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13 December 2024

Excellency,

I write to you in relation to the Committee's [letter](#) of 29 April 2022 regarding the information received under its early warning and urgent action procedure related to the situation of the Secwepemc and Wet'suwet'en Indigenous communities in relation to the Trans Mountain Pipeline and the Coastal Gas Link Pipeline projects in the Province of British Columbia.

The Committee thanks the State party for its response to the letter and for the information provided. The Committee notes the information on reinitiating the consultation process with 129 Indigenous communities potentially impacted by the Trans Mountain Pipeline Expansion project. It also notes the information on the provision of funding to support their participation in the consultation process and that these consultations are recorded and documented in the Crown Consultation and Accommodation Report. It notes the information on the development of eight accommodation measures to address key concerns on the rights of Indigenous communities that were raised during the consultation process. The Committee takes note of the position of the State party that it was impossible to reach an agreement on all issues, despite the aim of the consultations at finding common ground and seeking agreement. Lastly, it notes the information provided by the State party that the Province of British Columbia also consulted with all potentially impacted coastal Indigenous Nations to recommend new or amended conditions to the provincial environmental assessment certificate for the Trans Mountain Pipeline project.

The Committee takes note of the information on the establishment in 2017 of the Indigenous Advisory and Monitoring Committee for the Trans Mountain Expansion and Existing Pipeline to provide advice to regulators and monitor the project with regards to safety and environmental protection. It also takes note of the information on the implementation of the Indigenous Monitoring Program, which allows for monitors belonging to Indigenous communities to work with officials from the Canada Energy Regulator (CER) to complete compliance verification activities related to the Trans Mountain Pipeline project.

H.E. Mr. Peter Macdougall  
Permanent Representative of Canada  
to the United Nations Office  
Geneva  
Email: [genev-gr@international.gc.ca](mailto:genev-gr@international.gc.ca)

Regarding the Coastal Gas Link Pipeline, the Committee takes note of the information provided by the State party on the consultation carried out by the Province of British Columbia with potentially impacted Indigenous communities, which resulted in design changes for the project and imposing 32 legally binding conditions as part of its environmental assessment certificate. The Committee notes the information that the Province of British Columbia negotiated pipeline benefit agreements with 17 Indigenous groups and that Coastal GasLink also concluded separate benefit agreements with 20 Indigenous groups. It also notes the information that in 2022, 16 Indigenous groups along the pipeline route signed further equity agreements to allow these groups a shared ownership option in the Coastal GasLink Pipeline project upon its completion.

The Committee takes note of the information that some Wet'suwet'en Hereditary Chiefs oppose the Coastal GasLink project. The Committee also notes the information on the Memorandum of Understanding that was signed in May 2020 between the Government of Canada, the Province of British Columbia, and the Wet'suwet'en Hereditary Chiefs to continue the engagement and consultations to reach substantive agreements and clarification on Wet'suwet'en rights and title, including governance. It notes the information that the Memorandum of Understanding outlines areas of jurisdiction that will need to be addressed and that the consultations are ongoing.

The Committee also notes the information on the injunctions issued by the Supreme Court of British Columbia to prevent interference in the construction of the Trans Mountain Pipeline and the Coastal Gas Link Pipeline projects. It also notes information that law enforcement, including the Royal Canadian Mounted Police (RCMP) and its Community-Industry Response Group (C-IRG), are accordingly authorized to arrest and remove persons who have or are found to be breaching the terms of the respective orders. The Committee notes the information that the C-IRG arrested members of the Tiny House Warriors for breaching the injunction and that, as of November 2023, a total of 83 arrests were recorded in relation to the Coastal GasLink project, including ten detainees belonging to the Wet'suwet'en Indigenous community, who were arrested on traditional territories of the Wet'suwet'en Nation. The Committee notes the information that of these ten arrests, three activists belonging to the Wet'suwet'en Indigenous community were removed from the traditional territories of the Wet'suwet'en Nation as there was no facility properly equipped to accommodate their needs while in custody awaiting appearance before the Court. Lastly, the Committee takes note of the information that, in March 2023, the Civilian Review and Complaints Commission for the RCMP initiated an investigation into the activities and operations of the C-IRG.

The Committee takes note of the information provided that federal, provincial, and territorial governments have a constitutional duty to consult Indigenous peoples to protect rights of Indigenous peoples. It also notes the information on the United Nations Declaration on the Rights of Indigenous Peoples Act, which came into force in June 2021, and its Action Plan that includes 181 specific measures to uphold and advance the human rights of Indigenous peoples and address injustices, prejudice, violence, systemic racism and discrimination. It also notes the information that, under measure 32 of the

Action Plan, efforts are envisaged to develop guidance on engaging in good faith with Indigenous peoples on natural resources projects in line with Article 32 of the UN Declaration on the Rights of Indigenous Peoples to consult and obtain their free, prior and informed consent, prior to the approval of any project affecting their lands or territories and other resources. It also notes the information on measures 66 and 68 of the Action Plan to develop coordinated approaches to the implementation of the right to participate in decision-making related to legislative, policy and program initiatives as well as to the consultation process with Indigenous peoples.

Notwithstanding the information provided, the Committee regrets the lack of detailed information on some of the allegations and concerns set out in the Committee's [letter](#) of 29 April 2022 and its [Decision 1 \(100\)](#), particularly regarding: (a) measures envisaged to cease the construction of the Trans Mountain Pipeline and the Coastal Gas Link pipeline, until free, prior and informed consent is obtained from all affected Indigenous communities of the Secwepemc people and the Wet'suwet'en people; (b) measures envisaged to cease the forced eviction of Secwepemc and Wet'suwet'en peoples; and (c) measures envisaged to prevent and to effectively investigate all reported cases of use of excessive force, arbitrary detention, intimidation and harassment of, and threats against, human rights defenders and protesters, in particular those belonging to the Secwepemc and Wet'suwet'en peoples, by the RCMP, C-IRG, and private security firms.

In this regard and in accordance with Article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee requests that the State party provide updated and detailed information on the situation of the Secwepemc and Wet'suwet'en Indigenous communities in relation to the Trans Mountain Pipeline and the Coastal Gas Link Pipeline projects as part of its combined twenty-fourth and twenty-fifth periodic reports, overdue since November 2021.

Allow me, Excellency, to thank the State Party for the information provided so far and to reiterate the wish of the Committee to continue to engage in a constructive dialogue with Canada, with a view to ensuring the effective implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Michal Balcerzak  
Chair

Committee on the Elimination of Racial Discrimination