

COURT OF APPEAL FOR ONTARIO

IN THE MATTER OF A REFERENCE to the Court of Appeal pursuant to section 8 of the *Courts of Justice Act*, RSO 1990, c. C. 34, by Order-in-Council 1014/2018 respecting the constitutionality of the *Greenhouse Gas Pollution Pricing Act*, Part 5 of the *Budget Implementation Act, No. 1*, SC 2018, c. 12

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PART I – OVERVIEW

1. Reducing the amount of Greenhouse Gas (“GHG”) emissions produced by humans is a growing global concern. The Government of Canada passed the *Greenhouse Gas Pollution Pricing Act*, S.C. 2018, c. 12, s. 186 (the “*GGPPA*”) in June of 2018 as an instrument to reduce the amount of greenhouse gases released into the atmosphere by Canadians. The *GGPPA* aims to influence the behaviour of Canadians by incentivizing citizens and businesses to consume less carbon-intensive products. The Province of Ontario questions whether Canada has the jurisdiction to enact such legislation and has proceeded with the within Reference pursuant to s. 8 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 to determine whether the *GGPPA* is unconstitutional in whole or in part.

2. The Attorney General of Ontario (“Ontario”) submits that the *GGPPA* is unconstitutional in its entirety. It is their position that although Parliament has jurisdiction over certain greenhouse gas sources by way of the powers afforded pursuant to sections 91 and 92 of the *Constitution Act, 1867*, it does not have a general jurisdiction over the range of provincially-regulated activities it purports to regulate. Ontario submits that *GGPPA* encroaches on the province’s individual authority to decide how best to address the reduction of GHG emissions and it is its position that as Ontario has already taken steps to address and regulate same, it is not a national concern. Even if the *GGPPA* is viewed as constitutional as a national concern, it is Ontario’s position that the “charges” provided within the *GGPPA* are neither valid regulatory charges nor valid taxation, lacking the nexus with the *GGPPA*’s regulatory purpose which it alleges is required to be a valid.

3. The Attorney General of Canada (“Canada”) submits that the Government of Canada passing the *GGPPA* falls within their jurisdiction to enact legislation for the peace, order, and good

governance of Canada on matters of national concern. The *GGPPA* aims to ensure that one province's failure to act does not adversely affect Canada as a whole. Canada submits that the *GGPPA* imposes a valid regulatory fuel charge. If this Court characterizes the charge as a tax, Canada submits the tax is validly imposed under Government of Canada's taxation power.

4. It is the Assembly of First Nations ("AFN") position the Government of Canada has the jurisdiction to impose a charge, or in the alternative a tax, in provinces and territories that do not meet minimum GHG emission standards pursuant to its peace order and good government powers as GHG's are a matter of national concern, particularly where provinces and territories fail to take sufficient action. However, Canada has a legal obligation to recognize Aboriginal and Treaty rights in Canada in its effort to regulate GHG's. These rights include the authority of First Nations to participate in the regulation of environmental matters within their respective territories, in this case the regulation of GHG emissions and carbon pricing, and the utilization of any resulting economic benefits derived from the implementation of said regulations based on their inherent right to self-determination.

PART II – FACTS

5. The Assembly of First Nations (AFN) adopts the Attorney General of Canada's Statement of Facts and adds the additional facts enumerated below.

6. The AFN is a national organization representing more than 634 First Nations throughout Canada and their respective members, a majority of whom are Treaty beneficiaries. The National Chief of the AFN is elected by First Nations Chiefs who provide the AFN with its mandate through resolutions.

7. First Nations across Canada have their own laws, languages, citizens, territories, and governance systems. First Nations hold the right to self-determination as Peoples. Their relationships with the Crown are founded on inherent rights, as well as historic treaties, the numbered treaties, self-government agreements, and other arrangements.

8. A 2006 paper prepared by the Centre for Indigenous Environmental Resources states that “it is expected that First Nations will experience the impacts of climate change in ways that most non-Aboriginal Canadians will not due to a heavy reliance on the environment, their locations, their economic situations.”

Reference: Centre for Aboriginal Environmental Resources, "How Climate Change Uniquely Impacts the Physical, Social and Cultural Aspects of First Nations" Prepared for Assembly of First Nations, March 2006

9. A 2011 Policy Brief prepared by researchers from the University of Ottawa noted that “Aboriginal people across all metropolitan areas were two to three times more likely than the non-Aboriginal population to live in dwellings needing major repairs.” As people living in poor quality housing are more vulnerable to damages from extreme weather events, it is clear that First Nations and their infrastructure are far more susceptible to climate change impacts when compared to other Canadians.

