



BC First Nations - China Strategy: Innovative Partnerships

*Prepared by the B.C First Nations Energy and Mining Council
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Table Of Contents

Executive Summary	3
Introduction	5
Building on the New Relationship	6
B.C First Nations Energy and Mining Council	7
Rationale For A First Nations China Strategy	8
Shared History	
Chinese Investment in Canada	9
Successful and Missed Opportunities With First Nations and China	10
Goals of The First Nations China Strategy	11
Action Plan	12
Next Steps	14

Executive Summary

First Nations peoples in British Columbia and immigrants from China have a shared history of marginalization. This shared history is the basis for continued good relations between First Nations and China to the present day.

China's emergence as a global economic power is increasingly felt in Canada, and especially in British Columbia. The People's Republic of China is not only a major trading partner for Canada but increasingly is also seen as a source of foreign investment and cutting-edge innovation. Chinese investment interest in Canada has been on the rise, with Chinese companies completing several high-profile investment projects in recent years, especially in the resource sector.

First Nations communities in British Columbia are increasingly being approached by Chinese companies that are interested in gaining access to their traditional territories, particularly for projects related to energy and mining. Some companies are very proactive and are doing the right thing by talking to First Nations communities at an early stage; others are unfamiliar with the existence of Aboriginal title and rights and have neglected the obligation to consult, resulting in problems for the project down the road.

First Nations are also increasingly aware of the business opportunities presented by China, including trade, tourism, property development, and joint ventures on non-resource related activities.

In 2011, the FNEMC, working with the Asia Pacific Foundation of Canada, launched a BC First Nations China Strategy: Transforming Relationships – the first iteration of a process to formulate an approach for closer economic and cultural ties between First Nations and Chinese interests. The Strategy was endorsed by the First Nations leadership in British Columbia and has generated greater awareness of China on the part of First Nations leaders across BC and beyond. However, the full implementation of the strategy was hampered by lack of support from the Federal and Provincial governments, and by an unfavourable political climate towards Chinese investment.

An enhanced First Nations China Strategy is timely because of the much-improved political relationship between Beijing and Ottawa since the election of the Liberal government in 2015.

This document articulates the importance of China's economic rise for First Nations and makes the case for a more strategic approach to First Nations dealings with Chinese counterparts, in the interest of the broader Canada-China relationship, and for the benefit of First Nations communities.

The goals of the China Strategy are as follows:

1. Expanding Business Opportunities for First Nations, China and Canada.
2. First Nations Capacity Building.
3. Creating a Unified Message on First Nations Rights and Opportunities.

An Action Plan has been developed, consisting of four elements:

- a) Establishment of an international secretariat for First Nations to serve as the “go to” place for China-related business opportunities, and as a platform for First Nations and Chinese interests to develop mutual understanding, trust, and long-term partnerships across a wide range of issues.
- b) Development a First Nations equity fund.
- c) Creation of a China internship program and other learning opportunities for First Nations leaders and youth.
- d) Advocacy with the Federal and Provincial governments on concrete measures to support the First Nations China Strategy.

The FNEMC will be pressing ahead with the action items identified in this document. However, successful implementation of the China Strategy will require cooperation and support from the Federal and Provincial Governments, including financial assistance for capacity building, participation in trade and investment missions, and direct First Nations equity participation in major projects.

Introduction

Canada's First Nations represent a major source of untapped economic opportunity for the country. Business activity on First Nations territories has been estimated to be worth \$35 billion currently, and – with greater control over resources and decision making by First Nations – it is possible to grow to as much as a \$100 billion economy.¹ One way to unlock this potential is to encourage foreign investment in First Nations territories and to promote partnerships between First Nations and foreign investors. However, there is a grave lack of knowledge about the obligations of investors to consult with aboriginal leaders on projects involving the traditional territories of First Nations.

The potential for closer and deeper ties between First Nations and international investors is especially strong in the context of Canada-China relations. The emergence of China as a global powerhouse has had far-reaching impacts on the Canadian economy. Following the Great Recession of 2008, Chinese demand for natural resources provided essential support for the global economy, including Canada. China has also emerged as a major source of outward investment and there are a growing number of Chinese enterprises looking to invest in Canada.

In 2011, the FNEMC, working with the Asia Pacific Foundation of Canada, launched a BC First Nations China Strategy – the first iteration of a process to formulate an approach for closer economic and cultural ties between First Nations and Chinese interests. The Strategy was endorsed by the Assembly of First Nations and has generated greater awareness of China on the part of First Nations leaders across BC and beyond.

