and we engaged in large-scale trade with our neighbours, trading literally tons of SOK for other foods that we didn't have access to, such as eulachons. This trade going back to pre-contact times is well documented and formed the key evidence before the court in Gladstone. Our harvesting today follows ancient Heiltsuk practices.

Our fishery is environmentally sustainable because only a small percentage of the spawn deposited by the herring is harvested, and the fish themselves swim off again. In other words, it is a no-kill fishery.

So here we are today. For many reasons, full implementation of the Gladstone decision remains unfulfilled. We continue to work with Canada to achieve this objective on behalf of our people.

Despite all our efforts, the Heiltsuk might never truly reap the benefits of Gladstone if an oil spill destroys the marine ecosystem that the herring stocks rely on. Oil tanker traffic in our waters brings unacceptable risk to the Heiltsuk, and we call on Canada to take the opportunity to address the risks in real and meaningful ways as was set out by Chief Slett in her submission.

As we have expressed many times over the years to countless representatives of Canada, there is more in our canoe than SOK. The Heiltsuk people will not allow further infringements on our way of life. Time and time again we have been the ones to bear the burden and we paid the ultimate price to our way of life. The ongoing impacts of the sinking of the *Nathan E. Stewart* is only the most recent example.

• (1545)

As Chief Slett already pointed out, to the world at large that was considered a small spill, yet the effect on our people has been, and continues to be, devastating. What causes me concern is that a vessel the size of the *Nathan E. Stewart* wouldn't even be captured by the proposed oil tanker moratorium. Oil tanker traffic on B.C.'s coast poses countless risks to our continued existence and well-being as a distinct people and threatens the destruction of the resources that we continue to rely on, the same as our ancestors did. This means not only SOK, but all of the foods from the land and sea. The Heiltsuk are pursuing a fundamental change in the relationship with Canada

The Chair: Excuse me, sorry, five minutes is up. Could you just do your closing remarks, sir? Thank you.

Mr. Reg Moody-Humchitt: In closing, on behalf of the Heiltsuk Nation, we call upon you to go back to ensure the final version of the bill truly reflects Canada's stated commitment to UNDRIP, brings true meaning to reconciliation, and addresses the unacceptable risk that oil tanker traffic along the coast brings to the exercise of our aboriginal rights and to those other coastal first nations. To do so is in the interest of Canada and all Canadians.

Masi Cho. Thank you.

• (1550)

The Chair: Thank you very much.

We move on to questions.

Mr. Chong.

Hon. Michael Chong (Wellington—Halton Hills, CPC): Thank you, Madam Chair.

I'd like to ask questions of both the Haida Nation and the Heiltsuk Nation regarding the consultations that led to the introduction by the government, by the minister of the crown, of Bill C-48 in the House of Commons.

Maybe I'll focus first on the Heiltsuk Nation.

I'd like to know if the government consulted you, had meetings with you, before Bill C-48's introduction in the House of Commons.

Chief Marilyn Slett: We're not aware of consultations specifically with the Heiltsuk on Bill C-48, but we do want to express that we have supported the moratorium.

Hon. Michael Chong: I understand that. Thank you.

So there were no meetings or consultations on Bill C-48 before its introduction in the House of Commons earlier this year. Is that correct?

Chief Marilyn Slett: Not specifically with the Heiltsuk Nation.

Hon. Michael Chong: Thank you. I appreciate that answer.

For the Haida Nation, I'm wondering if there were consultations or meetings between the federal government and the Haida Nation with respect to Bill C-48 before it was introduced by a minister of the crown in the House of Commons.

Mr. Peter Lantin: Not specifically to the actual bill itself. Back in January 2016, Minister Garneau convened a meeting in Prince Rupert of all of the coastal nations. Right after the Liberal government was elected he fulfilled that promise to come to the north and engage us on shipping in general, but the moratorium was conceptually alive at that time. There have been a few more visits from Minister Garneau into Haida Gwaii, where everything I've laid out in terms of our position was also articulated to the minister as well. In general, yes, there's been consultation, but not specifically in regard to Bill C-48, although we have had quite a bit of discussion with the minister.

Hon. Michael Chong: Thank you, Mr. Lantin.

Was that the only meeting you held with the federal government, the minister, before the introduction of Bill C-48? Was that January 2016 meeting the only meeting that you had with the government before the government introduced that bill in the House of Commons?

Mr. Peter Lantin: No. Like I said, he came to Haida Gwaii also in the summer of 2016, and then we had another video conference with the minister I think a few months ago. Again, it was all in generalities, it was never in regard to Bill C-48 specifically.

Hon. Michael Chong: Okay.

I think one of the witnesses told us, Madam Chair, they were in support of Bill C-48, but I thought I heard there were some concerns you had with it, or some conditions on that support.

Chief Marilyn Slett: I could speak to that, too.

Mr. Peter Lantin: Is that to either of us?

Hon. Michael Chong: Yes, go ahead, Mr. Lantin.

Mr. Peter Lantin: Yes, I think we said generally speaking we support Bill C-48. Getting into the details for us is the concern around the definition of "refined oil". There has been a lot of discussion in this area around, never mind crude oil, let's talk about refined oil. For the Haida Nation, those two things we look at in the same light. As they transit into our territory, if it's refined oil or crude oil, either-or is going to be devastating to Haida Gwaii. In our opinion, we support the moratorium generally, but we believe that it could go further and include refined oil, large quantities of refined oil.

Hon. Michael Chong: Okay.

Is that true of the Heiltsuk Nation as well, that you're entirely in support of Bill C-48?

Chief Marilyn Slett: We would like to see Bill C-48 pass. We support the bill. We propose—and we said it in our five minutes here—that there be some consultation on the regulations, and we would like the opportunity to go through that consultation with the crown. For things like financial obligations, paying for impact assessments, traversing through our waters, and when and where, we believe further consultation is required on the regulations.

• (1555)

Hon. Michael Chong: Okay.

I don't have any further questions, Madam Chair.

The Chair: We'll move on to Mr. Hardie.

Mr. Ken Hardie (Fleetwood—Port Kells, Lib.): Thank you to the witnesses for being here.

It was noted in one of our previous sessions on this bill that the government would allow up to 12,500 tonnes of oil products to be transported in the territorial waters, the idea being that this would be used to replenish supplies at the various villages up and down the coast. We were questioned on the size of that limit, and I'm just wondering based on your experience—both the Heiltsuk Nation and the Haida Nation—whether you consider that threshold to be adequate, too much, or too little. What are your thoughts on that?

Chief Marilyn Slett: We spoke about the *Nathan E. Stewart*. The regulation amount or proposed tonnage under this moratorium would be 128 times the size of the *Nathan E. Stewart* spill. That is too high. That's a big burden on the communities. We feel it's too much, but we also believe we can address this size during the consultation we're proposing.

Mr. Ken Hardie: I gather, then, that it would be preferable that this be set by regulation and not hard-wired into the legislation itself.

Mr. Lantin, how many communities in Haida Gwaii are served by tugs and barges replenishing the oil supplies in communities, and do you have an approximate idea as to how much would be off-loaded at each community, on average?

Mr. Peter Lantin: I don't have the exact numbers in front of me, but basically every community on Haida Gwaii is dependent on the transport of those essential oil products for furnaces and things like that. That's the reality for us. The position we have on the moratorium is not unreasonable, given our needs.

We propose that all these essential oils that we require here on Haida Gwaii be regulated and managed by the local authority here on Haida Gwaii. We have these existing agreements with Canada, specifically down in the Gwaii Haanas area. We also have co-operative management agreements with the Province of British Columbia. We propose that the authorities be brought to Haida Gwaii to regulate the transiting of those essential oils to our communities.

Mr. Ken Hardie: It's no surprise to you or to anybody that there are other groups, on the mainland particularly, that have a different view of this. They were in support of the Enbridge line and they supported the notion of tanker traffic going to and from the north coast.

