
Assembly of First Nations

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Assemblée des Premières Nations

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ANNUAL GENERAL ASSEMBLY
July 9, 10, 11, 2024, Montreal, QC

Resolution no. 12/2024

TITLE: Urgent Support for the Repatriation of First Nations Lands

SUBJECT: Lands, Additions to Reserve

MOVED BY: Chief Joe Miskokomon, Chippewas of the Thames, ON

SECONDED BY: Chief Dalton Silver, Sumas First Nation, BC

DECISION Carried; 2 Opposition; 1 Abstention

WHEREAS:

A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:

- i. Article 26(2): Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
- ii. Article 26(3): States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.
- iii. Article 28(1): Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
- iv. Article 28(2): Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

B. Land is central to First Nations' identities, cultures, economies, governance, and laws. Throughout history, the Government of Canada has dispossessed First Nations of their lands through unlawful surrenders, land alienation, and outright theft. The return of lands to First Nations is essential to the exercise of self-determination and to remedy the impacts of colonization.

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- C. The federal policy framework that emerged following the 1973 *Calder* decision recognizing the existence of Indigenous Title has largely failed to advance the restitution of, and self-determination over, First Nations lands, territories, and resources. This framework includes the Comprehensive Land Claims (CLCP), Inherent Right to Self-Government (IRSG), Specific Claims, and Additions to Reserve (ATR) Policies and related processes.
- D. The Government of Canada holds up the Recognition of Indigenous Rights and Self-Determination Discussion Tables (RIRSD) as the alternative to the CLCP and IRSG. However, the RIRSD process lacks transparency in its mandates, and was not developed or approved by First Nations.
- E. Assembly of First Nations (AFN) mandates clearly reject both the CLCP and IRSG and call for First Nations driven engagement to identify alternative approaches that are consistent with the UN Declaration, are distinctions based, and meet the many unique needs of First Nations.
- F. Both the ATR and Specific Claims Policies have been identified by First Nations as a persistent barrier to the return of their lands, territories and resources, and the Government of Canada has committed to co-developing fundamental reforms with First Nations. In the interim, these policies largely remain a persistent barrier to the return of First Nations lands.
- G. The ATR Policy, in particular, is a deeply bureaucratic process that is burdened with severe delays and an enormous backlog of proposals from First Nations. The ATR Policy does not respond to the needs of First Nations to add lands to their reserves in an efficient and timely manner. This persistent failure impedes First Nations from taking advantage of opportunities for economic and social development.
- H. Chippewas of the Thames (COTT) is seeking to advance a unique Pilot Project that would enable it to retain lands through a new form of First Nations land tenure. This would enable COTT to control and manage its land before going through the arduous and lengthy ATR process, and could swiftly unlock opportunities for social and economic development. This Pilot Project would include all relevant jurisdictions and levels of government to coordinate the timely repatriation of lands to COTT.

THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:

1. Support efforts by First Nations to advance distinctions-based Nation-to-Nation approaches to the restitution and return of their lands, territories and resources, and call on the Assembly of Nations (AFN) to support these approaches wherever possible through political and policy advocacy.
2. Support the Chippewas of the Thames (COTT) proposed Pilot Project which will advance regional economic reconciliation and prosperity through the restitution of COTT lands. This will be accomplished through the targeted and strategic removal of elements of federal policy barriers such as the Additions to Reserve (ATR) Policy and the Specific Claims Policy, and in doing so will support and contribute to ongoing efforts to redesign federal policy and process.
3. Direct the AFN to support the COTT Pilot Project and call on the Government of Canada to support novel approaches to the repatriation of lands to First Nations.
4. Direct the AFN to implement this resolution in a manner that is consistent with First Nations priorities and the diversity of First Nations regional realities, governance structures, and relationships with the Crown, including Modern Treaties and Self-Government Agreements.

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5. Direct the AFN to work with the government of Canada to identify and implement alternative approaches to indemnification and finality in settlement agreements.

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