

RESOLUTION NO. 8

Annual General Assembly
Resolution No. 8/2007
July 10, 11, & 12, 2007, Halifax, NS

Subject:
Specific Claims

Moved By:
Chief Tom Bressette, Chippewas of Kettle & Stoney Point First Nation, ON

Seconded By:
Chief Robert Corbiere, Wikwemikong Unceded First Nation, ON

Decision:
One opposed. Carried by consensus.

WHEREAS:

A. For decades, First Nation have been advocating for reform to the specific claims process to address the backlog and lack of independence with the current claims resolution process;

B. The AFN has a mandate under AFN Resolution Nos. 46/1998 and 64/1998 to seek the reforms to the specific claims resolution process that are set out in the Joint Task Force, 1998;

C. In December 2006, the Senate Standing Committee on Aboriginal Peoples recommended the following reforms to the specific claims resolution process:

i. **Independent Claims Resolution Body:** That the Government of Canada establish a new body independent of government to resolve specific claims;

ii. **Specific Claims Resolution Act:** That the *Specific Claims Resolution Act* be repealed.

iii. **Funding for Indian and Northern Affairs and the Department of Justice:** That Canada increase the financial/human resources available to Indian and Northern Affairs Canada (INAC) and the Department of Justice (DOJ) for claims resolution.

iv. **Organization of INAC and DOJ into Regional Teams:** That Canada organizes INAC and DOJ into teams in a common location in order to improve communication, file management, and the timely resolution of valid claims.

v. **Funding for First Nations to Research and Negotiate Claims:** That the Government of Canada provide sufficient funding to First Nations to research and prepare their claims submissions.

vi. **Establishment of a Specific Claims Fund:** That the Government of Canada establish a dedicated fund of no less than \$250 million per year for the payment of specific claims settlements.

vii. **Contingent Liability:** That specific claims be identified as contingent liabilities;

viii. **Access to Information:** That Canada ensure that First Nations have equal access to government records necessary for documenting their specific claims;

D. On June 12, 2007 Prime Minister Harper announced Canada's action plan (the "Action Plan") to reform the specific claims resolution process.

E. Canada's Action Plan consists of the following key elements:

i. **Commission:** The Indian Specific Claims Commission's mandate will be changed to focus exclusively on facilitation and mediation.

ii. **Tribunal:** Canada will create an independent Tribunal with authority to make binding decisions where claims are rejected for negotiation or when negotiations fail.

iii. **Appointment of Judges to the Tribunal:** The independent Tribunal will be made up of retired or sitting judges. There will be no formal role for the AFN in the appointment process.

iv. **Claim Limits:** The Tribunal will be limited to make decisions in respect of claims that have an estimated value of up to \$150M. Claims in excess of \$150M million will be dealt with on a case by case basis outside the claims resolution process.

v. **Dedicated Funding for Settlement:** Canada will establish dedicated funding for claims settlements, made up of \$250 million per year over a ten year period.

F. Canada intends to table legislation to implement the Action Plan in the fall of 2007 and has invited First Nations to participate in a process to implement the Action Plan;

G. While the Action Plan announced by the Government of Canada deals with resolution of specific claims, many First Nations have problems implementing specific claims settlement agreements. The Auditor General in her **2005** report pointed out problems with the Treaty Land Entitlement (TLE) reserve creation process in Manitoba and Saskatchewan. First Nations with other specific claims have also had problems transferring lands under Canada's Additions to Reserve (ATR) policy.

THEREFORE BE IT RESOLVED THAT:

1. Except as otherwise provided in this resolution, the Chiefs-in-Assembly hereby provide the AFN Executive and the Chiefs Committee on Claims with a mandate to continue to advocate for reforms to the specific claims process set out in the Joint Task Force Report, 1998;
2. The Chiefs-in-Assembly direct the AFN Executive and Chiefs Committee on Claims to advocate for an expanded definition of the term specific claims to include claims arising from fiduciary obligations outside an agreement or Treaty context, breaches not relating to land or assets, claims based on pre-Confederation legislation and unilateral undertakings;
3. Except as otherwise provided in this resolution, the Chiefs-in-Assembly hereby endorse the recommendations of the Senate Standing Committee on Aboriginal Peoples in its December 2006 report and direct the AFN Executive and Chiefs Committee on Claims with a mandate to advocate for the reforms set out in this report;
4. The Chiefs-in-Assembly direct the AFN Executive and Chiefs Committee on Claims to advocate for sufficient resources to be allocated to claims settlement to reduce the backlog in 3 to 5 years; and
5. The Chiefs-in-Assembly direct the AFN Executive and Chiefs Committee on Claims to advocate for a formal role in the appointment of judges to the tribunal set out in Canada's Action Plan.
6. The Chiefs in Assembly direct the AFN Executive and Chiefs Committee on Claims to advocate for the government to make improvements to the implementation of specific claims settlements, including steps under both the TLE and ATR policies to move lands to reserves in a timely manner.