The reciprocal visits of Prime Minister Justin Trudeau and Premier Li Keqiang in 2016 have underscored the stated intention of both countries to build stronger ties and to usher in a “golden era” of bilateral relations. More recently, the appointment of former cabinet minister John McCallum as Canada's Ambassador to China is yet another signal of the importance that Canada places on relations with Beijing. Preliminary discussions on a Free Trade Agreement have begun, and a range of other economic, tourism, education, and cultural initiatives are in the works.

The First Nations China Strategy also connects powerfully with a number of domestic policy priorities that have been articulated by the government. In particular,

1. The Prime Minister's stated top priority, as articulated in the mandate letters of all his Cabinet Ministers: “No relationship is more important to me and to Canada than the one with Indigenous Peoples. It is time for a renewed nation-to-nation relationship with Indigenous Peoples, based upon recognition of rights, respect, cooperation, and partnership.”

¹ TD Bank Special Report: Estimating the size of the Aboriginal economy in Canada. June 17, 2011.
https://www.td.com/document/PDF/economics/special/sg0611_aboriginal.pdf

2. In keeping with the priority accorded to Indigenous peoples, the Government of Canada has recently expressed its full support for the United Nations Declaration on the Rights of Indigenous Peoples. The Federal government has begun a process, working with Indigenous Leaders, on how to implement the principles of the Declaration.
3. On November 1st 2016, Federal Finance Minister Bill Morneau announced two new major project recommendations, including an infrastructure bank that will create thousands of new jobs for Canadians, as well as the “invest in Canada hub,” which aims to “go out and sell Canada to the world.” Morneau stated: “Canada needs a roadmap for attracting more foreign direct investment to turbo-charge Canadian businesses and help fund infrastructure and innovation. This success of these initiatives will depend in part on the ability of investors to work with indigenous leaders on projects involving the traditional territories of the First Nations.

Building on the “New Relationship”

The First Nations leadership in British Columbia has been working with the provincial government over the past few years to implement the principles of the *New Relationship* – a vision of reconciling differences and building a lasting relationship based on trust and respect.

A major focus of the *New Relationship* is on “sharing the wealth” of resource-related activities so that First Nations can fully participate in the economic development of the province. The *New Relationship* also focuses on shared decision-making, especially on the management of natural resources on First Nations lands. The 2014 Supreme Court of Canada *Tsilhqot’in* decision has further underscored the need for a “new relationship” around aboriginal title.

These principles have been underscored by the growing recognition of a legal requirement to consult and accommodate First Nations whose rights are impacted by resource development. The United Nations Declaration on the Rights of Indigenous Peoples emphasizes the importance of “free, prior, and informed consent” by indigenous groups as a precondition for resource development projects. We believe that adherence to these principles, supported by a relationship built on trust, respect and recognition of First Nations rights and title, can be a major factor in the successful development and operation of resource-related projects. By building relationships and securing benefit agreements with First Nations, companies will avoid project risks such as delays due to litigation or injunctions, challenges to permits, restriction of access to project sites, and negative media campaigns. Many companies already operate in this way, and have built

trust and goodwill with First Nations where they operate, for the mutual benefit of the company and the community.²

Some of the key considerations that should be incorporated into negotiations with First Nations on resource projects include:

- Open and honest communication throughout all aspects of the project.
- Agreement that the free, prior and informed consent of First Nations must be obtained before developing projects and activities affecting their communities.
- Negotiation of impact and benefit agreements that include profit sharing, equity, and other social and economic provisions.
- Resource development must be conducted in an environmentally, ecologically, socially, culturally, economically sustainable and viable manner for the benefit of future generations.
- The inclusion of Indigenous knowledge throughout the planning and development of a project.
- Financial resources for the First Nations to engage in the negotiation process.
- Education, training and capacity to ensure full participation in the planning, construction and operations of a project.

The BC First Nations Energy and Mining Council

The First Nations Leadership Council (FNLC), comprised of the leadership of the three major First Nations political organizations in BC – the Union of BC Indian Chiefs, First Nation Summit and BC Assembly of First Nations – has created sector-specific councils and working groups to assist the 203 communities in advancing their interests. Provincial First Nation councils have been created in health, technology, education, fisheries, forestry, energy and mining. The aim of these councils is to equip First Nations with the institutional foundation necessary to build their capacity to effectively engage and govern for the advancement of their economic, social and cultural objectives. The Councils are accountable to, and receive direction from, the First Nations Leadership Council and the First Nations in British Columbia.