Have you had conversations with those other groups to understand their position and to explain yours? Has there been consultation

between the groups that are obviously on different sides of this issue?

Mr. Peter Lantin: We have had very difficult conversations with some of the nations on the mainland, and the harsh reality is it's all about where you come from. For us, it doesn't matter what commodity we're talking about, it's going to transit through our territory. In the event of a catastrophic event, it's our backyards that are going to be impacted. That's just a harsh reality of this conversation, and people have to understand and acknowledge it. The risks and the impact will be felt by us here on Haida Gwaii. That's a tough reality, and it's a tough political environment, but that's the reality. We continue to try to facilitate that conversation, but it's not being done in a very co-operative manner. It's kind of a forced conversation right now.

• (1600)

Mr. Ken Hardie: We know that oil of all sorts, everything from diluted bitumen to crude oil to some of the lighter oils, is being transported in and out of ports all over the world. Is there something unique there—unique properties of the weather, of the ocean, of the landscape—that makes this idea of transporting heavier oils through your territory more risky than it would be in, say, other parts of Canada, such as the south coast or eastern Canada, or anywhere else in the world? Are there some unique properties up your way that make this a far riskier notion?

We'll start with you, Peter.

Mr. Peter Lantin: Well, if you've never been to Haida Gwaii, especially at this time of the year... Right now we're in the midst of a 48-hour storm, with 80- to 100-kilometre winds. Those have been persisting for 48 hours now. There's no ferry traffic. Everything has come to a screeching halt. That's just life on Haida Gwaii. There is a uniqueness here. The Hecate Strait is volatile; the whole waters of Haida Gwaii are.

I think our being on an isolated island make us very attuned to our surrounding environment and to climate change. Things are changing here. We're seeing more adverse weather. It seems to be more stretched out over time now. It used to be isolated to a small window in the winter. We're now seeing it more extended. That was all highlighted in 2014, when that Russian cargo ship almost grounded on Haida Gwaii—

The Chair: I'm sorry, Mr. Lantin, I have to interrupt you. My apologies.

We now go to Mr. Cullen.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Thank you, Chair.

Welcome to our friend here and to Marilyn and Peter, so far away.

Marilyn, I'll be in town next week. I hope you're around. We can have a coffee in beautiful Bella Bella.

Let's pick up on the *Simushir*, Peter, if you don't mind. It's been about a year now since the government announced its national oceans protection plan. One of the things that was revealed by this Russian ship that went adrift off Haida Gwaii—just over your right shoulder there—was the lack of capacity to do anything about it... that the coast guard sent out. It's been a year since that plan was announced. Part of that plan was to provide more protection for the coast in general. Where are we a year out since the money and the plan were announced? Has protection increased? Has it been enhanced? Is it the same, or is it less?

Mr. Peter Lantin: I think the harsh answer is that nothing has changed in terms of what's here on the ground in Haida Gwaii. If another *Simushir* event happened tomorrow, would we be better situated than we were three years ago? The answer is “no”.

There are some realities of the geographic location of Haida Gwaii. Where the *Simushir* accident would have happened, it would have taken 12 hours for some of our fishing vessels to get on scene. Having an emergency tug situated on Haida Gwaii would deal with that matter. That seems to be the top priority for us, to have the ability to respond in terms of protecting Haida Gwaii and moving that ship.

Mr. Nathan Cullen: Thanks for that, Peter.

Marilyn, I want to circle back to something you said earlier. I want to get into the question of ministerial exemption with both of you, but first, you mentioned that in terms of the current vessel limit, if a vessel of that size were to run aground or run into trouble like the *Nathan E. Stewart* did, did you say it would be 128 times the size of what was experienced with the *Nathan E. Stewart*?

Chief Marilyn Slett: That's right.

Mr. Nathan Cullen: You referenced this a little bit, but can you tell the committee what the impact of the *Nathan E. Stewart* has been for the Heiltsuk people?

Chief Marilyn Slett: The impact on our community has been just devastating. We've felt the impact in terms of economic and cultural losses, the spiritual well-being of our community, and the financial burdens placed on our community. No one is responsible to provide any funding towards an environmental impact assessment. How are we to gauge and measure what the losses are when there are no studies being done on that? That forces us to do it. We've undertaken that task ourselves, as the Heiltsuk Nation. It will cost up to \$500,000 to carry that out.

• (1605)

Mr. Nathan Cullen: Why is it so important for the feds to come in as a partner on that impact assessment? Why is that so critical? Aside from the immediate costs, why do the assessment? Why is it so critical?

As well, should things like that be included in Bill C-48 if we're amending this bill?

Chief Marilyn Slett: Part of it is about how we measure the impacts on the community. Without having data to support that and highlight that for the government, there is a great deal of uncertainty around that. For us, it's around measuring the impact to the environment, the impact to the resources in Gale Pass, the impact to our economy, and the impact to our people. The list goes on.

Mr. Nathan Cullen: If I could return back to you for a moment, Peter, and this may apply to you as well, Marilyn, the Haida have set up joint decision-making tables with the federal government around Gwaii Haanas and some other initiatives. It would be helpful, as an amendment to Bill C-48, to have joint decision-making or joint management over something like the tanker ban because you've talked about exemptions and the power of the minister to deem certain traffic admissible and go through the ban. If we amended this bill to allow for joint decision-making between the north coast nations and the federal government, would it provide any assurance about how such a tanker ban would actually be implemented?

Mr. Peter Lantin: Yes, absolutely. If you want to talk about what the definition of reconciliation is, for us, it lives in these agreements and it's all about acknowledging each other, both Canada and Haida. We both have the joint responsibility to protect these places and we've been doing it for 25 years. That is our expectation and that's going to be the next horizon for us, for this whole concept of shipping and managing that area. We have the Gwaii Haanas marine protected area. We have the Archipelago Management Board, which is the delegated authority that does that. Expanding the capacity that's been built over 25 years is our expectation in and around shipping.

Mr. Nathan Cullen: I have one brief question to my friend Mr. Moody. The Gladstone case established constitutional rights over harvest and sale. How would such joint decision-making over the management of a tanker zone impact Gladstone and if it's not there, is the government potentially infringing on Gladstone?

Mr. Reg Moody-Humchitt: I think there is the infringement on our right and we feel like section 35 was infringed with the *Nathan E. Stewart*. As Peter said, I think joint decision-making and oversight would be a comfort.

Mr. Nathan Cullen: Thank you.

The Chair: Mr. Fraser.

Mr. Sean Fraser (Central Nova, Lib.): Thank you very much to everyone for being here.

I'll start with Mr. Lantin.

One of the things that you highlighted was your support for other witnesses that we've heard and their point about limiting the exemption power to situations of emergency. In your view, what does an emergency look like? What exemption power should exist and can you describe what circumstances would justify the exemption in your mind?

Mr. Peter Lantin: I think maybe the best thing to look at is that we've been working for two years now on a revised places of refuge contingency plan. Prior to the *Simushir* incident, we had no knowledge of shipping. Our focus was on the land base. Prior to our involvement in shipping, there were 12 designated places of refuge in and around Haida Gwaii that had no input from the Haida. We weren't part of that decision-making whatsoever. We have acknowledged that where we're situated does require that we need to be available in case of emergency. Over the last two years, we've worked on that revised places of refuge contingency plan. We've removed the number of places of refuge quite significantly, but the whole point is that we're involved in it and we're involved in the decision-making about where those vessels can go and under what circumstances. I think it shows a reasonableness by the Haida Nation that we're not talking about keeping everybody off no matter what. If there are emergencies that may impact the loss of life, absolutely we're going to be part of trying to ensure that people are safe. Ministerial exemptions would qualify under the same thing.

