SPECIAL CHIEFS ASSEMBLY
DECEMBER 8, 9 & 10, 2009, OTTAWA, ON

Resolution no. 40/2009

TITLE:	Comprehensive Land Claims Policy Reform
SUBJECT:	Aboriginal Rights, Title and Treaties
MOVED BY:	Grand Chief Konrad H. Sioui, Huron-Wendat Nation, Quebec
SECONDED BY:	Chief Keith Matthew, Simpcw First Nation, British Columbia
DECISION:	Carried by Consensus

WHEREAS:

A. The mandate of the Assembly of First Nations (AFN), as the national organization composed of First Nations in Canada, advocates for the protection and advancement of all Aboriginal and Treaty Rights, including those protected under s. 35 of the *Constitution Act, 1982*.

B. The Chiefs-in-Assembly have asserted the importance of protecting Aboriginal Title and Rights and honouring Treaties based on a nation-to-nation relationship between First Nations and the Crown and implementing Treaties according to their spirit and intent by resolution, including resolutions 4/2008, 66/2008, 21/2003, and 34/1999.

C. The Crown has assumed legislative authority in relation to "Indians, and Lands reserved for the Indians" under s. 91(24) of the *Constitution Act, 1867*, and has a constitutional responsibility to protect Aboriginal title and rights and conclude, implement, and protect Treaties with First Nations.

D. All pre-existing sovereignty and pre and post-confederation Treaties between First Nations and the Crown, including Treaties of Peace and Friendship, must be equally protected, honoured and given full effect by the Crown, as the honour of the Crown is always at stake.

E. In the contemporary period, First Nations who hold Aboriginal title and rights and who want to enter into a Treaty relationship with the Crown are told they must do so under the Comprehensive Land Claims Policy, established in 1973.

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F. One of the pressing issues facing First Nations today is that of overlapping rights and territories to which the Comprehensive Land Claims Policy has aspects inconsistent with the Canadian Constitution and the UN Declaration on the Rights of Indigenous Peoples and does not offer any effective remedy, particularly with respect to the exercise of the rights of First Nations who are not participants in the Policy process.

G. The non-derogation clauses contained in Agreements-in-Principle or resulting Final Agreements have failed to protect the exercise of Aboriginal title and rights and Treaty Rights by other First Nations who are not signatories of such Agreements.

H. There have been many reports recommending changes to the Comprehensive Land Claims policy, such as the 1983 Penner Report, the Coolican Task Force, and the Royal Commission on Aboriginal Peoples.

I. Government policy cannot trump constitutional duties and responsibilities and international standards, including the UN Declaration on the Rights of Indigenous Peoples, and, as such, the antiquated Comprehensive Land Claims Policy has proven inadequate, ineffective and time consuming.

J. The federal Comprehensive Claims policy must be reformed and made consistent with the Canadian Constitution; Supreme Court of Canada decisions and recognizes the human rights of Indigenous Peoples according to decisions of the human rights bodies of the United Nations and Declaration on the Rights of Indigenous Peoples.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Reaffirm the strong priority that the AFN places on the protection of Aboriginal title and rights and the preservation and enhancement of the unique Treaty relationships that exist between First Nations and the Crown in right of Canada.

2. Serve notice to the Crown governments that First Nations intend to implement and enforce the spirit and intent of all Treaties in Canada.

3. Direct the AFN to work with all Indigenous Nations, including those who are not negotiating or actively negotiating to ensure that the federal Comprehensive Land Claims Policy is reformed so that the policy genuinely recognizes and protects Aboriginal Title and Rights.

4. Direct the National Chief to seek input from affected First Nations and establish a process with respect to Aboriginal title and rights to coordinate the Comprehensive Land Claims reform process.

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