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Seizing International Opportunities: British Columbia's First Nations Enhance Ties with China

By **Heather Kincaide**

As China's involvement in British Columbia's natural resource sector increases, First Nations are taking proactive measures to ensure that their economic, cultural and political interests are not sidelined. While it is unclear what impact these measures will have on the way Canada and British Columbia conduct trade promotion in China, two outcomes seem certain: BC First Nations will expand their trade promotion activities in China, and First Nations' interests will play an increasingly important role in the Canada-China relationship.

On October 21, the Assembly of First Nations (AFN) National Chief Shawn A-in-chut Atleo will lead a delegation of First Nations Chiefs and staff from across Canada on a nine-day trade and diplomatic mission to China. The delegates will meet with upper management of Chinese natural resource companies, government departments, and universities in order to develop stronger economic, political and educational ties between Canada's First Nations and China. The mission will culminate in the raising of a totem pole, gifted by the First Nations of Canada to the Qiang people of Sichuan province.

The AFN mission will include strong representation from British Columbia. In general, the First Nations political organizations in BC have been particularly active in undertaking activities to build relationships with Chinese businesses and government officials. In August 2011, for example, the First Nations Leadership Council (FNLC), which is comprised of the leadership of BC's three major First Nations

political organizations¹, launched the '*BC First Nations & China: Transforming Relationships*' strategy. This strategy was approved by all 203 First Nations communities in the province² and provides a framework for some of the China-related activities being undertaken by FNLC-affiliated organizations.

While First Nations have been engaged in diplomatic relationships for centuries, establishing connections with Chinese firms and government officials is a relatively new priority for British Columbia's First Nations political organizations. First Nations are coming face-to-face with the challenges and opportunities that China's rise presents for their businesses and communities. They are developing proactive mechanisms, which extend both domestically and internationally, to ensure that their interests are not sidelined in the context of China's growing economic involvement in Canada.



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Media Launch for BC First Nations & China Strategy, APF Canada, Vancouver

Why China? Why Now?

As Grand Chief Stewart Phillip, President of the Union of British Columbia Indian Chiefs, stated in a recent interview about the *BC First Nations & China: Transforming Relationships* strategy, "Indigenous peoples know and understand that our interests are served by going beyond the domestic realm of this country."³ What are these interests and why has China in particular become a priority for First Nations political organizations in British Columbia?⁴

The answer to this question stems predominantly from the increased involvement of Chinese companies in British Columbia's natural resource sector. First Nations are building relationships with Chinese companies and government officials in order to market natural resource products in China and assert the right of First Nations to equitable involvement in natural resource development projects in their traditional territories. Perhaps most importantly, First Nations are seeking to represent their own interests in China, rather than having these interests represented for them by federal and provincial governments. These drivers will be discussed in greater detail below.⁵

Economic Changes in British Columbia's Natural Resource Sector

China has become increasingly important as both an export market and a source of investment for British Columbia's natural resource industries. In the forestry sector, for example, the value of wood exported to China in May, 2011 exceeded the value exported to the United States.⁶ In the mining sec-

tor, Chinese companies are investing in Canadian-owned companies, entering into joint ventures and, in some cases, buying mines outright. Some of the deals in British Columbia to gain media attention include China Investment Corporation's 17.2 per cent stake in Vancouver-based Teck Resources Ltd.⁷ and Canadian Dehua International Mines Group Inc.'s acquisition and management of coal licenses in the northeast of the province.

At the same time, First Nations in BC have been developing increasingly substantial business interests in natural resource industries. In terms of forestry resources, First Nations businesses and communities currently hold the equivalent of 12 million cubic metres of timber, up from 2 million cubic metres a decade ago.⁸ As of 2008, 54 per cent of forestry tenures held by First Nations were being managed by First Nations themselves, rather than by non-First Nations owned forestry companies.⁹ The profitability of these forestry resources increasingly depends on the Chinese market.

One of the objectives of the Assembly of First Nations trade mission and of the BC First Nations & China strategy is to expand export opportunities for natural resources held by First Nations, most notably wood products, minerals and bio-energy. Some First Nations communities in BC are acquiring land and forest tenures as part of treaty or other agreements with the province.¹⁰



Notched Tree Stump in BC Forest

Many of the delegates on the upcoming trade mission will be First Nations Chiefs seeking economic opportunities for community-owned assets, as well as for companies individually-owned by First Nations entrepreneurs.