Mr. Sean Fraser: One of the other issues that you mentioned was that you think Bill C-48 should extend to a transport ban and not just the loading and unloading at ports. One of the issues that was raised by a witness we heard previously was that there's a certain legal difficulty because there are disputed waters between Canada and the United States. Certainly, the U.S. would take the view that we wouldn't have jurisdiction to regulate in this area where there is currently the voluntary ban. Is there a workaround that you see around this potential difficulty of legislating in disputed waters that another nation lays claim to?

• (1610)

Mr. Peter Lantin: I can speak about Canada. The Haida Nation has an active title case right now, for which we're preparing to go to court. Part of the workaround is to work with our neighbouring nations that share the water with us and to ensure that we have understanding around where the lines are drawn for the sake of our title case.

The Haida Nation also has American cousins who reside up in the U.S. They're called the Kaigani Haida. They originated from Haida Gwaii and moved there quite some time ago. There are political discussions happening right now around this conversation. That hasn't really materialized yet, but there is that lively conversation right now.

Mr. Sean Fraser: Now this is to both witnesses.

We heard from CN Rail and a company called InnoTech about an innovative design they have—essentially in case some of the products that could otherwise be excluded by the ban—inside a capsule, more or less. It looks a little bit like a hockey puck. It's called CanaPux. If there are technological developments like this that could be transported, where the product can actually float, for example, and could be picked up in the water—apparently, according to the witnesses, it wouldn't break down by sitting in water—with developments like that, would you be open in the future to allowing that kind of product to travel? Is this still a deal-breaker from your perspective?

Chief Marilyn Slett: For Heiltsuk, we can't comment on any new technology at the moment, until we have more time to get more

information about it and be able to make an informed decision around that new technology you're referring to.

Mr. Sean Fraser: Mr. Lantin, do you have thoughts on that issue?

Mr. Peter Lantin: It would be more along the same lines. It seems very forward-thinking, and we're talking about today and what the needs are for today. If the technology's moving down a road where they can ensure the safe transport of materials, then absolutely we would be very interested in knowing more about that.

Mr. Sean Fraser: A final question, Mr. Lantin, since I still have you. One issue that's obviously posing some tension—it's not lost on me that I come from a different part of the country and a completely different culture—is that the concept of consultation and consent is difficult here, where different first nations disagree. In your opinion, where there are diverging opinions in different indigenous communities, how do we achieve consent? I recognize that this an impossible question to answer in a minute, but any thoughts on that issue would be greatly appreciated.

Mr. Peter Lantin: It's kind of fitting that we're sitting here with the Heiltsuk Nation. We have an old peace treaty with the Heiltsuk Nation that has now been brought into a modern context in the last couple of years. There's a lot of nation-to-nation reconciliation work that's also taking place. We need more of it.

Actually, we've been active around some of the Tsimshian nations that have been more supportive of the transportation of oil and crude, and trying to get in front of them to have a conversation about how it affects us. Right now, that level of consultation is not taking place. They're not proactively going out there and engaging us, because they know the answer. That's just the harsh reality of it. It doesn't mean that we leave it there. We're the ones who are trying to put the ill feelings aside and offering to sit down and talk from both our nations' perspectives about where we're coming from and what's best, because that conversation has not happened.

The Chair: Thank you very much.

Mr. Badawey.

Mr. Vance Badawey (Niagara Centre, Lib.): Thank you, Madam Chair. I have to say that from the past few sessions we've held on Bill C-48, one of the biggest concerns that has been brought to my attention is the impact on economic development for individual areas. I'm going to try to concentrate on those areas.

As evidence was presented to the committee, witnesses from Aboriginal Equity Partners and the Eagle Spirit Energy Chiefs Council expressed great concern about the high rates of poverty in many first nations communities. In their view, the proposed moratorium would deprive their communities of the economic benefit offered by the oil transportation projects, and undermine their efforts to become more prosperous and less dependent on federal government, or any level of government support for that matter.

My question to the folks here today presenting is, one, what are the main barriers to economic development in your community? What are you facing presently? Two, what role, if any, do you consider economic diversification to play in securing the future economic well-being of British Columbia's first nations communities?

• (1615)

Chief Marilyn Slett: Definitely from the Heiltsuk perspective, we've been impacted by the *Nathan E. Stewart* running aground in October of 2016. Our clam fishermen didn't make it out last year to go out and harvest. That impacted their income for the rest of the year, and they depend on that clam fishery.

What the future holds is uncertain. To have the communities bear the risk to their own economies is too much to bear. We certainly are not anti-development, but look at what kinds of sustainable development we can practise here.

Mr. Peter Lantin: I think the Haida Nation believes that the whole perspective feels like fearmongering in the sense that somehow these economic opportunities are going to change hundreds of years of colonialism, the Indian Act, and residential school experiences that have really been at the core of what's happening in our communities. Our people rely on their culture, their language, and their harvesting. That's who we are, so the proposition of putting these ships through our territory and putting those things at risk will truly destroy us.

What we have right now is a foundation of our strong, revitalizing culture. We're seeing a shift on Haida Gwaii of us coming back. For us it's been more about trying to take control of our resources and do it sustainably. It's the same thing if you look at our history around logging and things like that. We were never anti-logging. It's all about doing a thing sustainably and responsibly. Right now we set the allowable annual cut on Haida Gwaii as an example to show you that we understand there's a balance to be made here.

I think the politics are making it an unreasonable environment in which to say that we are averse to those things. We can't put the risk just on us. The thing about the people spearheading those kinds of projects is that it's fine for them to say it's going to end poverty and change their communities, but if anything goes wrong, it's coming through my backyard, and we just can't accept that.

Mr. Reg Moody-Humchitt: I just want to say that Chief Slett in council in work that.... I used to sit on the Central Coast Regional District. We did a lot of work with the ferry, and it was just announced recently that we were going to get a ferry to service the central coast. It's still not what we wanted, but I think that, since the cutback to the *Queen of Chilliwack*, it took a lot of tourists off the map. I think tourism is still probably one of the top three industries in B.C., but aboriginal tourism is one of the most untapped, and I think we have plans for that. The band does have a 15-year economic development plan.

Mr. Vance Badawey: I appreciate those answers.

I have two more questions with respect to the comments that were made earlier about relying on your culture and, of course, sustaining that culture with respect to developing the economy. Although there's a moratorium—and there has been since 1985 on a voluntary basis—on carrying oil into the area, do you think sustaining your

culture with respect to your development of the economy, from the past into the future, and of course other products that these vessels may in fact carry, would suffice for the future economy and jobs creation for your communities?

Mr. Peter Lantin: I am not sure I truly understand the question.

Mr. Vance Badawey: Essentially, you mentioned the fact that you want to rely on your culture with respect to developing your economy and/or sustaining that culture to further develop your economy. Do you find that, as well as other products, the ships that are going to be carrying into the area will in fact help develop your economy?

Mr. Peter Lantin: We don't know. Right now, if you look at the history of shipping in and around Haida Gwaii, it has never involved us. There's been no consultation around what we think about these things. There's been no talk about anything around economics. There's zero reference point on Haida Gwaii about what the economic impact could be for Haida Gwaii, because it's never been done. Nobody has ever cared about us.

• (1620)

Mr. Vance Badawey: That's a good point, and that's something I think we have to attach ourselves to.

Thank you.

The Chair: We are on to Mr. Lobb.

Mr. Ben Lobb (Huron—Bruce, CPC): Thank you very much.

For a bill such as C-48 to even reach the floor of the House of Commons, does consultation need to take place with affected communities such as yours, or can the government of the day bypass true consultation on a bill like this? What are your beliefs?

Either one of you can go ahead.

Chief Marilyn Slett: I have certainly shared that we want to see this bill passed, and we have shared with you that we would like to see consultation around the regulations of the bill with our communities. Certainly the position we have is, if we can support something that is going to protect our marine waterways and our communities, we will support it. As well, we will and we have set out in our brief, some of our answers that we also see that connected with further consultation on what those regulations will look like.

Mr. Ben Lobb: Mr. Lantin.

