

SPECIFIC CLAIMS TRIBUNAL	
TRIBUNAL DES REVENDICATIONS PARTICULIÈRES	
May 27, 2026	
Dragisa Adzic	
Ottawa, ON	1

SCT File No.: SCT-5002-26

SPECIFIC CLAIMS TRIBUNAL

BETWEEN:

COTE FIRST NATION

Claimant

and

HIS MAJESTY THE KING IN RIGHT OF CANADA
as represented by the Minister of Crown-Indigenous Relations

Respondent

DECLARATION OF CLAIM

TREATY 4 ANNUITIES INDEXING

(Rule 41 of the *Specific Claims Tribunal Rules of Practice and Procedure*)

This Declaration of Claim is filed under the provisions of the *Specific Claims Tribunal Act* and the *Specific Claims Tribunal Rules of Practice and Procedure*.

May 27, 2026

Date

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Registry Officer

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I. CLAIMANT (R. 41(A))

1. The Claimant, Cote First Nation (“**Cote**” or the “**First Nation**”), is a First Nation within the meaning of s. 2(a) of the *Specific Claims Tribunal Act*, SC 2008, c 22 (the “**SCTA**”), as it is a “band” within the meaning of the *Indian Act*, RSC 1985, c I-5.

2. The Cote First Nation reserve is located near Kamsack, Saskatchewan.

II. CONDITIONS PRECEDENT (R. 41(C))

3. The following conditions precedent as set out in s. 16(1) of the SCTA have been fulfilled:

16(1) A First Nation may file a claim with the Tribunal only if the claim has been previously filed with the Minister and

(a) the Minister has notified the First Nation in writing of his or her decision not to negotiate the claim, in whole or in part;

4. The First Nation submitted the Cote First Nation Treaty 4 Annuities Indexing Specific Claim Submission (the “**Claim Submission**”) on March 30, 2022 regarding the Crown’s failure to index or augment the annual payments of \$5 for “every . . . man, woman and Child in the band” as set out in Treaty 4 (the “**Annuity Payments**”) in order to offset the impacts of inflation and maintain the purchasing power of \$5 at the time of Treaty.

5. Canada advised by letter that the Claim Submission met the minimum standards established by the Minister of Crown-Indigenous Relation and Northern Affairs Canada (“**CIRNAC**”), and that the Claim Submission was deemed to be filed as of May 2, 2023.

6. Canada advised by letter dated March 24, 2026 of the Minister’s decision not to negotiate the Claim.

III. CLAIM LIMIT (ACT, S. 20(1)(B))

7. For the purposes of this Claim, the Claimant does not seek compensation in excess of \$150 million.

IV. GROUNDS (ACT, S. 14(1))

8. The Claimant submits that the Claim is based on the following grounds pursuant to s. 14(1) of the SCTA:

(a) a failure to fulfill a legal obligation of the Crown to provide lands or other assets under a treaty or another agreement between the First Nation and the Crown; [...]

(c) a breach of a legal obligation arising from the Crown's provision or non-provision of reserve lands, including unilateral undertakings that give rise to a fiduciary obligation at law, or its administration of reserve lands, Indian moneys or other assets of the First Nation;

9. The Crown's failure to index the Annuity Payments to offset the impacts of inflation and to maintain the purchasing power of \$5 at the time of Treaty has left the Claimant with a significantly different asset than what was promised under Treaty. It is indisputable that the purchasing power of \$5 in 2026 is vastly different than it was 1874 (when Treaty 4 was signed). The Crown's failure to index the Annuity Payments for inflation, or any other reasonable measure, constitutes a failure to fulfill a legal obligation to provide assets under Treaty, as well as a breach of a legal obligation in relation to the Crown's administration of Indian moneys or other assets of the First Nation.

V. ALLEGATIONS OF FACT (R. 41(E))

A. History of Treaty Annuities

10. The issuance of the *Royal Proclamation of 1763* protected Indian lands from encroachment by any private person by stipulating that Indian lands are inalienable unless surrendered to the Crown according to the established protocol. The Crown

therefore made it clear that the rights to Indian lands held by indigenous people would require compensation from the Crown in order to be ceded.

11. The annuity system was developed as a new way for the Crown to acquire Indian lands after the War of 1812. Prior to the war, land cession agreements had typically involved a single payment from the Imperial Treasury to the band or bands selling their lands. Following the War of 1812 and several other conflicts during this period in which Britain was engaged, the British Crown had accumulated significant debt. The British Crown therefore desired to avoid large capital payments for land cessions, and began implementing the system of perpetual annual payments in exchange for Aboriginal lands.

12. This system avoided the larger capital cost of a single payment, and was based on the theory that once lands were sold to third parties, the sales income would cover the Annuity Payments. This method transferred the costs of acquiring Aboriginal lands from the British Government to Upper Canada.

13. In the pre-confederation Treaties, Annuity Payments were an important component of the compensation paid to Indigenous peoples under Treaty. Crown officials viewed the Annuity Payments as a significant contribution to the livelihood of the Indigenous signatories.

