



## **Draft Speaking Points** **for the Independent Claims Body Legislation**

- Resolving the legitimate, outstanding historical claims of First Nations has been a long-standing priority for the AFN and all First Nations. We are examining the legislation carefully to ensure it will meet its stated intention of resolving outstanding specific claims in a fair and just manner.
- The need for an independent body to resolve these legal claims has been an issue since at least the 1940's. The AFN has been working with the government for more than 12 years to deal with these issues and has been advocating for a truly Independent Claims Body. Canada and First Nations can make great progress by dealing with historic claims in a fair and just manner.
- Our discussions with the federal government indicate that their proposal is based on the general concepts and principles of the work of a Joint Task Force between Canada and First Nations that recommended a Commission and Tribunal.
- However, we have a number of concerns with the federal proposal.
- We are concerned that federal government will have sole authority over appointments to this body. This is contrary to the 1993 Liberal Red Book and Aboriginal Platform which promised an independent commission to address all claims that would be jointly appointed by First Nations and Canada. The Independent Claims Body must be independent and appear to be independent in the eyes of First Nations and government.
- First Nations are concerned with the proposed capping of the tribunals' authority to accept and resolve claims. First Nations do not understand how lawful obligations are subject such a limitation. You cannot put a cap on justice. What other sector of society would tolerate a cap on rightful and legal obligations owed them by the federal government?
- The idea of having a tribunal is to provide an incentive for negotiated settlements. Right now the federal government is judge and jury in the claims process. The only alternative is the courts which are costly, time consuming and adversarial. The presence of a Tribunal will ensure that the Government can not drag out negotiations for years on end, as at present.
- First Nations are also concerned that there is no significant financial commitment to settling specific claims, while there is a growing backlog of over 550 in the existing system. With the current system, it could take up to 150 years to settle the existing backlog, and new claims are coming in every day.

- First Nations will be pointing out these shortcomings and advocating for positive change. We believe Canada should make a clear commitment to resolve these outstanding debts as the costs of not settling these legal obligations will continue to grow.
- Settling specific claims is in the interest of all Canadians. Not only will it resolve historical grievances against the Crown, it will also remove legal uncertainty and provide the necessary capital for economic development.
- These claims do not stem from the work of First Nations – they are largely the result of the Crown failing to honour its respect its lawful obligations. We must work to resolve this unfinished business in the interests of fairness, respect and justice.
- For example, in the case of the Kahkewistahaw First Nation, whose members were induced to surrender three quarters of their reserve in 1907, it was found that the Crown’s agents had engaged in “tainted dealings” to obtain approval. It was found that these officials took advantage of the community and manipulated the process when in fact the Government had trust-like responsibility to look after the best interests of the community. This claim was originally rejected by the federal government but was finally acknowledged at the recommendation of the Indian Claims Commission.
- If First Nations concerns with the legislation are adequately addressed we would look forward to working with Canada and the Indian Claims Commission on the transition process. We must ensure that there is a smooth transition and that claims currently in the processes are not adversely affected.