An example of a forestry company that is tapping into the booming China market is Coast Tsimshian Resources LP, which is fully owned by Lax Kw'alaams First Nation in northwest British Columbia. While Coast Tsimshian Resources ships its high-grade cedar logs to sawmills in Vancouver, the company found that there was little domestic demand for its low-grade hemlock and balsam logs.¹¹ As a result, management started

looking for more opportunities to export to China, where it is more economically viable to mill the wood than in Canada. In 2010, the company made its first shipment of logs, valued at \$4 million¹², to China and expects to conclude nearly \$40 million in sales to China in 2011.¹³

Lax Kw'alaams First Nation has been very proactive in marketing its products in China. In addition to participating in trade missions co-organized by the Native Investment and Trade Association,¹⁴ they also opened their own trade office in Beijing in 2009.

Promoting First Nations Cultural Experiences to Chinese Tourists

China has a large outbound tourism market with more than 47 million Chinese travelling abroad in 2008. This number is expected to grow to 100 million annually by 2020.¹⁵ In December 2009, China granted Canada Approved Destination Status, which allows Chinese travel agents to advertise and organize group tours to Canada.

The Aboriginal Tourism Association of BC (AtBC) is developing strategies to capitalize on the opportunities offered by the China market. According to the association's CEO Keith Henry, less than five per cent of his members' business comes from Asian tourists. However, AtBC aims to promote a series of packaged tours directly to tour operators in China and is developing programming to train First Nations tour guides in providing services to Chinese tourists.

Consultation Issues and First Nations' Struggle for Jurisdiction over Traditional Territories

Another objective of the Assembly of First Nations trade mission to China and of the BC First Nations & China strategy is to inform potential investors in Canada's natural resource sector about the rights of First Nations. Both the Assembly of First Nations and the BC First Nations Leadership Council endorse the United Nations Declaration on the Rights of Indigenous Peoples, which states that indigenous peoples have the right to 'free, prior and informed consent' with regard to development activities in their territories.¹⁶ This UN declaration will feature prominently in the upcoming trade mission.¹⁷

For First Nations in British Columbia, the desire to communicate messages to Chinese investors about First Nations'

rights stems from the increased involvement of Chinese companies in BC's natural resource sector, especially in mining. It also stems from the ongoing disputes between the provincial and federal governments and First Nations regarding authority and jurisdiction over land in the province.¹⁸ At present, most First Nations in British Columbia do not have definitive jurisdiction over their territories and, therefore, experience limitations in their ability to administer natural resource development on their lands. Rather, it is the provincial government that has the predominant jurisdiction for regulating natural resource extraction activity.

Landmark Supreme Court of Canada verdicts have stated that the provincial and federal governments have a duty to consult and potentially accommodate First Nations communities that might be impacted by an energy project.¹⁹ However, the definition of "consultation" is still evolving legally and is the source of much contestation in British Columbia and across Canada.²⁰ While the Province of British Columbia does have processes for consulting First Nations, many First Nations political organizations contend that these mechanisms are not sufficient.²¹ In addition to undertaking legal challenges, First Nations political organizations and communities are seeking to shape the consultation system by directly lobbying their desired standards of consultation to companies and federal and provincial governments. Chinese companies are just a few of the stakeholders in the natural resource sector to whom these standards are communicated.



*Welcome Totem Pole, Umista Cultural Centre, Alert Bay
Photo Credit: Dannielle Hayes/AtBC*

The First Nations Energy and Mining Council and other groups advocate that companies, regardless of national origin, enter into Exploration Agreements or Impact and Benefit Agreements as a means of acknowledging First Nations' rights.²² These agreements set out terms for employment quotas, joint ventures opportunities and profit sharing, amongst other requirements. Some First Nations polit-

ical organizations and communities are undertaking legal action and advocacy activities to make Impact and Benefit Agreements a legal requirement for all natural resource development projects in British Columbia.

