Treaty – is a contract or compact between nations. It is an agreement that is binding upon the nations that sign the treaty. The United States Constitution says treaties are “the supreme Law of the Land.” The property rights that a specific treaty protects are not for all Indians in general but are rights specific to the tribe that signed the treaty. The United States entered into more than four hundred treaties with Indian tribes between 1778 and 1871.

Sovereignty – is the power of a political body/government to control and regulate people and activities within its territory. Dictionaries define sovereignty as: “the self-sufficient source of political power, from which all specific political powers are derived; . . . the right and power of regulating its internal affairs without foreign dictation” (Black’s Law Dictionary 1252 [5th ed. 1979]); the “supreme power, esp. over a body politic” (Webster’s Ninth New Collegiate Dictionary 1129 [1985]). All the European governments present in the New World and then the United States always dealt with the tribal nations as governments, and the United States continues to deal with tribes today on a political, government-to-government basis.

Reservations – are defined areas of land which tribes reserved for their exclusive use and possession. These lands are defined in treaties, executive orders, or acts of Congress. The word reservation itself comes from the fact that tribes “reserved” these lands out of much larger areas that they owned and utilized. In 1905, the U.S. Supreme Court stated: “the treaty was not a grant of rights to the Indians, but a grant of right from them, — a reservation of those not granted” (United States v. Winans, 198 U.S. 371, 381 [1905]).

Reserved rights – are rights tribes kept, or reserved, out of a greater number of rights they already owned. During treaty-making, the United States asked tribes to sell the United States certain property rights to land and assets in exchange for payments, promises, and protection from
the United States. Tribes often refused to sell all their property rights, and they negotiated to retain or reserve property rights to defined areas of land and to fish, animals, plants, etc. These rights were not gifts from the United States but were a sale of rights from the tribes to the United States in which tribes preserved certain rights they owned and wanted to retain.

**Nation** – is a people existing in the form of an organized political community controlled and protected by natural and enacted rules and laws (*Black's Law Dictionary* 764, 923 [5th ed. 1979]). American Indian societies meet the definition of nations today and did so in pre-Columbian times. The United States often referred to tribes as nations in treaties, laws, and official pronouncements.

**Tribe or Band** - is another name that the United States used in treaties and laws to identify a nation or a group of Indians organized under a form of government distinct from other Indian nations.

**Canons of treaty construction** – are tools the federal courts developed for interpreting Indian treaties. Applying principles of contract and international law, courts interpret Indian treaties to achieve the intent of the parties; they read them broadly in favor of the tribe; they resolve ambiguous expressions in favor of the tribe; they interpret treaties as the Indians would have understood the treaty and the negotiations; and they consider the history and circumstances behind a treaty. The canons were developed due to the suspect manner in which treaties were negotiated with tribes. Rarely, if ever, did a tribe request a treaty. Instead, it was the United States that wanted these treaties, that presented the terms, and that drafted the documents. Treaties were written and explained in English, which very few Indians spoke and which none could read. Tribes had to rely on the representations and promises of the federal representatives. The canons of construction thus arose from the disadvantaged bargaining position that Indians often occupied during treaty negotiations. “And we have said we will construe a treaty with the Indians as ‘that unlettered people’ understood it, and ‘as justice and reason demand, in all cases where power is exerted by the strong over those to whom they owe care and protection,’ . . .” (*United States v. Winans*, 198 U.S. 371, 380-81 [1905]).