

Recent Developments (ICC)

1995	The Supreme Court hands down its decision in the <i>Apsassin</i> case. In its decision, the Court contemplates a number of scenarios when a pre-surrender fiduciary duty would come into effect: when a band's understanding of the terms of surrender is inadequate; where the conduct of the Crown has tainted dealings in a manner that makes it unsafe to rely on the band's understanding and intention; where the band has abnegated its decision-making authority in favour of the Crown in relation to the surrender; and where the surrender is so foolish or improvident as to be considered exploitive.
1997	In the <i>Delgamuukw</i> case, the Supreme Court finds that to disallow First Nations' oral history and tradition as evidence would put an impossible burden of proof on aboriginal peoples, since that is the way First Nations kept records. The Court also directly addresses the definition of aboriginal title; it finds that a First Nation has a right to claim "aboriginal title" to lands that it has used in order to maintain its traditional way of life. Aboriginal title comes from a nation's use and occupancy of the land for generations; it is therefore a communal right that cannot be held by an individual.
1999	The Supreme Court hands down the <i>Marshall</i> decision. Given the language contained in a treaty between the Crown and the Mi'kmaq and Maliseet communities in New Brunswick, the Court finds that Donald Marshall Jr did have a right to earn a "moderate livelihood" from selling his catch of eels.
2001	The First Nations Governance Initiative is introduced by the Minister of Indian and Northern Affairs Canada (INAC), Robert Nault, on the Siksika First Nation in Alberta. The package of legislation contains the <i>Specific Claims Resolution Act</i> , which would create the Canadian Centre for the Independent Resolution of First Nations Specific Claims. The new Centre would replace the Indian Claims Commission. In August, Phil Fontaine is appointed Chief Commissioner of the ICC.
2003	In June, Mr Fontaine resigns as Chief Commissioner and is replaced by Renée Dupuis. In November, the <i>Specific Claims Resolution Act</i> is adopted and receives Royal Assent, but the legislation is not proclaimed.
2004	In July, Order-in-Council amendment PC 2004-858 designated the Minister of Indian and Northern Affairs Canada as the appropriate minister for the ICC for purposes of the <i>Financial</i>