Reference: Sustainable Prosperity- Policy Brief 2011- Carbon Pricing and Fairness [“Policy Brief”]

10. The *Pan-Canadian Framework on Clean Growth and Climate Change* addressed the susceptibility of indigenous peoples to climate change when it confirmed that “unlike rebuilding after an extreme event like a flood or a fire, once permafrost has thawed, coastlines have eroded, or socio-cultural sites and assets have disappeared, they are lost forever.”

Reference: Pan Canadian Framework on Clean Growth and Climate Change, Canada's Plan to Address Climate Change and Grow the Economy, Gatineau Quebec, Environment and Climate Change Canada, 2016, at pp 2-4 ["Pan Canadian Framework"]

11. A 2016 Research Article entitled *Projected Scenarios for Coastal First Nations' Fisheries Catch Potential under Climate Change: Management Challenges and Opportunities* examined the impact of climate change on First Nations' fisheries along the British Columbia coast. It predicts modest to severe declines in catch potential for all commercial fisheries with known First Nations participation. They estimate regional losses in revenue between 16.4%- 28.9% by 2050.

Reference: Weatherdon LV, Ota Y, Jones MC, CLse DA, Cheung WWL (2016)" Projected Scenarios for Coastal First Nations' Fisheries Catch Potential under Climate Change: Management Challenges and Opportunities." PLoS ONE 11(1): e0145285: doi:10.1371/journal.pone.0145285 at pg. 5 & 8 ["Fisheries Catch Potential"].

12. First Nations also tend to be disproportionately impacted from the implementation of regulations over GHG emissions and the resulting charges/taxes. In particular, regressive impacts of a carbon price due to factors such as remoteness, poor quality housing and subsistence lifestyle.

Reference: *Policy Brief, supra*, at pp. 5.

13. The institution of the cap and trade system put in place by the Ontario government effective January 1, 2017 had an immediate impact on the costs of diesel, a major fuel source for remote First Nations who rely on continuous diesel-fired electricity generation. These First Nations were disproportionately affected by the cap-and-trade system and suffered far greater economic disadvantages than other Ontarians.

14. In examining the impact of carbon pricing in British Columbia, the researchers noted that "remote communities have a lower ability to substitute less carbon-intensive goods and services, due to limited selection" and therefore "as energy costs rise, the impact upon remotely located

communities will be greater than those facing shorter distances and lower costs to access basic necessities.

Reference: *Policy Brief, supra*, at pp. 10.

15. Remote First Nations rely on traditional means of subsistence, including hunting and fishing, the increased costs of basic necessities such as food could put more pressure on these traditional practices which, in conjunction with climate change impacts, could reduce the availability and reliability of the nature resources upon which these First Nations depend.

Reference: *Policy Brief, supra*, at pp. 10.

Part III – ISSUES

16. The issues in this matter are as follows:

- a. Does the Government of Canada have the constitutional authority over the regulation of GHG emissions in Canada on the basis that it is a matter of national concern?
- b. Does the Government of Canada have the constitutional onus to address First Nations' authority as decision-maker in the area of greenhouse gas emission regulation and associated carbon pricing regimes?

PART IV - LAW & ARGUMENT

17. The AFN submits that the regulation of GHG emissions is a matter of national concern and that the passing of the *GGPPA* by the government of Canada is constitutional pursuant to its peace, order and good government powers provided under s. 91 of the *Constitution Act, 1867*. Further to this power, the government of Canada has a constitutional onus to address First Nation self-

regulation in the area of GHG emission regulation based on its obligations flowing from the principal of the honour of the Crown.

A. GGPPA validity as a National Concern

18. In order to establish whether a law is *ultra vires*, the court must conduct a two-stage analysis, determining the true subject matter, being the pith and substance of the proposed law in question, and thereafter determining whether the subject matter of the challenged legislation falls within the head of power being relied upon by the party asserting the validity of the legislation at issue.

Reference: *Reference re Securities Act*, [2011] 3 SCR 837 at para. 63-64 [“Securities Reference”];

19. It is the AFN’s position that the pith and substance of the proposed carbon pricing regime is to effectively address an issue of national import, being transboundary GHG emissions and their cumulative effects. This includes the application of a minimum standard for GHG emission regulation across Canada derived from a national perspective in order to mitigate the inter-provincial harms which will invariably arise as a result of the failure of individual provinces to address the issue appropriately.

