

**SPEAKING NOTES FOR PRESENTATION**

**TO THE SENATE COMMITTEE ON TRANSPORT AND**

**COMMUNICATIONS**

**OIL TANKER MORATORIUM ACT (BILL C-48)**

**WEDNESDAY, APRIL 17<sup>TH</sup>, 2019**

**President Eva Clayton**

**Nisga'a Lisims Government**

**PO Box 231 - 2000 Lisims Drive**

**Gitlaxt'aamiks, BC**

**V0J 1A0**

**Chair, Members of the Committee, Senators:**

**I would like to begin by expressing Nisga'a Lisim's Government's appreciation to the Committee for inviting me to speak with you today on behalf of the Nisga'a Nation.**

**I am accompanied today by members of the Nisga'a Lisims Government Executive. We are here to present the Nisga'a Nation's position on Bill C-48, the Oil Tanker Moratorium Act. [Insert brief summary of our position here]**

**The Nisga'a Nation does not support the imposition of a moratorium that would apply to areas under our Treaty. We believe that Bill C-48 flies in the face of the principles of self-determination and environmental management that lie at the heart of the Nisga'a Treaty.**

**I will provide more detail on why the Nisga'a Nation is opposed to this legislation as currently drafted but I would like to begin with a little bit of background on the Nisga'a Nation.**

**As you may be aware, the Nisga'a Treaty was the first modern Treaty in British Columbia. It was also the first Treaty in Canada, and perhaps in the world, to fully set out and constitutionally protect our right to self-government and our authority to make laws over our land and for our people.**

**Under the Nisga'a Treaty, we have substantial rights over the Nass Area, which encompasses over 26,000 square kilometers in northwestern British Columbia. We also own and have legislative jurisdiction over approximately 2,000 square kilometers of land in the Nass River Valley, known as Nisga'a Lands.**

When our Treaty came into force on May 11, 2000 after more than 113 years of struggle, the *Indian Act* ceased to apply to us, and for the first time, our Nation had the recognized legal and constitutional authority to conduct our own affairs.

It is in the context of seeking respect for our modern Treaty that we come before you today to express our concern about Bill C-48.

This legislation was introduced without any discussion about the significant implications it would have on the Nisga'a Nation and the Nisga'a Treaty.

Discussions were limited to preliminary ideas about various approaches to protecting the coast, potential geographic extent of the legislation and what products may be covered by the legislation, all in highly hypothetical terms.

In the weeks that preceded the introduction of Bill C-48, we urged the Minister, his Cabinet colleagues and staff that the moratorium must not be introduced before the implications on our Nation and our Treaty were well understood and that the moratorium should not cover our Treaty area. Despite these efforts, our appeals fell on deaf ears and the legislation was introduced without any further dialogue with the Nisga'a Nation.

This lack of consultation and the failure to assess the implications of the proposed legislation on our Treaty is contrary to the expectations of the Assessment of Modern Treaty Implications process set out in the 2015 Cabinet Directive on the Federal Approach to Modern Treaty Implementation,<sup>1</sup> which is the government's own process for ensuring treaty commitments are honoured in policy processes.

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<sup>1</sup> <https://www.aadnc-aandc.gc.ca/eng/1436450503766/1436450578774>

Clearly, consultation on this legislation fell well short of what would be expected between Treaty partners.

We believe that it is clear that this Bill C-48 undermines the the principles of self-determination and environmental management that lie at the heart of the Nisga'a Treaty. Moreover, this legislation is not based on scientific evidence, does nothing to protect sensitive eco-systems on the West Coast and represents an arbitrary choice of one coastline over others.

We aspire to become a prosperous and self-sustaining Nation that can provide meaningful economic opportunities for our people. This aspiration is reflected in our Treaty, which sets out Canada's, British Columbia's and Nisga'a Nation's, shared commitment to reduce the Nisga'a Nation's reliance on federal transfers over time.

The Nisga'a Nation takes this goal very seriously. However, it stands to be undermined by Bill C-48.

Our future prosperity and ability of our people to enjoy a better quality of life requires the creation of an economic base in the Nass Area that meets the requirements of our Treaty. This is the first priority of our government.

In the 19 years since our Treaty came into effect, we have successfully negotiated many environmentally-sound agreements in the mining, hydroelectric, transmission and liquefied natural gas sectors.

Unfortunately, the economic climate in northern BC is poor and few of these projects are underway. The economic opportunities to be gained from many of these agreements have not been realized.

**We want to be well positioned so that when economic conditions change, the provisions of our Treaty can be employed to enable our Nation to consider whether an environmentally-sound approach to export project development is possible.**

**Our Treaty includes comprehensive provisions for environmental assessment and protection over the entire 26,000 kilometre Nass Area. These and other provisions under our Treaty have opened the door for joint economic initiatives in the development of natural resources within the Nass Area. They ensure that the necessary balance between building a strong economy and protecting our lands and waters is achieved.**

**Allowing the provisions of our Treaty to assess any potential project on its merits would ensure that scientific evidence plays a central role in assessing impacts and informing decision making. Instead of the current approach, which unilaterally and arbitrarily enacts a blanket tanker ban over a particular region of Canada.**



Put differently, how can the same systems and regimes that are sufficient to support the expansion of tanker traffic through the Port of Vancouver and along either of the North or East Coasts of Canada are not sufficient to support tanker traffic on the North Coast where ease of navigation and low marine traffic present even fewer risks?

In conclusion, I would like you to know this:

The Nisga'a Nation has never and will never support a project that could result in devastation to our land, our food, and our way of life.

We have attempted to persuade this government to preserve the opportunity for the Nisga'a Nation, coastal First Nations and local communities to work with the government to assess any future proposals on their scientific merits and to ensure that we maintain our ability to have a meaningful say in what happens on our lands and in our region.

We regret that on this issue, which has such immense implications to the Nisga'a Nation and to all Canadians, the government has proceeded without any meaningful accommodation for the Indigenous peoples that have the most to lose.

We urge you in the strongest possible way to consider amendments to this legislation that would reflect Canada's commitment to the Nisga'a Treaty.

Amending the northern boundary of the moratorium to exclude the Nass Area and Nisga'a Lands would meet this commitment.

We believe that there is a way forward, using the provisions of the Nisga'a Treaty in conjunction with Canada's robust regulatory processes, to allow Canada to achieve the objectives of the proposed moratorium without interfering with Nisga'a Nation's rights under the Treaty.

**Our government is committed to creating an economic base in the Nass Valley that meets the requirements of our Treaty. It is the first priority of our government. We will not continue to see our way of life eroded and to consign our children and grandchildren to a life without meaningful opportunities, particularly in the face of a policy decision by the government that is contrary to our interests, to scientific evidence and is arbitrary.**

**Under our Treaty, the Nisga'a Nation decides what does or does not happen on our lands. Whether there ever is a single tanker there or not, we do not believe the government can arbitrarily and unilaterally override these Treaty principles.**