
TITLE: Using Alternative Dispute Resolution (ADR) to Settle Outstanding Specific Claims

SUBJECT: Specific Claims

MOVED BY: Chief Joe Miskokomon, Chippewas of the Thames, ON

SECONDED BY: Chief Isadore Day, Wiindawtegowinini Serpent River First Nation, ON

DECISION: Carried by Consensus

WHEREAS:

- A. Alternative Dispute Resolution (ADR) is a spectrum of processes, other than litigation, that can be used to resolve disputes. The ADR spectrum includes negotiation and mediation and a number of other processes, some of which are variations or combinations of negotiation and mediation.
- B. Through its 2007 *Justice at Last* Specific Claims Action Plan, the Government of Canada promised to refocus the work of the then Indian Specific Claims Commission (ISCC) to center exclusively on resolution services.
- C. The Government of Canada stated in *Justice at Last* that these (resolution) services can help Canada and First Nations to overcome impasses at all stages of the (specific claims) process.
- D. Since 2007, the transformation of the ISCC's services did not take place and instead the ISCC was permanently closed on March 31, 2009.
- E. The Government of Canada has unilaterally decided to provide mediation services to only those claims in negotiation and administer these services from within the Department of Indian Affairs.
- F. The Government of Canada has eliminated other options to administer mediation services as unworkable either because of the lack of a legislative base or as too costly.

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- G. Representatives within the Department of Indian Affairs have been identified and assigned the task of developing criteria and standards to be used in selecting mediators to form a national/regional roster.

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

1. Call on the Government of Canada to implement its commitment to use mediation more frequently in the resolution of outstanding specific claims *at all stages of the process*.
2. Call on the Government of Canada to administer these resolution services with the utmost respect for the *principles of independence and neutrality*.
3. Mandate the Assembly of First Nations to engage in discussions with INAC to:
 - a. Ensure the needs of First Nations and the timeliness for accessing resolution services are paramount considerations.
 - b. The key elements of fairness, independence and neutrality are reflected going forward.
 - c. Ensure the development of any criteria and standards to be used in establishing a roster of mediators must be done jointly with the Assembly of First Nations.
4. Call on the AFN to report back to the Chiefs-in-Assembly as progress is made.

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