Mr. Peter Lantin: Consultation is called the Haida decision. On Haida Gwaii we're very attuned to what that means. I think sometimes it gets construed that if it's a good thing you don't need to consult with people. I think there is that general sense around this bill, but now the consultation is happening, and our position today is based on how much further we think the bill could be improved.

Mr. Ben Lobb: Fair enough. You can be for or against Bill C-48 and still have some legitimate comments about the consultation regarding when it should take place.

It seems to me that further consultation might have taken place on the schedule itself. You mentioned in your comments that diesel fuel, gasoline, jet fuel, and so on will be allowed. If I know industry, the tankers that will carry diesel fuel, for example, are going to start to get a whole lot bigger.

I understand that you want to have comments and consultation on the regulation of it all, but shouldn't that all be put in the bill itself? When it's presented in an upfront way, a transparent way, you can have your comments beforehand on diesel and the fact that it's going to be unlimited. What are your thoughts on that?

Chief Marilyn Slett: We have seen a list of persistent oils in the schedule. We believe that there should be flexibility in the regulations and the consultations. We want to be able to drill down on those regulations through the consultation process.

Mr. Peter Lantin: I think for us it's always difficult. The one thing that has been happening the last few years is that the more you look into the issues in and around shipping and how shipping affects you, the more complex and difficult it becomes. Our knowledge base is becoming quite vast. That's the problem with waiting around for this consultation on the bill. We want a moratorium in place today.

We're in kind of a catch-22 around what should happen first and at what time. We want to have more consultation in and around the specificity of oil products, but we also want something in place today. It's been a couple of years that the government has been in power and we believe it's time.

•(1625)

Mr. Ben Lobb: In regard to the bill itself, or in your discussions with the minister, will you be bringing up the role of Haida Gwaii in emergency preparedness? If there is a ship in distress, will there be an adequate emergency response? Who will pay for that and how will it be handled? How will they know what's acceptable amongst your communities? Has there been any discussion on that?

Chief Marilyn Slett: We certainly see a discussion taking place around emergency response. We will be bringing it up during our discussions with the relevant ministries, Transport Canada, the Coast Guard, and other federal units. We believe that the federal government has responsibilities here and commitments that they made through the oceans protection plan announcement last year.

The Chair: Thank you very much.

Mr. Hardie.

Mr. Ken Hardie: Thank you, Madam Chair.

A lot of the monitoring and enforcement, which is meant to ensure that the right things happen and the wrong things don't, would fall to Transport Canada and perhaps DFO or the Coast Guard. I'd like your quick assessment on your capabilities to handle this issue up in your area. Do they have the horsepower on the ground, or the water, to do the job?

Mr. Lantin?

Mr. Peter Lantin: I think the previous government, in the gutting of DFO and all the capacity it did have, and the Coast Guard

previously, had a very negative impact on the ability to do things around here. The reality is that we definitely need more. They shouldn't look at the first nations as just another stakeholder. We are the rights holders and titleholders to these areas, so they should look at us as a partner, as somebody who would embrace the challenge and the difficulty of wanting to do this. That's what our expectation is.

Mr. Ken Hardie: I want to drill down into that a little more. You mentioned playing your role as a refuge to ships that may encounter perils out in the open ocean. We also know that one of the things our government did first off was to reopen the Kitsilano Coast Guard base in Vancouver. Part of that was meant to support a training regime for rescue and spill response, to train people in communities up and down the coast. I understand that this has started, but have you had any discussions, from Haida Gwaii or from the Heiltsuk, about getting people into those classes down in Vancouver?

Mr. Peter Lantin: Up until our incident with the *Simushir*, the only way we were going to deal with getting people trained in the capacity to respond was if we embraced oil or LNG. That was the political reality for us, and we weren't prepared to do that. Since the *Simushir* incident, our eyes are wide open in and around what our needs are, so we are now getting boots on the ground in terms of getting our people trained up to do the response.

Mr. Ken Hardie: Reg, is that your experience as well?

Mr. Reg Moody-Humchitt: Yes.

Mr. Ken Hardie: Okay.

Maybe I'll just turn it over. My colleague, Mr. Badawey, has an additional question.

Mr. Vance Badawey: Thank you, Mr. Hardie.

I've been a member of the indigenous caucus here in Ottawa, as well as part of the government. One of the things we've been doing through the Truth and Reconciliation Commission is trying to add the word "resurgence". With that, I want to follow up on a line of questioning I had earlier with respect to developing the economy.

As you may know, last year the minister introduced the national transportation strategy and, with that, the trade corridor strategy, with the five pillars attached to the same. Unfortunately, we were stopped by the opposition in making travel a priority to go out and talk to you folks about the methods of developing your economy. That is still our intent, and we are going to make that attempt in the very near future.

With that said, do you have individually, within your communities, an economic strategy—I'm assuming you do—and where can we be of assistance to you to further those desires to ultimately satisfy the recommendations contained within your strategies?

The Chair: Who would like to answer quickly?

•(1630)

Chief Marilyn Slett: Certainly, our strategy would include fish aquaculture, rehabilitation of existing stock and streams, non-extractive resources—Reg brought this up earlier—and economies like tourism. We have a fish plant here in Bella Bella, and we would like to diversify the fisheries that run through that fish plant as well. Reg also spoke of the spawn-on-kelp industry in his presentation, and certainly exploring the market on that as well.

Mr. Peter Lantin: We have a saying in Haida Gwaii: “If you can't do it sustainably, you don't do it at all.” Our economic strategy is built on that. We are still dependent on the resources we have. Logging and fishing are still very much alive and well, but they are now being done sustainably. We have an untapped energy opportunity here on Haida Gwaii. We are one of the biggest diesel consumers right now. A green energy economy is something that's first and foremost for the Haida Nation on a variety of levels. That's what lures people to Haida Gwaii. The tourism reality that Reg talked about is absolutely top of mind here in Haida Gwaii. It's becoming unbelievable, the visitors coming to Haida Gwaii every summer. There is more growth every year, and I think it's because of our story.

Mr. Vance Badawey: Hopefully, we'll see you soon and we'll talk more about that.

The Chair: Mr. Moody-Humchitt, are you trying to get a last word in here?

Mr. Reg Moody-Humchitt: I just want to say that we do have a 15-year economic development plan, which we presented, in the past, to Senator Jack Austin, who presented it to the Department of Fisheries and Oceans. It's just as relevant today as it was back then. It includes 13 major resource sectors: forestry, transportation, fishing, marine, telecommunications, etc. We would be very happy to present that.

I just want to say how much I appreciate the opportunity for you to actually reach out and invite us to come in to sit down and talk. I think this is the way forward. With the last administration, no one was talking to us. They were basically giving us information under duress and saying, “This is the way things are.” Decision were not made, and—

The Chair: Thank you very much to all of you.

Before we suspend to switch our witnesses around, just for information of the committee, we will have two meetings on the water quality study, which is Bob Bratina's motion from the House. If you have any witnesses who you think might be helpful in that discussion, please submit them to the clerk by Tuesday, November 14.

Thank you very much. We will suspend.

•(1630)

_____ (Pause) _____

•(1635)

The Chair: We are reconvening our meeting.

Welcome to our new witnesses. Thank you very much for joining us this afternoon.

By video conference, we have Grand Chief Stewart Phillip, president of the Union of British Columbia Indian Chiefs, and Cameron Hill, elected councillor from the Gitga'at First Nation.

We'll start with Mr. Phillip, for five minutes, please.

Grand Chief Stewart Phillip (President, Union of British Columbia Indian Chiefs): Good afternoon to members of the committee.

On behalf of the Union of British Columbia Indian Chiefs, I'd like to read a brief statement.

Heavy crude oil pipeline and tanker projects pose an unacceptable risk to the health, safety, and livelihoods of indigenous nations throughout British Columbia and contribute to the negative environmental and health impacts experienced by indigenous peoples downstream of the tar sands, and of all people throughout the world, as a result of accelerating global climate change.

