

Assembly of First Nations

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Assemblée des Premières Nations

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SPECIAL CHIEFS ASSEMBLY
December 2-3-4, 2025, Ottawa, ON

Resolution no. 67/2025

TITLE: Advancing the Recognition, Implementation, and Enforcement of Pre-1975 Treaties

SUBJECT: Treaties, Lands, Justice

MOVED BY: Chief Kelsey Jacko, Cold Lake First Nation, AB

SECONDED BY: Eric Tootoosis, Proxy, Poundmaker First Nation, SK

DECISION: Carried by consensus

WHEREAS:

- A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
 - i. Article 26(1): Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
 - ii. 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.
 - iii. Article 37(1): Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
 - iv. Article 37(2): Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of Indigenous peoples contained in treaties, agreements and other constructive arrangements.
- B. The *Royal Proclamation* of 1763 recognizes First Nations land rights and title, establishing general principles for Treaty-making and affirming First Nations' rights to the land and self-governance.
- C. The *United Nations Declaration on the Rights of Indigenous Peoples* Act Action Plan Measure #2 (First Nations' priorities), commits Crown and Indigenous Relations and Northern Affairs Canada to:

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- i. Re-affirm pre-1975 Treaty relationships based on the principles of mutual respect, self-determination and the nation-to-nation relationship; and
- ii. Engage Treaty Nations in co-developing approaches, including reconvening Treaty Councils if Nations wish to do so, for the renewal and honourable implementation of pre-1975 Treaties and Treaty relationships, including a shared vision to guide actions and a common understanding of the spirit and intent of pre-1975 Treaties.

D. Prior to 1982, pre- and post-Confederation Treaties were signed between the British Crown and First Nations.

E. In 1982, Canada repatriated the Canadian Constitution, resulting in the *Constitution Act, 1982*. Section 35 of the *Constitution Act, 1982* recognizes and affirms the existing Aboriginal and Treaty rights of the Aboriginal Peoples of Canada.

F. First Nations assert and reaffirm that they are sovereign Nations with Inherent rights and title to their lands, as recognized under international law. It has never been suggested or established that Canada held sovereignty over First Nations and First Nation-lands prior to its establishment as a country.

G. Pre-1975 Treaties between First Nations and the Crown are, and always have been, agreements between sovereign Nations, as affirmed by principles of international law and the UN Declaration.

H. Canada's signing of agreements with organizations or corporate bodies is within Canada's prerogative but does not alter the nature or status of First Nation Treaties with the Crown.

I. Many pre-1975 Treaty First Nations continue to report that their Treaties are not being fully honoured, respected, or implemented, highlighting significant gaps in Canada's fulfillment of its Treaty obligations.

J. The full implementation of Treaty rights – forming the cornerstone of Crown-First Nations relationships – remains incomplete, as Canada has yet to embrace a truly comprehensive nation-to-nation approach that fully recognizes and upholds First Nations' Treaties. Instead, existing frameworks continue to subordinate First Nations' authority and Treaty rights to federal, provincial and territorial systems, undermining Treaties and the principles of self-determination and mutual respect.

K. Canada has a Cabinet Directive on the Federal Approach to Modern Treaty Implementation, which outlines an operational framework for the management of the Crown's Modern Treaty obligations, guiding federal departments and agencies to fulfill the Crown's obligations. No similar Cabinet Directive exists for pre-1975 Treaties.

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

1. Call on Canada to convene a First Ministers' Conference with pre-1975 Treaty First Nations who opt-in to create a legitimate, collaborative platform for the honouring and implementation of Treaties and to support the implementation of Aboriginal and Treaty rights recognized and affirmed under Section 35 of the *Constitution Act, 1982*, as this process would address historical gaps and challenges that hinder the recognition, realization, and exercise of First Nations' Treaty rights.
2. Direct the Assembly of First Nations (AFN) to work collaboratively with Canada and participating First Nations to support pre-1975 Treaty First Nations who wish to work with the AFN in a process that ensures

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the full honouring, recognition, implementation, and enforcement of pre-1975 Treaties, establishing a renewed relationship based on mutual respect and adherence to the rule of law.

3. Call on Canada to work with pre-1975 Treaty First Nations to support the creation of a comprehensive framework for the recognition, implementation, and enforcement of pre-1975 Treaties, similar to the Cabinet Directive on Modern Treaty Implementation, ensuring all Treaty obligations, including those made with First Nations, are fulfilled with fairness, accountability, and transparency.
4. Direct the AFN to collaborate with Canada and pre-1975 Treaty First Nations who opt-in to co-develop and co-draft a Cabinet Directive that provides a framework for the recognition, implementation, and enforcement of pre-1975 Treaties.
5. Call on Canada to formally recognize the status of pre-1975 Treaties as agreements between sovereign Nations and to reaffirm its obligations to fully honour and implement these Treaties in alignment with First Nations Inherent rights, the *United Nations Declaration on the Rights of Indigenous Peoples*, and the principles of international law.

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