Reference: Pan-Canadian Framework on Clean Growth and Climate Change [“*Pan-Canadian Framework*”]

20. The second step as identified is examination of the validity of a law; this is to determine whether the purpose can be characterized so as to fall under the head of power said to support it, in this case the doctrine of national concern. In establishing this, one must satisfy the test identified in the Supreme Court case of *R. v. Crown Zellerbach Canada Ltd.*, where the court clarified that the doctrine of national concern applies to new matters which did not exist at Confederation or those which have evolved into a matter of national concern. For a matter to qualify as a matter of national concern, it must have “a singleness, distinctiveness and indivisibility that clearly

distinguishes it from matters of provincial concern and a scale of impact on provincial jurisdiction that is reconcilable with the fundamental distribution of legislative power under the Constitution.” In examining the singleness, distinctiveness and indivisibility of a matter, the Supreme Court provided that it is relevant to consider the extra-provincial effects resulting from a province’s failure to deal with the regulation of the intra-provincial aspects of the matter, commonly referred to as the provincial inability test.

Reference: *R. v. Crown Zellerbach Canada Ltd.*, [1988] 1 SCR 401 at para 33
[“*Zellerbach*”];

21. Further to these criteria, the AFN would submit that the concern over GHG emissions did not exist at the time of Confederation but has since become a matter of vital interest, having both extra-provincial as well as global impacts. It has in effect attained such dimensions as to affect the body politic of Canada, as evidenced by Canada’s national commitments as outlined in the *Pan-Canadian Framework on Clean Growth and Climate Change* and international commitments arising by virtue of the *Paris Agreement*.

Reference: *Pan-Canadian Framework on Clean Growth and Climate Change* [“*Pan-Canadian Framework*”]

22. GHG emissions also have the singleness, distinctiveness and indivisibility distinguishing them from matters of merely provincial concern as they are transboundary by nature. There would also be a very real impact and harm to other provinces and territories should a province fail to address the issue of GHG emissions, most notably the adverse impacts to First Nations and on the exercise of Aboriginal and Treaty Rights as outlined hereinabove.

23. The government of Ontario has taken the position that the assessment of the impacts of a province’s inaction on the matter of GHG emission regulation is not particularly helpful in the matter of addressing whether GHG emission regulation is a matter of national concern,

emphasizing that the test asks whether the provincial non-participation jeopardizes the functioning of the scheme, not just its effectiveness. This was premised on the decision in *Zellerbach* wherein the Supreme Court described that the utility of the provincial inability test is in determining whether a matter has the requisite singleness or indivisibility from a functional as well as a conceptual point of view.

Reference: *Zellerbach, supra*, at para 35.

24. In attempting to justify minimizing the impact of the provincial inability portion of the *Zellerbach* analysis for a finding of a national concern, the government of Ontario has asserted that the provinces have the ability to legislate in the area of GHG emission, the jurisdiction to do so being inferred within the *GGPPA* itself. As the provinces retain the capacity to legislate in the area of GHG emissions, they should be free to do so in a manner consistent with provincial priorities. For the government of Ontario, the effectiveness of its GHG regulations has no bearing and as a result, it views the implementation of the *GGPPA* and federal backstop as federal overreach.

Reference: Ontario Factum, para. 75-80.

25. The AFN submits that in its effort to minimize the impact of provincial inaction in relation to GHG emission regulation, the government of Ontario has incorrectly attempted to incorporate aspects of the analysis established in the *Reference re Securities Act* regarding the determination of the validity of a law adopted under the general trade and commerce power. As per the Supreme Court in *R. v. Hydro-Québec*:

...the validity of a legislative provision (including one relating to environmental protection) must be tested against the specific characteristics of the head of power under which it is proposed to justify it. For each constitutional head of power has its own particular characteristics and raises concerns peculiar to itself in assessing it in the balance of Canadian federalism. This may seem obvious, perhaps even trite, but it is all too easy (see *Fowler v. The Queen*, [1980] 2 S.C.R. 213) to overlook the characteristics of a particular power and overshoot the mark or, again, in assessing the applicability of one head of power to give effect to concerns appropriate to another

head of power when this is neither appropriate nor consistent with the law laid down by this Court respecting the ambit and contours of that other power.

Reference: *R. v. Hydro-Québec*, [1997] 3 S.C.R. 213 at para 117 [“Hydro-Quebec”].