The First Nations Energy and Mining Council FNEMC was created to identify priority issues for First Nations to address collectively. One of the top priorities is the relationship between First Nations and China, which led to the preparation of the first version of FNEMC's *First Nations-China Strategy: Transforming Relationships*. An

² Teck Indigenous Peoples Policy- <http://www.teck.com/responsibility/our-commitments/policies/indigenous-peoples-policy/>

advisory committee consisting of leaders representing First Nations, business, government, academia, and the legal community guided this work.

An important role of the FNEMC is to keep the FNLC and First Nations informed of emerging issues, as well as to conduct research, analysis and options on energy and mining issues. FNEMC has commissioned several reports on issues of interest to First Nations. These reports are available on the FNEMC website at <http://fnbc.info/fnemoc/publications/reports>.

Rationale For A First Nations China Strategy

First Nations communities in British Columbia are increasingly being approached by Chinese companies that are interested in gaining access to their traditional territories, particularly for projects related to energy and mining. Some companies are very proactive and are doing the right thing by talking to First Nations communities at the earliest stages; others are unfamiliar with the existence of Aboriginal title and rights and have neglected the obligation to consult, resulting in problems for the project down the road. A properly resourced First Nations-China Strategy will ensure that First Nations are prepared to respond to the variety of requests coming from potential investors and will increase the opportunities for positive benefits for all parties.

Shared History

The Chinese and the First Nations people share a rich history in British Columbia, one that is largely unknown to the general public. The first recorded visits of Chinese to North America occurred in 1788 when boats landed at Nootka Sound, but there is evidence of even earlier interactions between First Nations and Chinese on the coast of British Columbia that pre-date contact with Europeans by hundreds of years.

Recent history also brought Chinese and First Nations together during an era of colonial repression. Chinese migrants first appeared in large numbers on Vancouver Island in 1858 at the time of the building of the Canadian Pacific Railway. They were treated as second-class citizens by the government of the day, and indeed by European settlers as well. Many Chinese workers married First Nations women, and lived together on First Nations communities. Chinese railway workers made up the labour force for construction of two one hundred mile sections of the Canadian Pacific Railway from the Pacific Ocean to Craigellachie in the Eagle Pass in British Columbia. These sections were the most treacherous, and as a result, many Chinese workers lost their lives in the course of their labours.

Under *The Chinese Immigration Act, 1885*, the Government of Canada levied a "head tax" of \$50 on any Chinese person coming to Canada. When this legislation failed to deter Chinese immigration to Canada, the Government of Canada increased the tax to \$100 in 1900. In 1903, the landing fee for Chinese was increased to \$500 – an onerous fee, considering that the equivalent today would be \$15,000. The *Chinese Immigration Act, 1923*, better known as the “Chinese Exclusion Act”, replaced prohibitive fees with

an outright ban on Chinese immigration to Canada with the exceptions of merchants, diplomats, students, and "special circumstances" cases.

Similarly, some First Nations today still live under the *Indian Act* of 1876, legislation that has forced indigenous peoples to live on reserves and preventing them from participating fully in the life of the country, and sharing in that wealth.

In addition to the shared history of oppression in British Columbia, there is a cultural affinity between the Chinese and First Nations, which is demonstrated through various cultural exchanges both in China and in Canada. Examples include the gift of a totem pole from BC First Nations in memory of the people who lost their lives in the 2008 Wenchuan earthquake, and the Four Host Nations cultural exchange in Beijing during the 2008 Olympics.

In 2012, FNEMC signed an agreement with Zhejiang Agriculture & Forestry University (ZAFU) and The Beijing Foreign Studies University in China that outlines several areas of cooperation and exchange, including opportunities for First Nations students to study at ZAFU and internships for ZAFU students in BC. The First Nations Forestry Council is also a signatory to this Memorandum of Understanding.

Chinese Investment in Canada

Canada established diplomatic relations with the People's Republic of China in 1970 and was among the first western countries to do so. At that time, the annual trade volume was \$150 million per year; today, bilateral trade is worth more than \$85 billion per year.³ China has become Canada's second largest trading partner and third largest export market. There are now more than 700,000 mutual visits between the two countries annually.⁴

First Nations have a clear interest in developing business relationships with China, as evidenced in the various Aboriginal business-China trade missions in recent years. There are many opportunities for business collaboration, from resource development to two-way trade and tourism.

The most pressing challenge in First Nations business ties with China, however, is in the area of inward investment. More and more Chinese companies are scouting for investment opportunities on the traditional lands of First Nations, and some have made

³ Asia Pacific Foundation: Canada's Bilateral Trade with the Asia Pacific.
<https://www.asiapacific.ca/statistics/trade/bilateral-trade-asia-aggregate/canadas-bilateral-trade-asia-pacific>

⁴ <http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/arts37a-eng.htm>

<http://www.statcan.gc.ca/tables-tableaux/sum-som/l01/cst01/arts38a-eng.htm>

direct overtures to First Nations communities. In most cases, these nations are not prepared to respond to the interest of Chinese investors and, as a result, miss out on opportunities or agree to unfavourable terms, which results in a loss of trust and downstream problems for the project.

