

The Threats and Opportunities of a New Economic Order

Article Headline: Navigating the New Economic Order: Opportunities and Threats for Canada

Article Summary: *Highlighting the potential risks to Indigenous nations' Aboriginal and Treaty rights due to fast-tracked project approvals, while also emphasizing the substantial economic opportunities for Indigenous nations willing to support these projects, we examine the significant changes of the last 8 months and underscore the importance of careful negotiation and legal challenges to protect rights and maximize benefits.*

The last six months have brought dizzying changes in the outlook for Canada's economy and governments' priorities. With shocking impulsiveness, US President Trump has upended decades-long norms regarding the international trading system, our relationship with the United States, the system of alliances among liberal democracies, and even our territorial sovereignty.

The flagrant breach of the Canada-United States-Mexico Agreement. The irrational and fluctuating tariff rates. The outrageous favouring of Russia over Ukraine. The distancing from NATO. The threats to Greenland. And perhaps most of all, the blatant, repeated evidence that the main determinant in defining American economic and foreign policy is now the President's ego.

All of that chaotic activity from south of the border is having profound impacts in Canada. The most obvious of them is, of course, another Liberal government in Ottawa, under a new Prime Minister. But the largest immediate consequence is the pervasive anxiety about the economy and the new political focus on kick-starting productivity and growth.

In keeping with Canadian tradition, governments are looking to large projects – particularly natural resource projects – to spur economic activity. After winning the election, Prime Minister Carney declared, “We are going to build, baby, build”. Some premiers are echoing that mantra. Ontario Premier Doug Ford has said he wants to “get projects moving forward as quickly as possible.” In British Columbia, Premier David Eby has promised “the largest infrastructure build-out in B.C.’s history”.

To achieve those ambitions Parliament and the Ontario and BC legislatures have passed legislation that will enable favoured projects to skip over environmental assessments and other planning processes in a race to have them built as fast as possible.

As we discuss in the article “Fast-Track Legislation Raises Concerns Over Indigenous Consultation” of this 2025 Legal Outlook, that legislation and the urgency with which governments are looking to approve projects raise real peril for Indigenous nations' Aboriginal and Treaty rights.

One concern is that the legislation will spur on new major natural resource projects that come with major impacts on s. 35 rights. Indeed, projects that have long been abandoned – like an oil pipeline to the north coast of British Columbia – are now again in the national discourse. The further concern is that in the haste to get projects up and running, Indigenous nations' Aboriginal and Treaty rights and environmental and socio-economic concerns will be a low priority. For Indigenous nations that do not support such projects because of the impacts on their rights, it seems likely that persuading governments to withhold approval will be even more challenging than it was in the recent past.

As discussed in “Advocating for FPIC standards” and “Landmark Decision in Cowichan Tribes Case”, however, Indigenous nations do have power. Aboriginal and Treaty rights are constitutional guarantees that cannot be diminished by legislation. No matter how much the federal or provincial governments may wish to fast-track project approvals, if they skip over their duties to consult Indigenous nations they risk seeing those approvals aside in court. JFK Law has deep experience with such court challenges, including leading the litigation that defeated the Northern Gateway Pipeline.

For Indigenous nations that may be willing to support a project in their territories, the coming years may hold very substantial economic opportunities. The federal government and certain provinces appear to see economic reconciliation as one of the keys to unlocking their economic ambitions. Indigenous nations that are ready to seize those opportunities potentially stand to earn great economic benefits – if they can negotiate and structure an advantageous deal. Economic participation in a project can take many forms, including but not limited to equity participation. JFK Law has helped negotiate, close and implement a great many project-related economic deals and has the experience to help Indigenous nations maximize their participation.

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