26. The Government of Ontario has sought to shift the focus onto its hypothetical legislation instead of the law in question to which it takes exception, being the *GGPPA*. It is agreed that the provinces have the ability to legislate on the environmental front as it pertains to GHG emissions as there is always some manner of jurisdictional overlap in environmental matters. However, the efficaciousness of provincial efforts in curbing GHG emissions and the province’s ability to legislate on certain aspects of GHGs are not relevant considerations for the purpose of the provincial inability test and its influence on the determination of whether the regulation of GHG emissions is a matter of national concern pursuant to the government of Canada’s POGG powers. The *General Motors* discussion in the *Reference re Securities* and criteria referred to by the government of Ontario in its factum at paragraph 76 are clearly tied to a distinct head of power analysis, being general trade and commerce for the purpose of the promotion of fair and effective commerce, and is neither an appropriate nor consistent approach in light of the existing jurisprudence associated with the provincial inability test.

Reference: *Securities Reference, supra*, at para. 90; Ontario’s Factum, para 76-78.

27. As in the Supreme Court decision of *Johannesson v. West St. Paul* on aeronautics, the issue of the impacts of GHG emissions on Canadians as a whole and increased ramifications for First Nations transcends the delineation of property and civil rights afforded the province of Ontario by virtue of s. 92 of the *Constitution Act, 1867*. In light of the national and global impacts of climate change resulting from GHG emissions, which include traditional Aboriginal and Treaty Rights embedded in the constitution, it is fallacious for the government of Ontario to state it has the capacity and authority to legislate in the area of GHG emission on its own terms and that provincial

inability is an irrelevant consideration. It is clear that its failure to regulate GHG emissions to the same standard as the remaining provinces will undermine their combined efforts at mitigating the impacts of same and the government of Canada's ability to reach its domestic and international commitments, including the *Paris Agreement* objectives. This undermines the very function of the proposed legislation, in addition to facilitating increasing harms to First Nations stemming from GHG emissions.

Reference: *Johannesson v. West St. Paul (Rural Mun.)*, [1952] 1 S.C.R. 292

28. With respect to remaining aspect of the *Zellerbach* test, being the scale of impact on provincial jurisdiction, the AFN submits that is reconcilable with the distribution of powers as provided for under the Constitution. The Supreme Court has clearly provided that the government of Canada legislative powers in the area of national concern can include specific environmental matters in appropriate circumstances, namely for the purpose of this reference being pollution which is transboundary in nature, such as in the case of marine pollution in *Zellerbach*. The backstop nature of the *GGPPA* precludes conflict with provincial GHG emission regulation as it has ascertainable and reasonable limits and encourages flexibility and cooperation between the two levels of government in accordance with the principle of cooperative federalism. At the same time, it also ensures minimum national standards and respect for the constitutional boundaries that underlie the division of powers.

Reference: *Zellerbach, supra* at para 39; *Quebec (Attorney General) v. Canada (Attorney General)*, [2015] 1 S.C.R. 693 at para 19.

B. GGPPA Validity as a Regulatory Charge

29. The AFN further submits that the charges addressed within the *GGPPA* are valid regulatory charges tied to the scheme of the *GGPPA*. The Supreme Court has held that it is the primary purpose of a law that will determine whether it is a tax or a regulatory charge, based on an

examination of its pith and substance, which is its dominant or most important characteristic. Even if a government levy has all indicia of a tax, it will still be viewed as a regulatory charge if it is connected to a regulatory scheme.

Reference: 620 *Connaught Ltd. v. Canada (Attorney General)*, [2008] 1 S.C.R. 131.at para. 16-17, 24-27 [“*Connaught*”].

30. The AFN submits that the GGPPA is a valid regulatory scheme with the dominant purpose of curbing GHG emissions and mitigating their cumulative effects. A sufficient relationship exists between the charge and the scheme itself for the establishment of the regulatory charge as it is inextricably connected to the scheme. The charges are merely incentives which will promote the necessary behavioural changes across Canada which will in turn lead to a reduction in the production of GHG emissions.

C. GGPPA Validity via honour of the Crown

31. Ancillary to the *GGPPA* being constitutional as a matter of national concern and as a valid regulatory charge, it is submitted that a constitutional onus exists, grounded in the federal and provincial Crown’s shared obligations to act honourably to First Nations, to proactively make efforts to mitigate the effects of GHG emissions and climate change on First Nations in accordance with globally and nationally accepted standards such as those outlined in the *Pan-Canadian Framework*. In its attempt to pass the *GGPPA*, the government of Canada is arguably attempting to ensure these constitutional obligations owed to First Nations are upheld and that any negative effects stemming from a province’s decision to impose diminished standards in the area of GHG regulation are mitigated.