In turn, many Chinese companies doing business in Canada, particularly those involved in resource extraction, are not aware of the requirement to consult and accommodate First Nations. Chinese companies are largely unaware that First Nations rights are protected by the Constitution of Canada as well as the relationship that First Nations have with the land.

There is an urgent need to educate, on the one hand, First Nations leaders on partnership opportunities and on the other hand, Chinese investors about the rights of indigenous peoples in Canada, in order that investment projects generate the greatest benefit for all parties. This two-way awareness raising effort is one of the major objectives of the BC First Nations China Strategy.

In addition to the requirement for “free, prior and informed consent”, and the negotiation of impact and benefit agreements, many First Nations are also looking to participate in major investment projects as equity partners. The ability to do so, however, is constrained by lack of capital on the part of most First Nations bands, even when they have effective control over vast resources that could be monetized under the right circumstances. Chinese investors are not averse to equity participation by First Nations and the FNEMC has previously worked on the establishment of an investment fund, with support from a major Canadian bank that would co-invest with the China Investment Corporation. This initiative faltered only because of the unwillingness of the then Federal government to lend its support.

Successful and Missed Opportunities With First Nations and China

To date there have been many success stories of First Nations doing business with China in the energy and mining sector, however there have also been some major missed opportunities. With the creation of an International Secretariat platform for First Nations dealing with China, it is expected to increase successes and curb missed opportunities.

Successful First Nations/China Projects

- Lax Kw’alaams Coast Tsimshian Resources and Fujian Hijong Wood Industry Co. Ltd.
- Frog Lake First Nation and Sichuan Ruifeng Investment Management Co. Ltd.
- Tl’azt’en Nation and Pishon Jade
- Huatong Petrochemical Holdings and Stoney Nakoda First Nation

Missed Project Opportunities with First Nations/China

- HD Mining coal proposal in Northwest British Columbia: This Chinese coal company failed to build a working relationship with the local First Nation which resulted in the project not proceeding.
- Enbridge Northern Gateway pipeline proposal: A ten-year confrontation in the courts and through protests convinced the federal government to cancel this project and impose a moratorium on crude oil tanker traffic in the north coast of British Columbia.

Goals of The First Nations-China Strategy

1. Expanding Business Opportunities for First Nations, China and Canada.

The China strategy will identify opportunities for business development for First Nations, working in partnership with Chinese counterparts. This will include trade and investment opportunities, as well as cooperation on tourism, cultural and education issues. FNEMC will work collaboratively with First Nations, government and industry to identify market opportunities, and in so doing, contribute to the strengthening and deepening of Canada-China relations.

2. First Nations Capacity Building

In order to have successful, long-term partnerships between First Nations and Chinese enterprises, it is important to build “China competence”, especially among the next generation of First Nations leaders. The Asia Pacific Foundation of Canada (APFC) has launched a major national project on “Asia Competence” and is willing to support FNEMC on this effort, which could include training sessions, executive education, business missions, internships, and curriculum development. More broadly, there is a need to build capacity within FNEMC to manage and implement the China Strategy. Through established partnerships with Canadian post-secondary institutions such as SFU, BCIT, and UBC, as well as with Chinese institutions such as the Zhejiang Agriculture and Forestry University, there are opportunities to also develop formal training programs that focus on First Nations-China issues.

3. Creating a Unified Message on First Nations Rights and Opportunities

At the core of the China Strategy is the need for all levels of government to internalize and communicate the centrality of First Nations rights to potential trade and investment partners around the world. Hitherto, the messaging of First Nations rights by the Federal and Provincial governments has been inconsistent, and sometimes missing altogether. First Nations business interests are often overlooked or neglected in trade and investment missions to China and other countries, and all too often, these missions do not include representation from First Nations communities. The China Strategy will seek to develop a unified message on First Nations interests for all levels of government, and for the mainstream business community in Canada, and will advocate for consistency in messaging across the various actors on international trade and investment promotion.

A prime opportunity for accurate and unified messaging on First Nations issues is the “Invest in Canada” hub that is expected to be established in 2017/18. Likewise, the proposed Canadian Infrastructure Bank should clearly articulate the role of First Nations in Canada and provide the means for First Nations to participate directly in infrastructure projects that involve their traditional territories. In the same way, the preliminary Canada-China free trade talks that are underway are an opportunity to open a discussion with Beijing about the strong interest that First Nations have in doing business with China. This will create the conditions for the First Nations China strategy to have greater traction with Chinese counterparts.