The Supreme Court of Canada has held that the crown's legislative power can and should be used to uphold the duties to indigenous peoples, and that both the federal and provincial governments have an obligation to uphold the honour of the crown.

My recommendations are as follows.

One, the UBCIC, the Union of British Columbia Indian Chiefs, has stated its strong support for the passage of Bill C-48, oil tanker moratorium act.

Two, the UBCIC supports the proposed amendments from West Coast Environmental Law concerning clause 6, ministerial exemption. It is the position of the UBCIC that the provision allowing exemption orders should be removed from Bill C-48, or at the very least circumscribed, for example, through engagement with indigenous peoples that satisfies the minimum standards laid out in the UN Declaration on the Rights of Indigenous Peoples, on time limits, public notice requirement, and opportunities for public comment.

Three, the UBCIC recommends that the committee seek further information from Transport Canada regarding the rationale for the 12,500-tonne threshold for the bill's prohibitions and consider whether the threshold ought to be lowered.

Four, the UBCIC recommends that the committee expand the moratorium area to include all sensitive marine habitats, especially where increased tanker traffic will bring increased threats to killer whales, in the form of noise pollution and declining marine environment, impacting the survival and well-being of killer whales and other vital aquatic species, including wild salmon.

As part of our package, we have a number of supportive Union of B.C. Indian Chiefs' resolutions that were passed by our chiefs and assembly: resolution 2017-15: protection of water, salmon, and health from diluted bitumen; resolution 2017-04: protection of orca whales and habitat; resolution 2011-54: support for the save the Fraser declaration, the coastal first nations tanker ban, and the indigenous laws banning crude oil pipeline and tanker shipments through B.C.; resolution 2010-11: opposition to the Enbridge pipeline project.

In conclusion, as an editorial comment, again we strongly support Bill C-48, but would suggest that the same level of protection be afforded to the more densely populated southern coast of British Columbia with respect to the same threats, for example, the Kinder Morgan Trans Mountain pipeline project and the Burrard Inlet and Fraser River Estuary.

Thank you.

• (1640)

The Chair: Are you going to be submitting those comments and recommendations in a brief to the committee?

Grand Chief Stewart Phillip: Yes, we will.

The Chair: If you could ensure that is done within the next few days, it would be appreciated.

Grand Chief Stewart Phillip: Okay, very good.

The Chair: On to Mr. Hill.

Mr. Cameron Hill (Elected Councillor, Gitga'at First Nation): Thank you.

Gitga'at First Nation congratulates Canada for introducing Bill C-48, the oil tanker moratorium act, and thanks the committee for the opportunity to provide testimony regarding the bill.

Before I continue, I was made aware that everybody had our submission. Is that correct?

The Chair: We have a variety of them here, Mr. Hill. I would assume if you've submitted it, it's been translated in both official languages for us.

Please continue.

Mr. Cameron Hill: Once passed, the oil tanker moratorium act would be an important step towards Canadian law being consistent with Gitga'at customs, laws, norms, beliefs, and values, *adawx* and *ayawwx* with respect to the responsible use of our territories, our waterways, and our resources, on which our people and our entire nation rely.

Gitga'at territory includes all marine waterways between the ports of Kitimat and Prince Rupert, and outside waters. Gitga'at have always used and continue to use our territory to fulfill our traditional and contemporary culture, economy, and community well-being. Tankers could not travel to and from these ports without passing through our territory, and that would have an immediate effect on us. Tankers travelling to and from Kitimat would pass directly in front of our village of Hartley Bay, which is located on the Douglas Channel.

Gitga'at have carefully studied how oil tanker traffic and the risk of oil spills and actual oil spills impact our rights and interests. Those studies were conducted by numerous independent experts practising western science. A bigger factor was our elders, many of whom have since passed away. They have passed their wisdom and the intergenerational teachings of our ancestors to the next generations. We have concluded that tanker traffic, and the risks they introduce, would have a devastating and even irreversible impact on the environmental health of our territory and on the cultural, social, human health, and economic well-being of our people and our nation. As a result, the Gitga'at people have been steadfast and

consistent in our opposition to oil tanker traffic in our territory, ever since this realization became known to us.

For us, the moratorium is long overdue. For example, 40 years ago, in 1977, the Gitga'at people blockaded the cruise ship *Princess Patricia* as it passed through Douglas Channel near our village of Hartley Bay. On board that vessel were industry experts intending to show how safe the transportation of their crude and their oil and their industry would be. All we wanted then and all we want now is to make sure that our voices are heard. Our chief at the time, Wahmoodmx Johnny Clifton brought people ashore and explained to them why this proposal would never work in our territory.

Gitga'at further demonstrated our resolve to protect our territory from oil tankers when Enbridge proposed the northern gateway project. Much time, effort, energy, and money was spent pursuing our objective of making sure our area was going to be looked after, not only for us but for all Canadians.

That process took 10 years, 10 years out of our lives that we should have been able to enjoy learning from our elders, learning from our hereditary system, and passing that knowledge down to our children.

Gitga'at will continue to be unwavering in our protection of our people and our territory from the risk of oil tankers. No one has been able to credibly guarantee us, and I don't think ever will, that an oil spill would be able to be cleaned up within our territory without further impacts.

Although Gitga'at support the federal moratorium on oil tankers in our territory, we have some concerns. Some concern the recent refinery proposals. Our neighbours to the south, the Heiltsuk people, had to endure a spill just last year. Our people continue to endure the effects of the *Queen of the North* spill upwards of 10 years ago. Also, we've had to endure the effects of the *Zalinski*, which sank in the lower Grenville Channel at the end of World War II.

That being said, we are encouraged that Canada, through the measures of the oceans protection plan and the tanker moratorium, is taking important steps to work with the Gitga'at and other first nations communities to find solutions that protect our coasts while allowing us to benefit from the sustainable use of our oceans.

I'll stop there.

• (1645)

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

We also have via teleconference with Danielle Shaw, director of the stewardship office for the Wuikinuxv Nation.

Welcome, Danielle. I understand you don't have opening remarks, but if you have information to offer in the committee's questions, please feel free to let us know that.

We go now to Ms. Block, for six minutes.

Mrs. Kelly Block (Carlton Trail—Eagle Creek, CPC): Thank you very much, Madam Chair. I would like to thank all of our witnesses for joining us today. I think it's a very important conversation we're having with you folks, and, indeed, all of the witnesses we've heard from over the past number of weeks.

In testimony last week, we heard that the government did not properly consult as per section 35 of the Canadian Constitution with those first nations communities that were here last week.

I will throw this out to both of the gentlemen who have given opening remarks to find out if your communities or the communities you represent, Mr. Phillip, were properly consulted before Bill C-48 was tabled in the House.

• (1650)

Grand Chief Stewart Phillip: My response to that is, as Mr. Hill has pointed out, we've been involved in the ongoing struggle to protect our territories from the industrialization, the predations, of the fossil fuel industry for a very long time. These are not new issues.

The Enbridge northern gateway battle was a decade. It attracted 19 lawsuits, similar to the Kinder Morgan Trans Mountain pipeline project, which also is facing 19 lawsuits.

These are deeply emotional, very volatile issues, and we've been very clear in our right, our fundamental right, our fundamental human right, to be able to protect the health, safety, and well-being of our indigenous peoples. That's what we've been doing for a very long time.

We were quite happy with the announcement that Bill C-48 was forthcoming, but again I point out that there are millions and millions of people along the southern coast—the Juan de Fuca Strait, Burrard Inlet, the Fraser River Estuary—who would be absolutely devastated by a catastrophic tanker spill or pipeline rupture.

Mrs. Kelly Block: Okay. I think you have answered my questions.

Mr. Hill, can you tell me if your community was properly consulted before this bill was introduced in the House?

Mr. Cameron Hill: I would say that the consultation was definitely better than the consultation we would have faced with northern gateway and Enbridge, but I have some lingering questions about how that consultation looks in the future. What are our next steps going to be?