32. The honour of the Crown further dictates that the government of Canada is also constitutionally bound to address the First Nation regulation of GHG emissions in their respective

territories, including any associated economic benefits derived therefrom. First Nations are an order of government within the constitutional framework and the right to self-determination in the area of GHG regulation is an Aboriginal right.

33. GHG regulation should not be used as a limiting factor on First Nations economies and development. Instead, as stated, an evolving system of cooperative federalism should be strived for by incorporating a nation-to-nation dialogue and a more appropriate system of GHG regulation and governance which engages First Nations and promotes the growth of their respective economies and development.

D. The Honour of the Crown

34. Per the Supreme Court in *Mikisew Cree First Nation v. Canada (Governor General in Council)*, the honour of the Crown is a foundational principle of Aboriginal law governing the relationship between the Crown and Indigenous peoples. Its underlying purpose is the reconciliation of Crown and Indigenous interests.

Reference: *Mikisew Cree First Nation v. Canada (Governor General in Council)*, [2018] S.C.J. No. 40 at para. 21.

35. While the regulation of GHG's may not have been in the contemplation of First Nations at the time of European contact, it is clear that First Nations have managed ecosystems and natural resources, as well as mitigated environmental degradation prior to European contact. An example of this includes the Mi'kmaq Nation who practiced "Netukulimk", being the Mi'kmaq way of harvesting resources without jeopardizing the integrity, diversity or productivity of the environment, as passed down through the generations by Elders and parents.

Reference: Suzanne Berneshawi. "Resource Management and the Mi'kmaq Nation". *The Canadian Journal of Native Studies* XVII, 1 (1997); 115-148 at pp. 118-119.

36. GHG emission regulation will also clearly have an adverse impact on traditional aboriginal rights, including but not limited to hunting as well as fishing as affirmed previously by the Supreme Court for various First Nations across Canada as distinct Aboriginal rights. First Nations across Canada that depend upon nature for traditional and commercial activities as well as cultural well-being will be more significantly impacted.

37. The AFN submits that reconciliation of First Nation interests requires that the construction of s. 35(1) must instead be grounded by the “living tree” doctrine. As per the Supreme Court, “our Constitution is a living tree which, by way of progressive interpretation, accommodates and addresses the realities of modern life.”

Reference: *Reference re Same-Sex Marriage*, [2004] 3 S.C.R. 698 at para. 22.

38. The AFN states that to fully pursue the goal of reconciliation and their fiduciary duty to First Nations, due deference must be given to the modern realities facing all First Nation peoples. The effects of climate change and GHG emission regulation and its impacts on First Nations are unique circumstances and the honour of the Crown must evolve to not only acknowledge the historical role of individual First Nations in resource management on their respective territories, including the continuity of same, but a modern role for First Nations in the regulation of GHG emissions on their territories and the economic benefits derived therefrom.

39. The AFN submits that the Government of Canada’s obligation to act honourably in its dealings with First Nations also requires that it recognize the role of the *United Nations Declaration on the Rights of Indigenous Peoples* as a guide on the path of reconciliation.

Reference: *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res. 61/295 (Annex), UN GAOR, 61st Sess., Supp. No. 49, Vol. III, UN Doc. A/61/49 (2008) 15 [“*UN Declaration*”].

40. The *UN Declaration* has been made a priority of the Government of Canada which has

committed to implementing the *UN Declaration* “without qualification” and undertaken formal plans to implement the *UN Declaration* in accordance with the Canadian Constitution with the aim of imbedding these international standards into Canada’s domestic sphere.

Reference: Minister of Indigenous and Northern Affairs Carolyn Bennett, “Speech delivered at the United Nations Permanent Forum on Indigenous Issues, May 10, 2016 ; Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples

E. International obligations supporting First Nations jurisdiction over carbon pricing

41. The AFN submits that international discourse calls for the recognition that First Nations have jurisdictions in this area, which also form part of the First Nations’ inherent rights. The *United Nations Framework Convention on Climate Change* (“*UNFCCC*”). The *UNFCCC* says adaptation action should be guided by the best science, traditional knowledge and Indigenous knowledge.