Some First Nations have already found that developing connections in China is essential to securing desired standards of consultation from both Chinese companies and their non-Chinese partners. At a recent press conference, David Porter, CEO of the First Nations Energy and Mining Council, cited the example of a Canadian company that has entered into a 50 per cent joint venture with a Chinese-state owned enterprise. This newly formed company is planning to operate a zinc-lead-silver mine in the Yukon on land that is claimed as the traditional territory of the Kaska Dena Nation.²³ This First Nations community wanted access to the new Chinese partners in order to negotiate an Impact and Benefits Agreement, but found the Canadian company to be uncooperative. The Kaska Dena Nation ultimately made contact through their own business connections in China and are now in the process of negotiating an agreement with both the Chinese company and their Canadian partner.²⁴



BC Lake at Dawn

Treaty and Dispute over Land Ownership and Jurisdiction

Some First Nations in Canada have entered into treaties with the Crown (Government of Canada), many of which are “historic treaties” signed more than one hundred years ago. While these agreements were intended to outline the rights, responsibilities and relationship between the two parties, First Nations and the Government of Canada generally disagree on the overall meaning of these historic treaties, especially with regard to jurisdiction over land.

The Government of Canada maintains that, in most cases, First Nations that entered into historic treaties gave up their rights to large expanses of land in return for reserves and other specific benefits.²⁵ First Nations, on the other hand, generally argue that their ancestors only agreed to share their traditional territories with the Crown and European settlers and that First Nations never gave up their rights to the land.²⁶

Since most of British Columbia is without treaties, First Nations in BC are seeking to affirm their title to land and the right to govern their territories. This governance would include some form of jurisdiction over natural resource development projects.

China and Canada’s Energy Infrastructure

The issue of consultation and accommodation of First Nations is highly relevant to the role of Chinese companies and investment in energy infrastructure projects in Canada. One of the better known proposed pipeline projects in Canada, Enbridge’s Northern Gateway, would transport oil from Edmonton, AB to Kitimat, BC for shipment by tanker to Asia. The building of this pipeline is contested by the majority of First Nations along the pipeline’s proposed route. Many of these First Nations object to the environmental hazards of the project as well as to a perceived lack of consultation and accommodation of First Nations on the part of Enbridge.

Sinopec, China’s second largest energy company, has announced its involvement with the Northern Gateway project, but has not specified the terms.²⁷ In meetings with Chinese companies, delegates on the upcoming AFN mission will stress the right of First Nations to be consulted about and, potentially, to give consent to all infrastructure projects in their territories.

Desire for Greater Self-Representation

As the upcoming AFN trade mission and the BC First Nations & China strategy indicate, First Nations political organizations in British Columbia and across Canada are developing mechanisms for defining and representing their political, economic and cultural interests in China.

This development stems, at least in part, from the fact that many First Nations have different interests than the federal or provincial governments with respect to some significant political, economic and cultural issues. As noted in the previous section, land jurisdiction is often one of these issues. At a recent press conference for the BC First Nations & China strategy, Grand Chief Edward John, political executive of the First Nations Summit, and Grand Chief Stewart Phillip, President of the Union of BC Indian Chiefs, indicated that the Government of Canada and provincial governments have not honoured Aboriginal rights in Canada and are, therefore, unlikely to accurately represent First Nations interests abroad.

In the words of Grand Chief Stewart Phillip:

“Up until this point in time, generally speaking, China has relied on Canadian authorities, provincial government authorities to represent the interests of indigenous peoples... Those governments haven’t done justice to indigenous people in terms of representing the true history of indigenous people, not to mention the long protracted legal battle we’ve had to ensure that our interests, our legal interests in the land are recognized and respected.... We feel that it is important that we have the opportunity - first hand - to represent our own interests, to tell our own story and to foster relations between indigenous peoples or First Nations and China...”²⁸

As one means of addressing these concerns, the BC First Nations & China strategy calls for extensive collaboration with the federal and provincial governments to ensure that First Nations’ viewpoints and interests are more thoroughly represented in British Columbia’s and Canada’s international trade promotion. For example, the First Nations Energy and Mining Council aims to create a China Desk that would station First Nations trade experts in the Government of British Columbia’s trade promotion offices in China and Vancouver. These trade experts would collaborate with provincial staff to promote First Nations products, but would not be incorporated directly into the provincial bureaucracy. As a result, these First Nations trade experts would have the ability to communicate their own messages about consultation and accommodation and the rights of First Nations.