14. Following the union of Upper and Lower Canada in 1841, Governor-General Sir Charles Bagot appointed three commissioners to undertake “a comprehensive assessment of Indian affairs in the united colonies.” The Bagot Commission paid considerable attention to the subject of Annuity Payments, noting that initially the payments were often paid in goods rather than cash. This practice eventually changed, with each band being credited with the annuity, and then department officials directed the expenditures. This change opened the annuity system to abuse. The Bagot Commission reported that accurate accounts were not kept and often became overdrawn.

15. Annuity Payments were originally paid out of the Imperial grant, but in 1834

the procedure changed, and the payments were made from the Provincial Territorial Revenue Fund. Due to an oversight, the 1841 Act of Union contained no provision for Annuity Payments. A legal opinion was obtained and an order in council was passed to ensure that the payments would be covered eventually by proceeds from Crown revenues, or by a special vote of the provincial legislature.

16. The Bagot Commission recommended that all future Annuity Payments be made by the Receiver General with the approval of the Governor General. The Commissioner of Crown Lands was to give the Receiver General all money accruing from Crown Revenues, to be deposited in an account called the “Indian Annuity Fund.” The Bagot Commission further recommended that at the beginning of each year, the Receiver General credit each band with its Annuity Payments, and keep the Indian Department informed of all balances and advances. Any warrants for expenditures had to be sanctioned by the band’s Chief, resident agent, or visiting officer, and approved by the Governor General. The Chiefs were to be given a yearly explanation of how their annuities were spent. It was recommended that no payments be made in cash. The Commission’s report was implemented, having been met with approval by Indian Affairs and the relevant Chiefs.

17. The Robinson Treaties of 1850 provided for a lump sum payment of £2,000, followed by an annual payment of £500. However, the written text of the Treaties contains an express augmentation clause which provided that the annuity would increase in the event that the territory ceded produced an amount that enabled the Government of Ontario to increase the annuity without incurring loss. The Crown was aware therefore, that if the profit derived from the territory were to increase, it was fair and just to increase the annuity of the Indigenous peoples who had ceded it.

18. The *Rupert’s Land and North-Western Territory Order* dated June 23, 1870 served to admit the North-West Territories (including the future Treaty 4 territory) into the Dominion of Canada. The federal Crown paid £300,000 to the Hudson’s Bay Company in exchange for the land.

19. Much like the Robinson Treaties, the Annuity Payments forming part of the

Numbered Treaties were understood by the Crown to be paid as compensation for the loss of land. Commitments made to First Nations pursuant to the Numbered Treaties were to serve as compensation for the surrender of Indian title, as required by the Imperial Parliament in the *Rupert's Land Order*. Both the government negotiators and Indigenous signatories to the Numbered Treaties placed a great importance on the maintenance of livelihoods. The annuities combined that with the assurances that hunting could continue off reserve, and that assistance would be provided for agricultural and educational pursuits were significant substantive points in the negotiations and all of them were intended to meaningfully contribute to the First Nation signatories abilities to provide a livelihood for themselves.

20. Indian Commissioner Wemyss Simpson, who was present at the negotiations of Treaty 1 and 2, reported that the aggregate sum of the Annuity Payments for a family was usually sufficient to provide many comforts for his family. Annuity Payments were not based on any specific calculation of the land or resources, but were based on a total family income sufficient for necessities. At the time of Treaty 4, the Annuity Payments were sufficient to provide a family with enough income to purchase the necessary equipment to maintain a livelihood. The Indigenous signatories to all of the numbered Treaties viewed the annual payments as an important component of the Treaty commitment.

B. The Claimant's Adherence to Treaty 4

21. In September 1874, the Crown and the Cree, Saulteaux, and other Indians signed Treaty 4 at Qu'Appelle and Fort Ellice. The negotiations indicate that the Indigenous signatories were intent on obtaining compensation for the land (Rupert's Land) and the Nations alleged that the Crown had already unlawfully purchased from the Hudson's Bay Company. Commissioner Alexander Morris, who negotiated Treaty 4, stated that the Crown "would like that you have some money every year to buy things that you need." Among other things, the Treaty provided for the surrender of aboriginal title to approximately 195,000 square kilometres of land in what is now primarily southern Saskatchewan, in exchange for various promises and benefits to be provided by the Crown, including the provision of reserve lands, and payment in

compensation for the surrender of land; that is, the Annuity Payments.

22. Chief Gabriel Cote, who was the leader of the prairie Saulteaux, and specifically Chief of Cote First Nation, signed Treaty 4 in Fort Qu'Appelle on September 15, 1874.

23. The common intention between the parties was that the Treaty relationship and the Treaty promises would last forever. The Treaty promises were never intended to be frozen in time. With respect to the Annuity Payments in particular, the purpose and intent was to provide the Claimant with sums equivalent to the amount required to earn a livelihood or at least the purchasing power of \$5 as at the time of Treaty in 1874.

C. The Crown's Failure to Index the Annuity Payments

24. It is undisputed that the Crown has failed to index or augment the Annuity Payments for inflation or any other reasonable measure. The purchasing power of \$5 in 2026 is vastly different than the purchasing power of \$5 in 1874. The effects of inflation have drastically reduced the Annuity Payments, which were once capable of providing a family's necessities for a year, to practically nothing.

