SPECIAL CHIEFS ASSEMBLY
DECEMBER 6, 7 & 8, 2011, OTTAWA, ON

Resolution no.71/2011

TITLE:	Comprehensive Claims Policy Reform Initiative
SUBJECT:	Claims & Land Rights
MOVED BY:	Chief Harry St. Denis, Wolf Lake First Nation, QC
SECONDED BY:	Chief Judy Wilson, Neskonlith Indian Band, BC
DECISION:	Carried by Consensus

WHEREAS:

A. The Comprehensive Claims Policy directly contributes to and perpetuates the poverty and suffering in our communities by preventing First Nations from receiving equitable benefit from their traditional lands and resources.

B. By Resolutions No. 40/2009 and 10/2010, the Chiefs in Assembly, by consensus, confirmed their rejection of the federal Comprehensive Claims Policy and acknowledged the need for a national review and a wholesale reform of that policy.

C. Significant developments have occurred since the adoption of Resolutions 40/2009 and 10/2010, including:

   a. The endorsement by Canada of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP),
   b. Resolution 23/2011 by the Chiefs in Assembly pursuing self-determination and implementation of the UNDRIP, and
   c. The Canada-First Nations Joint Action Plan, which commits Aboriginal Affairs and Northern Development Canada (AANDC) and AFN to engage in meaningful dialogue on “ways to improve the negotiation and implementation of the comprehensive claims”.

D. The Prime Minister has agreed to a First Nations – Crown Gathering to discuss issues affecting First Nations.

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E. The AFN has engaged in regional dialogue sessions across the country, including BC, the Atlantic and Quebec, and the consensus from those sessions reaffirms the frustrations and objections to the existing policy and the need for fundamental reform of that policy.

F. The Atlantic and Quebec regional sessions emphasized the need to ensure that any Comprehensive Claims Policy reform address pre-confederation treaties, which are an affirmation of Aboriginal title, and recognize the nation to nation relationship between the Crown and First Nations.

G. The Comprehensive Claims Policy is inconsistent with the UNDRIP, in part because it does not provide a "fair, independent impartial open and transparent process" for the implementation of Aboriginal rights, and also because it does not allow for equitable compensation relating to traditional lands and resources.

H. The Comprehensive Claims Policy has failed to promote reconciliation regarding lands and resource management and development on First Nations traditional lands, and this failure is promoting increased conflict between industry and First Nations, and causing economic uncertainty for Canada.

I. By failing to adequately address overlap issues, the Comprehensive Claims Policy actively promotes conflict within and between First Nations, and further prejudices their ability to obtain fair and equitable arrangements relating to their traditional lands and resources.

J. The AFN has adopted a Consensus Statement on Aboriginal and Treaty Rights which categorically rejects of the Comprehensive Claims Policy and calls upon Canada…

> *…to fully uphold the honour of the Crown and develop new policies in consultation and cooperation with First Nations that reflect First Nations constitutionally protected rights as set out in sections 25 and 35 of the Constitution Act, 1982, and including the Royal Proclamation of 1763. Specifically, Canada must adopt new First Nation-Crown negotiation and litigation policies based on Crown recognition, affirmation of the existence, and full implementation of Aboriginal Title and Rights, including Treaty rights, consistent with the United Nations Declaration on the Rights of Indigenous Peoples, endorsed by Canada on November 12, 2010, and the American Declaration of the Rights and Duties of Man.*

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

1. Mandate the Comprehensive Claims Policy Working Group to formulate the position to be presented to the First Nation – Canada Crown Gathering, insisting on a firm political commitment to fundamental change and a process for timely reform of the Comprehensive Claims Policy.

2. Direct that the position advanced by the Comprehensive Claims Working Group be based upon and reflect the following:

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a. findings in previous reports, including RCAP, the Peeling-Stevenson Opinion, the Common Table Report;
b. input received through the regional sessions;
c. Pre-Confederation treaties which are an affirmation of Aboriginal title and recognize the nation to nation relationship between the Crown and First Nations;
d. the standards and Indigenous human rights in the *UN Declaration on the Rights of Indigenous Peoples* as well as the *American Declaration of the Rights and Duties of Man; and*
e. that it is the federal government and not the provinces that has the primary fiduciary duty, on behalf of the Crown, to engage with and protect the Aboriginal title and rights of First Nations.

3. Mandate the Comprehensive Claims Policy Working Group to continue to develop and pursue the implementation of national, international and regional strategies to promote reform to the federal Comprehensive Claims Policy, and call upon Assembly of First Nations to support First Nations in their efforts to obtain meaningful and fundamental reform of the Comprehensive Claims Policy.

4. Call on the Comprehensive Claims Policy Working Group to report back to the Chiefs-in-Assembly at the next Assembly.

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