The Role of Culture in the First Nations & China Relationship



Northwest Coast Artist Andy Everson,
K'omoks First Nation
Photo Credit: Dannielle Hayes/AtBC

Grand Chief Edward John stated in a recent interview that First Nations in Canada are seeking to develop relationships with China based on their identity as indigenous peoples.²⁹ Consequently, the upcoming AFN mission aims not only to enhance trade, but also to build cultural ties and people-to-people relationships between Canada’s First Nations and China. One of the centerpieces of this trade mission will be the raising of a totem pole gifted by the

First Nations of Canada to the Qiang people, an ethnic minority group in Sichuan province whose village was destroyed in the 2008 Wenchuan earthquake. The ceremony will be a part of the Qiang people’s New Year celebrations.

Cultural activities will also play a substantial role during this trade mission and as part of the BC First Nations & China strategy in communicating First Nations’ approaches to economic relations and in promoting standards of consultation and accommodation. According to Grand Chief Stewart Phillip, “The more the Chinese people know and understand our spiritual connection to the land and our cultural values, the more they will come to understand our concerns with respect to large scale resource development projects.”³⁰



Masks, Umista Cultural Centre, Alert Bay
Photo Credit: Dannielle Hayes/AtBC

One of the ways that First Nations in British Columbia and across Canada can ensure that their cultural perspectives are integral to a business relationship is by negotiating a Traditional Knowledge Protocol with a company. As they relate to mining activity, these protocols include provisions for the involvement of First Nations elders and traditional knowledge in environmental and other decision making processes, the protection of First Nations’ intellectual property, as well as mechanisms for the identification and protection of First Nations’ heritage sites, amongst other requirements. The promotion of Traditional Knowledge Protocols will feature in this trade mission.

Given the centrality of culture to the First Nations & China relationship, the FNLC is developing programs to help First Nations communities learn more about Chinese language and culture. Many of these programs focus on providing opportunities for First Nations youth, predominantly through university exchange programs. For example, the First Nations Energy and Mining Council has partnered with the Zhejiang Agricultural and Forestry University to offer study opportunities for both Chinese and First Nations students. In a recent press conference, Grand Chief Edward John stated that he was also seeking support from British Columbia-based universities in order to implement student exchanges.³¹

New and Not New: The 'Re-Emergence' of First Nations in British Columbia's and Canada's Diplomatic Relations

The upcoming AFN trade mission and the BC First Nations & China strategy are just two examples of the on-going 're-emergence' of First Nations as political actors in Canada's diplomatic relationships over the last forty years. The term 're-emergence' is appropriate because indigenous diplomacies are not new. First Nations have their own systems for inter-nation³² diplomacy, but these systems were highly suppressed throughout most of the 20th century. For the last forty years, however, First Nations have been representing their interests abroad. For example, First Nations in Canada play a strong role in the international indigenous solidarity movement and in advocacy for First Nations rights through the United Nations. From an indigenous perspective, it is the suppression, not the involvement, of First Nations in international relations that is the historical anomaly.³³

While First Nations have a long history of diplomacy, missions and strategies that focus predominantly on enhancing trade do mark a change from the majority of other First Nations engagements outside of Canada over the last 40 years. The Assembly of First Nations has made official visits abroad in the past, but these missions mostly emphasized cultural or educational exchange. At the same time, however, the upcoming AFN trade mission and FNLC's China strategy are consistent with First Nations' previous international activities in their emphasis on First Nations' rights.

Conclusion

First Nations political organizations in British Columbia and across Canada are taking an increasingly proactive approach to pursuing their interests in China. Both the Assembly of First Nations and the BC First Nations Leadership Council envision an international trade promotion system in which First Nations collaborate with the provincial and federal governments, but also retain the ability to formulate and communicate their own messages, especially regarding First Nations' rights.