Finally, a unified message must be paired with consistent and repeated communication with potential investors and business partners. Under the China Strategy, the FNEMC envisages holding regular business missions to China and hosting reciprocal visits from Chinese counterparts.

Action Plan

1. Establish an international secretariat for First Nations to serve as the “go to” place for China-related business opportunities, and as a platform for First Nations and Chinese interests to develop mutual understanding, trust, and long-term partnerships across a wide range of issues.

FNEMC will create an international secretariat as a platform to respond to inquiries and work with communities to build partnerships between First Nations and China. The secretariat will be a ‘go-to’ centre for First Nations seeking to access the Chinese market for their products and to improve their understanding of opportunities and emerging markets in China. It will also respond to incoming Chinese investors seeking to develop relationships and economic partnerships with First Nations in BC and Canada. This Secretariat would be a project of the BC FNEMC, but it would work with First Nations across Canada, and coordinate its efforts very closely with the AFN and other First Nations organizations with a special interest in international business.

2. Develop a First Nations equity fund

A proposed initiative that was considered in a previous mission to China is the creation of a First Nations equity fund in British Columbia. The initiative was to build a limited partnership of private capital that would work in partnership with interested First Nations in British Columbia to invest in projects. This private entity would partner with First Nations that are impacted by projects and invest in equity positions. It would be independent of government and provide capital and investment support to generate profits for First Nations. Establishing this fund for major projects that connects First Nations, Canadian and Chinese interests, working with Chinese, Canadian and First Nations investors would signal a safer investment environment as well as meeting the mission and objectives of our current government, while enhancing the economic and social structures of First Nation communities. One possible vehicle to kick-start this fund could be the proposed Canadian Infrastructure

Bank. The bank should establish a special facility for projects involving First Nations that effectively provides the affected First Nations with equity in those projects.

3. Create a China internship program and other learning opportunities for First Nations leaders and youth

FNEMC is working with various BC government ministries, the Asia Pacific Foundation of Canada, BCIT, and SFU to develop training programs on China competence for First Nations leaders, including an internship program for next generation leaders to gain experience in China. Possible internship placements include Canadian government diplomatic and trade promotion posts in China, BC government trade and investment offices, the Zhejiang Agriculture and Forestry University, Beijing Foreign Studies University, Chinese companies with interests in Canada, and Canadian corporations with offices in China.

4. Advocacy with the Federal and Provincial governments on concrete measures to support the First Nations China Strategy, focusing on four areas:

a) Trade and Investment Promotion

Ensuring that business partners around the world understand the unique position of First Nations in Canada and that they are provided with accurate information on the requirement to consult with First Nations. At the same time, underscoring the immense business opportunities that First Nations represent, not only as the owners of vast untapped resources, but also as partners on major projects.

b) An Equity Fund for First Nations Investment

Identifying possible channels to mobilize capital for a First Nations Equity Investment Fund, working with the private sector and foreign investors. The Canadian Infrastructure Bank can play a special role in this regard, but Canadian government leadership will be key.

c) Inclusion in Canada-China Bilateral Dialogues and Trade Missions

First Nations are keen to be part of the broader dialogue on building stronger relations between Canada and China and can play a very constructive role in presenting Canada as a progressive and friendly business partner for Chinese interests. By involving First Nations leaders in regular dialogues with Chinese counterparts, the traditional image of indigenous issues in Canada as an obstacle to business development can gradually be dispelled. As a starting point, there should always be First Nations representation on Federal and Provincial government-led trade missions to China. The proposed International Secretariat for this China Strategy could serve as the coordinating body for participation in China-related initiatives, drawing on First Nations representation across Canada.

d) Capacity Building

Direct and indirect support from government agencies for First Nations internships in

China, as well as other capacity building opportunities such as secondments and exchanges, training programs, and curriculum development.

Next Steps

The FNEMC has been working to advance the China Strategy since it was first introduced in 2011, and has made modest progress in terms of getting buy-in from First Nations, as well as from different levels of government, think tanks, post-secondary institutions, and the private sector. This strategy update has been prepared because of the improved circumstances around Canada-China relations, which present an excellent opportunity to insert First Nations interests more firmly into the bilateral relationship, which will be good for both countries as well as for First Nations. The FNEMC will be pressing ahead with the action items identified in this document. However, successful implementation of the China Strategy will require cooperation and support from the Federal and Provincial Governments, including financial assistance for capacity building, participation in trade and investment missions, and direct First Nations equity participation in major projects.