We want to have meaningful consultation. In my mind, that's what's happening right now. It's not consultation through emails. It's not consultation through letters. It's me being able to talk with you representing my nation and telling you our concerns.

I think another way we need to properly consult one another is for us to be able to set up avenues and times for us to be able to talk with our neighbours about this specific project. We need to do our due diligence and talk with our neighbours about what exactly this tanker moratorium means to them. We haven't been given the opportunity to do that.

Mrs. Kelly Block: I really appreciate that point. I know one of my colleagues asked the question that was on my mind in terms of

whether first nations communities come together, because, obviously, there are different points of view on the moratorium.

There are some first nations communities that see it as putting a stop to some economic development in their communities, and others like yours that would say you are pleased with the moratorium.

Is there a way that first nations communities' neighbours come together to have these conversations to understand the different points of view that would be represented?

Mr. Cameron Hill: I would say that as far as the Gitga'at Nation goes, we followed our own due diligence in respect to—if I could throw the F-word out there—fracking. Before we delved into negotiating with anybody about LNG and what that would mean, we went to, talked with, and invited the people from the northern interior and those communities that were going to be impacted at such a huge level as far as fracking goes to come [*Technical difficulty—Editor*] about that.

We did that on our own dime, we did that out of our own time, and we did it out of respect to make sure that our neighbours were going to be well looked after and weren't going to be pushed aside by what Gitga'at was proposing. We're at a very busy time within all of our nations, and it's a very difficult thing to do, but I think that having that little bit of courtesy and respect before you go out and say your stand...you do need to talk with your neighbours.

• (1655)

Mrs. Kelly Block: Thank you.

Really quickly—you can answer this later, perhaps—what is the role of the Union of British Columbia Indian Chiefs and is there a role there to make some of these conversations happen? AFN... I would like to know a little more about how some of these conversations can take place.

The Chair: I don't think you can answer that—

Grand Chief Stewart Phillip: Very quickly, in terms of the Union of B.C. Indian Chiefs, it was first established in—

The Chair: Chief Phillip, Ms. Block got the question in, but we have gone way over the time to get the answer out, so as you—

Mr. Vance Badawey: Let him go.

The Chair: All right. Please go ahead. It's important. We'd like to hear the answer.

Grand Chief Stewart Phillip: Okay.

Again, as quickly as I can manage this, the UBCIC was first established in 1969 as a direct consequence of the efforts of the late Pierre Elliott Trudeau and Mr. Chrétien with respect to the white paper policy. Our role is a political advocacy role. We represent about 118 first nations in the province of British Columbia and we support our members in their ongoing struggles to protect the integrity and the well-being of their territories and their people.

In terms of roles and your previous question, I would suggest that the law and policy review can go a considerable distance to deal with the dismal record of consultation from both previous federal governments and provincial governments, and also from industry. The nation-to-nation offer of a better relationship, of resetting the relationship with the Government of Canada, certainly is another avenue to address these issues in terms of having a more comprehensive method of communicating with respect to major resource development.

Finally, again as a consequence of the dismal record of consultation, the drive-by consultation that has been the norm, communities like Tk'emlups and Skeetchestn did an incredible comprehensive environmental assessment on the Ajax mine that featured public hearings. As well, Tsleil-Waututh and Squamish did very detailed environmental assessments on their own dime to fill the gap with respect to the deficiencies in what various levels of government and industry consider and what really represents a minimalist approach to consultation with respect to our constitutional and legal rights.

The Chair: Thank you very much, Mr. Phillip. You can maybe get a bit more of those answers in as you're going on with some of my colleagues here, since we're way over time.

Mr. Fraser.

Mr. Sean Fraser: Thank you to both witnesses for being here. To the extent that this process constitutes, in a small way, meaningful consultation, I'm very thrilled to take part in it.

Picking up on the answer you just gave, one of the concepts that I'm frankly struggling with greatly is the inherent tension between the constitutional duty to consult and the concept of obtaining consent where multiple indigenous groups are impacted by a given policy or initiative and there's no unanimity.

I'd like both witnesses to comment on this, perhaps on behalf of the union first. I'm curious. With a bill like this, where there is division between different indigenous groups, how can we conduct meaningful consultation when there may not be consent from all groups? Is there a role for the federal government to facilitate conversations between indigenous communities so they can have the opportunity to maybe reach a unified position, or to at least get to a place where there's a common understanding of one another?

Grand Chief Stewart Phillip: I can't help but reflect on Prime Minister Trudeau's remarks at the United Nations not that long ago, where he described all of his work. Again I go back to the nation-to-nation promise of the government and the law and policy review as being a work in progress.

Clearly past practices have fallen woefully short, and we need to undertake the challenge of engaging these issues to be able to close the gaps and have a better way of arriving at these decisions that includes all of the parties. Previous governments, unfortunately, refused to engage in these issues at all, and we're paying the price for a decade of that stonewalling. We have a very short window—I would suggest another year or thereabouts—to get to the bottom of these issues that you're describing, through the law and policy review and other such initiatives.

● (1700)

Mr. Sean Fraser: Mr. Hill, do you want to offer comment as well?

Mr. Cameron Hill: I can't help but go back to the northern gateway hearings and really what a detrimental effect those had on our community. It's no secret that many communities like mine just don't have the monetary means in order to go out and have meetings on our own.

Even still, there are so many other factors at play here that affect our ability to get out and talk about such issues. For instance, *Maclean's* magazine on two different occasions referred to Hartley Bay as one of the hardest places to get to in Canada. Even when we think we have all of our ducks in a row, sometimes it's just impossible to get out of here to have these face-to-face meetings.

At the root of it all, one of the biggest factors is simply the monetary means to make that happen. People in my community are working. People like me who are in an elected position also have to have a job. I am a principal and a teacher within my school here, and it's very difficult for me to just up and leave.

I appreciate the question, and I think that if we're able to ponder that a little bit more, I'm sure there's an avenue out there through which we could try to do something, much like what we're doing today, where we get not only our elected officials but also our hereditary officials together.

Mr. Sean Fraser: You mentioned, I think, that 118 different groups make up the union. On an issue like Bill C-48 is there dissent amongst the groups and, if so, how do you reach a position as a union? Is it a majority vote? Is it a consensus that emerges after discussion or what's the process?

Grand Chief Stewart Phillip: It's through consensus, as much as we can. Ultimately, the authority of the Union of B.C. Indian Chiefs is in the chiefs and the assembly through the passage of formal resolutions that represent the mandate that I as the president and our executive are obligated to follow.

We work very closely with our member communities and ensure that we're onside with respect to their issues and their world view. But again, this business, the very important business of the UN Declaration on the Rights of Indigenous Peoples, is not abstract notions. Governments need to seriously commit to the words it entails in order to have a better system of governance and decision-making. Certainly, the Supreme Court of Canada has offered its view on a number of occasions with respect to shared decision-making.

We need to roll up our sleeves and get this work done and move towards legislative reform and policy development in order to have a better system that works for all of the parties.

Mr. Sean Fraser: Thanks very much to each of you. That's my time.

The Chair: We go now to Mr. Cullen.

Mr. Nathan Cullen: Thank you, Chair.

I'll probably be splitting my time with Mr. Donnelly who has smarter and better questions than I do.

Grand Chief Stewart Phillip and Mr. Hill, it's good to see you. I hope your families are well.

Let me start with you, Mr. Hill. In Gitga'at territory there has been some conversation with some of your neighbours about the exemptions that exist within this bill and some concerns that have been raised. There has also been the suggestion that if we could implement this tanker ban in such a way that first nations would play a joint decision-making role, a joint implementation role with the federal government.... Words like reconciliation are thrown around a lot in this town. Do you think this would be a helpful aspect if the committee changed Bill C-48 to allow for that, to imagine that, to give first nations a seat at the table in implementing the tanker ban in a meaningful way?