In particular, this messaging would assert the right of First Nations to benefit from and be key decision makers in the Canada/British Columbia-China energy trade. As the controversy surrounding the Northern Gateway pipeline and other projects illustrate, First Nations already influence what types of natural resource projects take place in their traditional territories, how these resources are transported within and out of Canada, and how economic benefits from the sale of natu-

ral resources are distributed. In the case of British Columbia, this decision-making role will likely increase as First Nations gain, through treaties or other types of agreements, further jurisdiction over their traditional territories.

It is also likely that the involvement of BC First Nations in international trade promotion will expand beyond the natural resource sector. As a result of treaties and other agreements, some First Nations are acquiring jurisdiction over multiple sectors of their economies. Tsawwassen Nation, for example, now has the right to found and manage post-secondary education institutions as a result of its final agreement with the governments of Canada and British Columbia.³⁴ Nations like Tsawwassen may seek to promote their educational and other assets internationally.

Such a prospect raises substantial questions about how Canada's and British Columbia's trade promotion mechanisms will adapt as First Nations gain greater jurisdiction over areas that were previously the preserve of provincial or federal governments. Furthermore, the upcoming Assembly of First Nations trade mission and the BC First Nations & China strategy raise a number of other questions. Given that provincial governments and First Nations are highly vested in maintaining or gaining jurisdiction over territory and the natural resources those territories contain, what is the likelihood that a collaborative approach to international trade promotion will be successful? What specific mechanisms could First Nations political organizations, as well as the federal and provincial governments, develop to facilitate this collaboration? Furthermore, how have Chinese businesspeople and government officials received First Nations' recent China-related activities? These questions, and others, will be addressed in a forthcoming research report by the Asia Pacific Foundation of Canada.

