

**CANADIAN HUMAN RIGHTS TRIBUNAL**

**BETWEEN:**

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and ASSEMBLY  
OF FIRST NATIONS,

Complainants,

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission,

- and -

ATTORNEY GENERAL OF CANADA  
(MINISTER OF INDIGENOUS AND NORTHERN AFFAIRS CANADA)

Respondent,

- and -

CHIEFS OF ONTARIO

- and -

NISHNAWBE ASKI NATION

- and -

AMNESTY INTERNATIONAL

Interested Parties.

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**MOTION FOR INTERESTED PARTY STATUS – REPLY SUBMISSIONS  
CONFEDERACY OF TREATY SIX FIRST NATIONS**

Pursuant to Rule 27 of the Canadian Human Rights Tribunal Rules of Procedure,  
SOR/2021-137

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**A. Introduction**

1. The Confederacy of Treaty Six First Nations (“**CT6FN**”) makes the following submissions in reply to points raised by the parties the Attorney General of Canada (“**Canada**”), the Chiefs of Ontario (“**COO**”) and Nishnawbe Aski Nation (“**NAN**”) in opposing the participation of CT6FN and other proposed interested parties outside of Ontario.

2. CT6FN respectfully submits that it meets the requirements for interested party status in the Ontario Final Agreement (“**OFA**”) Joint Approval Motion and ought to be permitted to participate as an interested party, given the demonstrable national impact of the outcome of the motion on Long-Term Reform and therefore on Treaty 6 Nations, the consequent relevance of CT6FN’s perspective and submissions, and the clear lack of representation of its perspective in these proceedings to date, which will be of assistance to the Tribunal in making a determination on this very important motion.

**B. The Outcome of this Motion will Impact Long-term Reform Nationally**

3. Canada, COO, and NAN argue that the OFA will have not an impact on the interests of the Nations and groups outside of Ontario, because the OFA doesn’t apply outside of Ontario, and describes any impacts as “speculative” at best.

4. In reply, CT6FN states that Treaty 6 Nations and their interests will be clearly and foreseeably be impacted by the decision before this Tribunal. In an ideal world, it would be the case that OFA Joint Approval Motion would concern Ontario only, since nominally it only applies with respect to Ontario. However, this narrow view fails to recognize the history of this proceeding and the context of the OFA, as well as statements and actions made by Canada, right up to present.

5. As set out in CT6FN's written submissions, Canada made statements in their communications in early 2025 to the effect that approval of the OFA will indeed affect future negotiations outside of Ontario. Moreover, as CT6FN has noted, the Draft Final Settlement Agreement rejected by the Chiefs in Assembly ("**FSA**") was already dictating Canada's position on the Nations' ability to negotiate terms for the execution of their jurisdiction over child welfare – and it hadn't even been approved. This represents a clear precedent and validation for the concern that the OFA will similarly dictate the terms of future negotiations, to the detriment of Nations outside of Ontario.

6. Canada admits in its response submissions at paras 6-8 that "The Joint Motion will provide the Tribunal with the opportunity to consider elements relevant to addressing how the discrimination ... in the Merits Decision is remedied... the Tribunal may provide advice which will assist in the future, such as whether the unanimous consent of every First Nation is required before the parties can move forward with long-term reform...." and does not deny that the orders could have an impact on future "reform on a national level", something NAN calls "precedential value." However, Canada, NAN, and COO dismiss these acknowledged realities as "speculative."

7. With respect, these impacts are not speculative, but demonstrable and highly probable, given statements made to this effect and similar impacts which have already happened with respect to the unapproved FSA.

8. CT6FN would add that given the apparent breakdown of the dialogical approach in broader negotiations it will be efficient for the Tribunal to hear the perspectives of Rights Holders outside of Ontario on the approval of the OFA, and in particular the perspectives available through CT6FN, which, while not experts on Ontario, do have significant

expertise on child welfare as acknowledged by the parties, and which is relevant and transferable. It may yet fall to the Tribunal to impose a solution for Long Term Reform of Children and Family Services and the associated governance and reporting, and issues with the OFA in addressing the discrimination identified by the Tribunal will have implications both in Ontario and nationally and which ought to be considered at this stage.