•(1705)

Mr. Cameron Hill: I think that would definitely be a start. When you talk about having meaningful consultation and having our voices heard, I always try to put things into layman's terms, and my way to get across my point is to use examples.

If I could use this as an example, very quickly, there are no weather beacons between Holland Rock and Nanakwa Shoal. We're talking from the very top of Grenville Channel to the very top of Douglas Channel, and all we've asked for a number of years is to be able to have a weather beacon somewhere in between. It has never happened, not to this day, even though we've had people at the table expressing our concerns.

That might seem miniscule to the people I'm talking to right now, but to our nation, who are trying to travel back and forth to urban settings, it's a huge factor when we have a four-hour to eight-hour boat ride and our voices aren't being heard for something as simple as that. If I had a guarantee that the person we were going to put at that table, to make our voices heard, were actually going to be heard, I think it would be a very positive step forward.

Mr. Nathan Cullen: I've been on that coast and know that having a gap in weather knowledge and awareness, I would argue, is a life-and-death type of situation.

After the *Queen* sank, Hartley Bay was called "heroes of the coast" and there was a lot of attention, a lot of media, and a lot of politicians. What has the response been like in terms of dealing with that sunken ship, in terms of the impact on the Gitga'at people? You've called for remediation and help with the fuel spill. What was the response like once the lights died down and the cameras went away?

Mr. Cameron Hill: It has been horrific, Nathan. Our voices are not being heard.

We still have burps and bubbles coming out of both of the ships that are sunken within our territory. I still have families within my community who have still not gone to harvest in the immediate area, and that is a loss of our language, our culture, and identity of who the Gitga'at people are, because we're not even able to go to our traditional areas to teach our future generations how to harvest properly, how to feed our families. As you can tell, I'm visibly

getting upset about it again, because it is truly a recurring theme, again, that our voices are just not being heard.

We were told in no uncertain terms when the *Queen* went down that, at the very least, we have the technology in this world to suck up all of the diesel fuel and all of the contaminants from that ship, if not to lift the ship and get it out of our territory. To this day, more than 10 years later, we're still going out there and seeing the sheen of the diesel fuel and every other contaminant that was on that ship, still bubbling up to the surface. What does that mean to our people in the next 10 years? What illnesses will we be contracting? It's extremely frustrating, and that's why I'm cautious when I say that I hope our voices will be heard.

Mr. Nathan Cullen: Thank you, Mr. Hill, and my best to your family.

I'll pass my remaining time over to Fin.

The Chair: You have one minute.

Mr. Fin Donnelly (Port Moody—Coquitlam, NDP): Thank you, Nathan.

Grand Chief Stewart Phillip, you mentioned Kinder Morgan in your testimony and the inconsistency with this proposed legislation and a gap in the south coast. I'm wondering if you could quickly elaborate on that.

Grand Chief Stewart Phillip: I indicated in my previous remarks about the long ongoing battle to protect our communities from, as I described it, predations of the fossil fuel industry vis-à-vis pipeline ruptures and tanker spills. That's why we so readily supported Bill C-48 offering that measure of protection to the northern communities, but it's a no-brainer that there's a denser population along the south coast. The Juan de Fuca Strait, the Burrard Inlet, and the Fraser River Estuary, and certainly all of the people, deserve a similar measure of protection.

The thought of moving tankers through Burrard Inlet that is incredibly heavily congested just doesn't make any sense. We're expected to undertake all the risks for very little benefit, if any at all. The governments have to be willing to take on the responsibilities for making these hard decisions. That's why the vast majority of British Columbians are opposed to these heavy oil projects and the risks attached to them.

•(1710)

The Chair: Thank you very much.

We will move on to Mr. Hardie.

Mr. Ken Hardie: Thank you, Madam Chair.

My first questions will be for Mr. Hill, and the first thing I want to do is say how much I'm enjoying the piece of artwork that's sitting behind you. That is just beautiful.

Mr. Cameron Hill: Thank you.

Mr. Ken Hardie: I have three quick questions that are right at sea level. We've heard a little bit of angst about the use of articulated tug/barge combos out on the water. Have you any comments or reflections on that from the Gitga'at?

Mr. Cameron Hill: If you take a look at what just happened to our neighbours in the south in the Heiltsuk Nation, I don't think I can add anything more to that.

Is the tanker moratorium going to provide loopholes for vessels such as that to equip themselves with even bigger barges? I think 10 or 20 years ago that was thought of as a very safe means of transportation, but to be human is to err, and that's exactly what happened in the Heiltsuk territory and we definitely have some concerns about that. Obviously, we'll uphold our concerns.

Mr. Ken Hardie: What about pilotage requirements?

Mr. Cameron Hill: That's also a huge concern. I know the rigours of the pilotage authority in British Columbia. The Gitga'at people are very well versed in the territory that we live in. We need to go down that road of making sure that when travelling through the different territories of the B.C. coast, which are so vast, we need to have the best pilots from B.C. and from Canada on those boats, especially when you're talking about the amount of tonnage of the fuel they are carrying in those tankers or those barges.

Mr. Ken Hardie: What about MCTS out of Prince Rupert? You mentioned problems with the lack of weather beacons. Are you getting the kind of coverage and reporting there that is required to keep everybody safe?

Mr. Cameron Hill: In my mind, no. When I'm going to travel to Prince Rupert and my only beacon to check on is directly right outside of Port Edward, which is right in conjunction to Prince Rupert, we're talking 80 miles away. And believe you me, the weather patterns that I have in Hartley Bay compared to Prince Rupert change hourly. When I'm making that trek up there, I'm very cognizant of the weather and I've been brought up to understand what to look for. I'm talking about a 90-mile span here. I can imagine how hard it would be for pilots to gauge the entire coast of British Columbia.

Mr. Ken Hardie: Grand Chief Stewart, you mentioned that you're troubled by the provision for ministerial exemptions. I wanted you to comment on something we heard from the previous witnesses who suggested they too had concerns, but their thought was that perhaps there could be, if you like, a co-decision process on exemptions that would involve consultation or input from first nations before an exemption was granted.

Have you any thoughts about that?

Grand Chief Stewart Phillip: I have just another comment on this whole business of consultation. The world has moved on vis-à-vis the Tsilhqot'in decision. We're moving into an era of consent as opposed to mere consultation.

The whole business of joint decision-making is something that has been completely ignored by not only industry but by senior levels of government. It's become more of a reality, more of a practice in order to make better decisions that will protect the interests of all people. I think that once we cross that bridge we'll wonder why it took so long for us to do that.

Certainly the indigenous people themselves, as Mr. Hill has demonstrated, have lived along the coast for hundreds if not thousands of years and know the waters and the waterways intimately. Why wouldn't we be called on to provide that traditional

and ecological knowledge to make better resource management decisions? It should have happened decades ago, but obviously it hasn't and we need to catch up with the UN declaration, the Supreme Court decisions, and get on with it.

• (1715)

Mr. Ken Hardie: Chief Stewart, I have one last quick question. We've been talking an awful lot about discussions with and between first nations groups, but there are also a significant number of non-indigenous and non-first-nation fishers in that part of the world. To what extent has your group discussed with them their concerns about this bill or any other measure that's going to affect that area?

Grand Chief Stewart Phillip: I have been involved in these issues now for pretty much 43 years, and I have never in all of that time seen greater solidarity between indigenous and non-indigenous peoples vis-à-vis all of these issues: heavy oil pipelines, tanker traffic, oil spills, protecting the environment, global warming, and climate change. As well, there is an emerging public concern—when we witness the impacts and the irrefutable evidence of climate change with respect to wildfires, flooding events, and so on and so forth—that we need to elect governments that are going to begin to act and respond to these issues, and again it goes to the question of consultation.

The Chair: Thank you very much.

We move on to Mr. Badawey.

Mr. Vance Badawey: Thank you, Madam Chair.

Mr. Phillip, I'm going to allow you the opportunity to continue, based on some comments and questions I'm going to start off with.