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- ¹ These organizations are: the BC Assembly of First Nations, the First Nations Summit, and the Union of BC Indian Chiefs.
- ² The First Nations Leadership Council launched the BC First Nations & China: Transforming Relationships strategy at a press conference co-hosted by the Asia Pacific Foundation of Canada on August 9, 2011. The First Nations Energy and Mining Council (FNEMC), which was created by the First Nations Leadership Council, developed this strategy. To read the full strategy, please see <http://www.asiapacific.ca/research-report/first-nations-china-transforming-relationships>
- ³ Grand Chief Stewart Phillip, Interview, Asia Pacific Video, August 9, 2011
- ⁴ Due to space constraints, the author chose to focus only on First Nations' interests in the First Nations-China relationship. The views of the Government of Canada, the Government of British Columbia and Chinese businesspeople will be addressed more thoroughly in an upcoming publication by the Asia Pacific Foundation of Canada
- ⁵ While these drivers represent overarching trends, it is important to remember that there is no monolithic First Nations interest in building relationships with Chinese firms and government officials. There is equally no monolithic Chinese interest in seeking out relationships with First Nations in British Columbia.
- ⁶ Leslie Preston, "Patience is a virtue for Canada's lumber sector," *TD Economics Observation*, Sept 29 2011, accessed Oct 6 2011, http://www.td.com/document/PDF/economics/special/lp0911_Lumber.pdf
- ⁷ Tracy Tjaden, "China goes on a mine buying spree," *The Globe and Mail*, May 18 2011, accessed October 6 2011, <http://www.theglobeandmail.com/report-on-business/international-news/china-goes-on-a-mine-buying-spre/article2025342/>
- ⁸ "Governments Fund Forestry Program for First Nations," accessed September 10 2011, <http://www.bcwood.com/2011/01/governments-fund-forestry-program-for-first-nations/>
- ⁹ SR Management Services Ltd., "First Nations Forestry Council Tenure Benchmarking Survey," 2010, p. 3, <http://www.fnforestrycouncil.ca/downloads/first-nations-forest-tenure-benchmarking.pdf>
- ¹⁰ For example, the Province of British Columbia made a commitment in 2005 to provide the Haida Nation with a forest tenure of 120 000 cubic metres. Please see Kunsta'aa Guu-Kunst'aayah Reconciliation Protocol, p.17, http://www.haidanation.ca/Pages/Splash/Documents/Rec_Pro.pdf
- ¹¹ Gordon Hamilton, "Band reaps benefits from wholly owned forest products firm," *Vancouver Sun*, Dec 19 2010
- ¹² Gordon Hamilton, "Band reaps benefits from wholly owned forest products firm," *Vancouver Sun*, Dec 19 2010
- ¹³ Justine Hunter, "Band's Beijing trade office booming," *The Globe and Mail*, August 9 2011
- ¹⁴ The Native Investment and Trade Association is a BC-based private company that has organized multiple Aboriginal business delegations to Asia.
- ¹⁵ Canada Tourism Commission, "Where We Market Canada," accessed October 2 2011, <http://en-corporate.canada.travel/markets/where-we-market-canada>
- ¹⁶ United Nations Declaration on the Rights of Indigenous Peoples as adopted by the UN General Assembly on 13 September 2007, Article 32, accessed October 2 2011, <http://www.un.org/esa/socdev/unpfii/en/drip.html>
- ¹⁷ The UN Declaration on the Rights of Indigenous Peoples was passed by the UN General Assembly in 2007, but was not ratified by the Government of Canada until 2010. For the Government of Canada's position on the declaration, please see <http://ainc-inac.gc.ca/eng/1100100014078>
- ¹⁸ For a clear statement of this disagreement, please see Kunsta'aa Guu-Kunst'aayah Reconciliation Protocol p.1 http://www.haidanation.ca/Pages/Splash/Documents/Rec_Pro.pdf
- ¹⁹ For example, *Haida Nation v. Minister of Forests*, 2004 (SCC 73)
- ²⁰ Meyers Penny Norris LLP, "Best Practices for Consultation and Accommodation," p.4, accessed October 2 2011, <http://www.newrelationshiptrust.ca/downloads/consultation-and-accomodation-report.pdf>
- ²¹ For example, many First Nations feel that British Columbia's Free Entry system for staking mineral claims violates their rights to consultation and accommodation. For more information, see "The State of Mineral Exploration and Mining in British Columbia 2008," (Background document for First Nations Mining Summit, Prince George BC, October 7-9 2008), <http://fnbc.info/state-mineral-exploration-and-mining-british-columbia-2008>
- ²² First Nations Energy and Mining Council, "BC First Nations Mineral and Mining Exploration Plan," 2008, p. 3, accessed October 2 2011, http://fnbc.info/sites/default/files/fckuploads/FINAL_Mining%20Action%20Plan_w%20pics.pdf
- ²³ The Kaska Dena Nation's traditional territory includes lands in northwestern British Columbia, southeast Yukon and southern Northwest Territories
- ²⁴ David Porter, Press conference, Vancouver, August 9 2011
- ²⁵ Aboriginal Affairs and Northern Development Canada, "Fact Sheet: Treaties with Aboriginal Peoples in Canada," accessed October 10 2011, <http://www.aadnc-aandc.gc.ca/eng/1100100016302>
- ²⁶ Office of the Treat Commissioner, "Aboriginal Rights and Title," accessed July 10 2011, http://www.otc.ca/pdfs/aboriginal_rights.pdf
- ²⁷ Carrie Tait, "Sinopec Teams Up with Enbridge for Northern Gateway Pipeline," *The Financial Post*, Jan 18 2011, accessed Sept 12 2011, <http://www.financialpost.com/Sinopec+teams+with+Enbridge+Northern+Gateway+pipeline/4128351/story.html>
- ²⁸ Grand Chief Stewart Phillip, Interview, Asia Pacific Video, August 9, 2011
- ²⁹ Grand Chief Edward John, Interview, Asia Pacific Video, August 9, 2011
- ³⁰ Grand Chief Stewart Phillip, Interview, Asia Pacific Video, August 9, 2011
- ³¹ Grand Chief Edward John, Press Conference, Vancouver, August 9, 2011
- ³² The term 'inter-nation' draws attention to the fact that First Nations carry out diplomacy with other First Nations as well as provincial and federal governments within Canada
- ³³ For more information on First Nations in Canada and diplomacy, see *Canadian Foreign Policy*, 2007, 13 (3)
- ³⁴ Tsawwassen First Nation Final Agreement as adopted by Tsawwassen First Nation, Government of Canada, and Government of British Columbia, 6 December 2007 http://www.gov.bc.ca/arr/firstnation/tsawwassen/down/tsawwassen_final_agreement_english_mar_20_2009.pdf

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