VI. THE BASIS IN LAW ON WHICH THE CROWN IS SAID TO HAVE FAILED TO MEET OR OTHERWISE BREACHED A LAWFUL OBLIGATION

25. The Crown's failure to index or augment the Annuity Payments for inflation or any other reasonable measure is a breach of Treaty 4, including the duty to diligently implement the Treaty promise. The breach of Treaty 4 constitutes dishonourable conduct by the Crown, as well as a breach of fiduciary duty.

26. In the alternative, if Treaty 4 does not provide for an obligation to index or augment the Annuity Payments, the Crown breached its fiduciary duty, failed to uphold the Honour of the Crown, and committed equitable fraud by:

- a. Acting in bad faith during the negotiations of Treaty 4; and
- b. Approving and implementing the terms of Treaty 4 which were foolish,

improvident, and otherwise amounted to exploitation.

A. Breach of Treaty

27. The purpose of Treaties is to reconcile pre-existing Aboriginal sovereignty with assumed Crown sovereignty, and to define Aboriginal rights guaranteed by s. 35 of the *Constitution Act, 1982*.

28. The honour of the Crown informs the implementation of Treaty promises and requires that the Crown:

- a. interprets the Treaty promise in a broad and purposive manner; and
- b. acts diligently to fulfill the promise (the duty of diligent implementation).

29. The interpretation of the terms of the annuity provision of Treaty 4 can be broken down into two possible interpretations:

- a. the Annuity Payment is meant to be a fixed sum at the rates promised when Treaty 4 was signed; or
- b. the Annuity Payment is meant to provide a “real” value (indexed for inflation or any other reasonable measure) such that the purchasing power of the sum promised remains at least equally valuable throughout time.

30. The applicable principles of Treaty interpretation and the Honour of the Crown favour the latter interpretation. The historical record and background to Treaty 4 indicate that the Annuity Payments were negotiated to provide the families of signatory First Nations with sufficient income to “maintain a livelihood”. The Annuity Provisions were to be provided as consideration for the cession of a vast territory. The cession of Aboriginal title to the lands was necessary for the Crown’s western settlement and development policy. Given the cession of a large amount of land, the Indigenous signatories would have expected a fair return for the value of this land.

31. Treaty rights are not frozen at the date of signature and must be updated to provide for their modern exercise. Treaty No. 4 must be interpreted in a modern way

throughout time, given that the land ceded in the Treaty has not been returned to the Claimant.

32. The Crown has a duty to act in an honourable and timely way to pursue the purpose behind the Treaty promise. Despite this duty, the Annuity Payments have never been adjusted for inflation or any other reasonable measure, and the promise to provide sums for a sustainable livelihood remains frustrated. The Crown's breach of its duty of diligent fulfillment amounts to a breach of Treaty 4.

B. Breach of Fiduciary Duty

33. The Crown owes the Claimant a fiduciary duty in the implementation of the Treaty. The Crown's failure to fulfill the Treaty promise for Annuity Payments is a breach of the Crown's fiduciary duty owed to the Claimant.

C. Alternative Argument

34. In the alternative, if the Tribunal finds that the interpretation of Treaty 4 does not include an obligation to index the Annuity Payments, the Crown breached its fiduciary duty, acted dishonourably, and committed equitable fraud in negotiating, approving, and implementing Treaty 4.

35. The Crown has an obligation of honourable dealing with Indigenous peoples, including during the Treaty-making process. The Crown's actions in failing to negotiate an inflation increase provision to protect the purchasing power of the Annuity Payments did not meet the standard of a fiduciary, were dishonourable, and amounted to bad faith.

36. Further, the Crown breached its fiduciary duty to the First Nation when it approved, consented to, and implemented, the Annuity Payments term of Treaty 4, which was a term that was foolish, improvident, and otherwise amounted to exploitation.

VII. RELIEF SOUGHT

37. The Claimant seeks the following relief:

- a. a determination that Treaty 4 imposes an obligation on the Crown to increase the Annuity Payments of \$5 for inflation, or by any other reasonable measure to maintain the purchasing power of \$5 in 1874; and
- b. a determination that the Respondent has breached its Treaty, honourable, and fiduciary obligations by failing to index or augment the Annuity Payments;

or, in the alternative:

- a. a determination that the Respondent had fiduciary and honourable duties to the First Nation in the negotiation of Treaty 4, which it breached when it failed to include a provision for the indexation of the Annuity Payments; and
- b. a determination that the Respondent failed to uphold the Honour of the Crown, breached its fiduciary duty, and committed equitable fraud when it approved and consented to the Annuity Payments term of Treaty 4 which was foolish, improvident, and otherwise amounted to exploitation.

38. The Claimants seeks the following remedies:

- a. Equitable compensation for the historic failure to index or augment the Annuities Payments;
- b. Costs to be awarded on a solicitor-client basis pursuant to the *Specific Claims Tribunal Rules of Practice and Procedure*, SOR/2011-119, section 110(2) in relation to the Specific Claim and this proceeding; and
- c. Such other relief as this Honourable Tribunal deems just.

Dated May 27, 2026



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