9. CT6FN seeks Interested Party Status to ensure that the Tribunal is able to take into consideration a perspective which has not previously been made available to either the Tribunal or the Nations in Ontario. It is critical that the discrimination cease, but it is crucial that the solution meets the Tribunal's orders as completely as possible. We respect the sovereignty of our relations and their ability to decide what is best for their people. The Confederacy is also committed to ensuring the Nations of Ontario enter into this agreement with the Crown with full Free, Prior, and Informed Consent. Among other things, CT6FN is at present concerned that the terms of the agreement appear to border on coercion, and the solutions offered are not supported by IFSD research.

**C. The AFN and the Caring Society do not represent Treaty 6 Nations**

10. Canada says that the Nations and groups outside of Ontario do not “offer a unique perspective relevant to it that is not already represented by the Assembly of First Nations or the Caring Society.” COO further states “perspectives of these prospective interested parties are already meaningfully represented by the existing parties to the proceedings, namely [AFN] and [the Caring Society]” – despite later acknowledging later at para 194 that “Alberta has been without representation on the AFN since 2021.”

11. As set out in CT6FN's submissions, the Nations of the Confederacy have not had representation at AFN for many years – the AFN has not and cannot now present CT6FN's perspectives because they have not been aware of them. The “engagement” opportunity provided by the AFN on the Draft FSA, the basis for the OFA, comprised of a single half-day of information presentation by the AFN to the Confederacy Nations. All “feedback” received was combined with the other Treaty Organizations in the Alberta Region and summarized in a single paragraph in a last-minute report issued directly before the vote in October.

12. AFN is currently operating outside of the mandate given to it by the Rights Holders and the Tribunal can no longer rely on the mandate of the AFN to speak for the Rights Holders, as the Rights Holders themselves have indicated lost faith by way of resolution.

13. Similarly, and clearly, CT6FN is also not represented by the Caring Society, nor does it expect the Caring Society would purport to represent Rights-holders in this proceeding.

**D. The Application and CT6FN's participation will not cause undue delay**

14. Canada, COO, and NAN suggest that the applications for interested party status are somehow “late” and that they risk delaying the motion. Canada says “At this late stage of these proceedings, nine years following the Merit Decision, it is all the more important that the parties and the Panel remain focused on the remedial issues before them...” and characterizes the applications as coming “at the eleventh hour”. Relatedly, COO has made submissions, adopted by NAN, that the participation of the proposed interested parties would “delay participation of the OFA approval motion.”

15. It is not a coincidence that all of the applications for interested party status are coming at this stage, as they flow directly from recent developments.

16. CT6FN states that the “11<sup>th</sup> hour” perspectives are being offered because it has only recently become apparent that AFN has worked to exclude, and is continuing to ignore, the views of the Rights Holders. No amendment process was provided after one was promised, by representatives of both Canada and AFN, in information sessions in August 2024, after multiple requests. AFN elicited a legal opinion that the resolutions passed by the Chiefs in Assembly were invalid. In the last 9 months, it has become apparent that AFN has repeatedly disregarded the direction of the Nations in Assembly<sup>1</sup> leading to the revocation of authority, by the Rights Holders by whose authority the AFN Executive is granted advocate status under the Charter of the Assembly of First Nations, to continue negotiations on their behalf. There was also no prior evidence that Canada would continue negotiations only with those Nations who voted to ratify what was intended to be a document with National focus, which took into consideration Canada’s agreement with Ontario. Had this option been indicated ahead of the vote there may very well have been an attempt by Nations in other regions to undertake similar negotiations. Instead, Canada has refused to even entertain a discussion with the representatives issued the Nations’ proxy (and ratified by the CT6FN) despite their clear indication to Canada that they believed a solution could be found in a minimal timeframe.

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<sup>1</sup> AFN Resolutions 40/2022 s.8; 60/2024 s.2; 60/2024 s.15; 88/2024 s.2; 88/2024 s.7; 90/2024 s.4; 90/2024 s.8

17. It is as a result of these recent and evolving circumstances that CT6FN (and presumably the other proposed interested parties) has applied for interested party status, and has done so expeditiously and without undue delay.

18. To that end, CT6FN has proposed reasonable and limited terms of participation. As stated, it is CT6FN's intention to ensure that its participation does not cause undue delay to the proceedings, while also ensuring that the voice of Treaty 6 Nations can be heard in this very important motion which will have national implications for Long-Term Reform.

DATED at the City of Vancouver, in the Province of British Columbia, this 22<sup>nd</sup> day of May, 2025.



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