

**SPECIFIC CLAIMS****OVERVIEW**

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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 over the coming decades.

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.

At the December 2018, Special Chiefs Assembly, Minister Bennett signaled that her government was committed to overhauling the specific claims process.

### UPDATE

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Crown-Indigenous Relations Canada officials require a mandate to begin substantive engagement, through the JTWG, with First

Nations on an independent process. It is hoped that they will receive such a mandate for the 2019-2020 fiscal year.

### NEXT STEPS

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The AFN will continue to press for an independent specific claims process at the JTWG and through other forums, while also preparing for substantive engagement efforts with First Nations on an independent process in 2019-2020 subject to a federal commitment and funding.