Reference: *United Nations Framework Convention on Climate Change, Preamble, article 7.5*

42. Initiatives such as the *Reducing Emissions from Deforestation and forest Degradation* (“*REDD+*”) also acknowledge Indigenous people’s particular relationship with the lands they inhabit and further call for the effective participation of Indigenous peoples in State’s climate change mitigation.

Reference: *Reducing emissions from deforestation and forest degradation in developing countries* (“*REDD+*”)

F. Right to participate in economy

43. Canada and the provinces have established robust economies from centuries of pollution and the emission of GHGs. These economies have largely excluded First Nations. In essence, Canada and the provinces have effectively used up all the carbon space in the atmosphere. First Nations are just beginning to develop their economies and industries, but there is no more room for any further carbon releases.

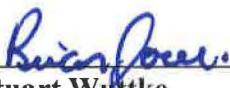
44. Through cooperative federalism, Canada, the provinces/territories and First Nations can each adopt specific measures to address climate change impacts, mitigation and green projects. This would be consistent with the special relationship between First Nations and the Government of Canada as it incorporates nation-to-nation dialogue and a more appropriate system of GHG regulation and governance which engages First Nations.

45. Constitutional tools such as interjurisdictional immunity, paramountcy, conflict of laws, double aspect, ancillary power and incidental effects rules are available to address any conflicts in jurisdiction.

PART V – ANSWER REQUESTED

46. The AFN respectfully requests that this Court answer the reference question as follows: “the Greenhouse Gas Pollution Pricing Act, Part 5 of the Budget Implementation Act, 2018, No. 1, SC 2018, c.12, is within the constitutional ambit of the Government of Canada as part of its peace, order and good government powers as a matter of national concern.

Dated at Ottawa, Ontario, this 26th day of February, 2018.

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SCHEDULE A – AUTHORITIES CITED

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1. [620 Connaught Ltd. v. Canada \(Attorney General\), \[2008\] 1 S.C.R. 131](#)
2. [Johannesson v. West St. Paul \(Rural Mun.\), \[1952\] 1 S.C.R. 292](#)
3. [Mikisew Cree First Nation v. Canada \(Governor General in Council\), 2018 SCC 40.](#)
4. [Quebec \(Attorney General\) v. Canada \(Attorney General\), \[2015\] 1 S.C.R. 693](#)
5. [R. v. Crown Zellerbach Canada Ltd., \[1988\] 1 SCR 401](#)
6. [R. v. Hydro-Québec, \[1997\] 3 S.C.R. 213](#)
7. [Reference re Same-Sex Marriage, \[2004\] 3 S.C.R. 698](#)
8. [Reference re Securities Act, \[2011\] 3 SCR 837](#)

TEXTS & INTERNATIONAL MATERIAL

9. [Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples](#)
10. [Centre for Aboriginal Environmental Resources, "How Climate Change Uniquely Impacts the Physical, Social and Cultural Aspects of First Nations" Prepared for Assembly of First Nations, March 2006](#)
11. [Minister of Indigenous and Northern Affairs Carolyn Bennett, "Speech delivered at the United Nations Permanent Forum on Indigenous Issues, May 10, 2016.](#)
12. [Pan Canadian Framework on Clean Growth and Climate Change, Canada's Plan to Address Climate Change and Grow the Economy, Gatineau Quebec, Environment and Climate Change Canada, 2016](#)
13. [Reducing emissions from deforestation and forest degradation in developing countries \(REDD+\)](#)
14. [Sustainable Prosperity- Policy Brief 2011- Carbon Pricing and Fairness.](#)

15. [Suzanne Berneshawi. "Resource Management and the Mi'kmaq Nation". The Canadian Journal of Native Studies XVII, 1 \(1997\); 115-148](#)
16. [United Nations Declaration on the Rights of Indigenous Peoples, GA Res. 61/295 \(Annex\), UN GAOR, 61st Sess., Supp. No. 49, Vol. III, UN Doc. A/61/49 \(2008\) 15.](#)
17. [United Nations Framework Convention on Climate Change, United Nations \(May 9, 1992\)](#)
18. [Weatherdon LV, Ota Y, Jones MC, CLse DA, Cheung WWL \(2016\)" Projected Scenarios for Coastal First Nations' Fisheries Catch Potential under Climate Change: Management Challenges and Opportunities." PLoS ONE 11\(1\): e0145285: doi:10.1371/journal.pone.0145285](#)

SCHEDULE B: LEGISLATION CITED

1. [Constitution Act, 1867 \(UK\), 30 & 31 Vict, c 3, reprinted in RSC 1985, App II, No 5.](#)