



SPECIFIC CLAIMS

OVERVIEW

In 1974, Canada created the Office of Native Claims, taking on the dual role of reviewing First Nations claims made against the Crown and representing Canada in negotiations. First Nations were critical of this approach pointing to the obvious conflict of interest.

In 1982, responding to calls for greater transparency, Canada released its first official specific claims policy, 'Outstanding Business: A Native Claims Policy'. The policy was intended to outline the specific claims process, but did not address the conflict of interest. First Nations continued to express concern.

In 2007, Canada announced *Justice at Last: A Specific Claims Action Plan* (JAL). A key element of the JAL announcement was the creation of the *Specific Claims Tribunal Act* which created an independent adjudicative body (Tribunal) for claims that First Nations and Canada were unable or unwilling to negotiate. However, despite the creation of the Tribunal, the process of submitting, reviewing and negotiating claims was still managed by Canada.

First Nations dissatisfaction with Canada's ongoing control of the specific claims process culminated in 2016 with the conclusion of the

5-year review of the *Specific Claims Tribunal Act* and the release of the Office of the Auditor General (OAG) report, both of which found that Canada had failed to meet the goals of JAL and called on Canada to work with the Assembly of First Nations (AFN) and First Nations to address their concerns.

In late 2016, the AFN and Canada formed a Joint Technical Working Group (JTWG) with a mandate to examine the specific claims process and develop joint recommendations for change. The JTWG has been meeting consistently over the past year and a half.

In 2017, the AFN hosted two dialogue sessions with First Nations, one in Ottawa and one in Vancouver. The message that came out of these sessions reflected what First Nations have said consistently over time: Canada's ongoing management and control of the specific claims process constitutes a conflict of interest which can only be addressed through independent oversight.

During the fall of 2017, the AFN Chiefs-in-Assembly passed Resolution 91/2017, *Support for a Fully Independent Specific Claims process*, calling for the creation of an independent specific claims process and support for the work of the JTWG.

UPDATE

The AFN, with the support of the First Nations members of the Joint Technical Working

Group, has been holding engagement sessions on reforms which would lead to a truly

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independent Specific Claims Process. Those engagement sessions concluded in November 2019. AFN staff and First Nations members of

the Joint Technical Working Group are currently in the process of compiling feedback.

NEXT STEPS

The results of the engagement will likely be presented to the 2020 Annual General Assembly to inform a federal Memorandum to Cabinet on Specific Claims reform in Fall 2020.

Funding permitting, the AFN may host an intersessional meeting, prior to the AGA, on potential proposals or options for an independent Specific Claims process.