Also, Danielle, we haven't forgotten about you on the phone either, so any time you want to pipe in, by all means, feel free, if you're still there.

As I alluded to earlier on with the witnesses prior to you folks coming on board, there's no question that this government has been very proactive with consultations. We just went through a tax fairness process since late July. On that consultation process, we had the opportunity to really amend a lot of the recommendations that were being looked at and made based on the consultations and discussions we were having, especially with the business community.

That said, just last evening I met Minister Bennett and talked about the very issue Mr. Fraser was talking about earlier, which is how to discuss these issues nation-to-nation-to-nation, so that we're all in the loop, so to speak. Also, as I mentioned earlier on, it's not just about truth and reconciliation. It's about truth, reconciliation, and resurgence, and where we are going to be going in the future, nation-to-nation-to-nation.

Going from the discussion Mr. Hardie just left, then, with respect to that consultation in furthering the development of economy, we need to ensure we're in constant dialogue to really take your strategy and the objectives that your strategy identifies and attach action plans to them. Of course, we also need the ability to execute those action plans moving well into the future.

With that, Mr. Phillip, I want you to continue—and I'm going to ask the others to jump in as well—to give us more input, based on the consultation we're having today, on how we can actually do that. We all know what we can do and what we want to do, but we all want to now attach the “how” to that, and that's what I need from you folks. Beyond that—again, if the opposition will allow us, unlike last year—we can also possibly in the future make a trip and meet eye-to-eye and face-to-face to further those consultations. I'll throw that out on the floor to you to give us that input.

Grand Chief Stewart Phillip: Well, again, just for the sake of the committee, I've been blessed with 15 grandchildren.

Mr. Vance Badawey: God bless you.

Grand Chief Stewart Phillip: Quite often when we're going somewhere, the grandchildren are in the back seat asking if we're there yet. I tell them, no, we're not there yet. That's very much a metaphor for where we are in this country and in this province.

We have an opportunity, I would suggest, with the Government of Canada and the Province of British Columbia, with the incoming Horgan government, to make progress on these issues. Again, we have a short window to get down to the work. I would go back to the law and policy review, to the UN declaration, to the commitments from the Prime Minister on the nation-to-nation relationship. Our organizations, our indigenous communities, are responding and working very diligently for better ways and means of collaborating to come up with a better process.

Last year in British Columbia, as you well know, was the worst wildfire season on record. But when you're in the middle of a crisis like that, it brings people together. We know and understand that we have a very serious duty and obligation to get down to work and resolve these issues in order to better caretake the land and the safety and well-being of all people here within British Columbia and across this country. But we have to get off the proverbial pot, so to speak, engage on the issues, and bring about the change that everybody is so reluctant to do for fear of some critique.

I would go back to the solidarity between indigenous and non-indigenous peoples. There's a reason for that: things didn't work in the very brittle, rigid, structured way of the past. I think we're moving in the right direction. We just have to know and understand that there's great urgency attached to this.

• (1720)

Mr. Vance Badawey: Absolutely.

Mr. Hill.

Mr. Cameron Hill: I'd just like to reiterate what Grand Chief Phillip stated. I think we are moving in the right direction. Take this very moment, this very day: I'm able to connect with a parliamentary committee through the Internet, which I've never done before. I've never been a part of that. To me, that is a step in the right direction.

Perhaps I could talk a little bit to what British Columbia has tried to do. I believe it's been a couple of years now, if not more, since a couple of days entirely would be taken out of a parliamentary session in which the cabinet ministers would sit down with first nations leaders from all across B.C. and have good, meaningful dialogue about all issues. I think if we're committed to making that happen....

Believe you me, I can tell when somebody is just there giving me lip service. If I'm not feeling trustworthy about the people I'm in the room with, I make sure I voice that opinion. On the other hand, when we really feel like we're being listened to and our concerns are being brought to the forefront, we'll be that much more honest and we'll bring forward how we think this will work in terms of working together to achieve whatever goal it is.

Mr. Vance Badawey: We look forward to working with that relationship.

The Chair: Thank you very much.

We'll go to Mr. Chong.

Hon. Michael Chong: Thank you, Madam Chair.

Thank you to our witnesses for their testimony. It's been very interesting in the last couple of meetings to hear from aboriginal groups about their concerns and support, or non-support, for this particular legislation.

I want to clarify, Madam Chair, that I do not consider these to be consultations, in the sense of consultations and accommodation required under section 35 of the Constitution and under decisions of the Supreme Court and other courts of this land. This is a legislative committee made up of members of Parliament who are not part of the government. We are not part of the executive branch of government, and we certainly do not represent the crown here. The duty to consult and accommodate with aboriginal peoples rests with the crown, in particular the Governor in Council, the cabinet, the Prime Minister, and the Government of Canada. Since we do not represent the Government of Canada or the crown, I don't see these as consultations as required under Canadian law.

I wanted to clarify that, to make sure that the government understands that they can't hijack this process because they have avoided their responsibility to consult and accommodate with aboriginal peoples as part of Bill C-48. I make that point before I ask the witnesses further questions.

It was interesting to hear the testimony in the last two meetings. We had first nations witnesses who came before us at the last meeting indicating that they were against Bill C-48, and our witnesses today are clearly in favour of it.

I want to take a step back from your particular positions on Bill C-48, and talk instead about the process that led to Bill C-48. I think that's where I and others have concerns. That concern centres around the duty on the part of the government, the crown, the cabinet, and the Government of Canada, to consult and accommodate with first nations bands up and down the B.C. coast, as well as those first nations bands that would be affected along the interior corridors where oil pipelines might be built.

I want to know what consultations, specific meetings, the government held before it introduced Bill C-48 on May 12, with each of your groups that were specific to federal legislation introducing this tanker ban?

• (1725)

Mr. Cameron Hill: To me, meaningful consultation would have been [*Technical difficulty—Editor*] in the community. We are a very busy community. I wasn't a part of any of the face-to-face consultations. I do believe that my elected chief, Chief Arnold Clifton—who sends his regrets that he wasn't able to be here—was a part of these processes, as were our consultative committees.

Having said that, the amount of information that could have or should have trickled down to us did make its way, but I think the way it happened could have been better. I need to take some ownership on that. I began talking about the busy lives that we all have, but, having said that, I think that being able to sit with one another face to face, however we go down that road to make that happen, would have been the best for us.

Hon. Michael Chong: Thank you, Mr. Hill. You're being very modest with your answer. At the end of the day, the Government of Canada has a responsibility to reach out to you to consult and accommodate your concerns before taking any action such as the introduction of a bill by a minister of the crown in the House of Commons.

The Chair: Thank you very much.

One second goes to Mr. Badawey before we close.

Mr. Vance Badawey: Thank you, Madam Chair.

I just want to state that, although the opposition may have left those who presented today with the impression that your discussion or comments didn't mean anything, this is, in fact, a part of what

we're trying to do as this government with consultation, and it did, in fact, mean something.

I do look forward to continuing this relationship so we can bring resurgence to the entire truth and reconciliation file, working with you as partners versus trying to dictate to you as the previous government did.

Thank you, Madam Chair.

• (1730)

The Chair: Thank you very much to our witnesses. We appreciate very much your taking your precious time to come here with us today.

Grand Chief Stewart Phillip: Excuse me.

The Chair: Chief, go ahead. I'm going to give you a minute there. I see you want to make a closing statement.

Grand Chief Stewart Phillip: I really appreciate that.

We've been involved in this battle in regard to consultation in the courts of this country for a very long time, and we understand the nuances of consultation, but as I recall, what was probably the most comprehensive consultation in the history of this country was the last federal election when the government of the day made it abundantly clear that, if they were elected, they were going to bring in a tanker ban. People voted in regard to that promise.

Thank you very much.

The Chair: Thank you very much, too, to both of you and to Ms. Shaw, who I think is still on the teleconference.

This meeting is adjourned.

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