

INAC - Specific Claims In Canada - Then and Now

The key differences between the past and the current process for resolving specific claims are highlighted below:

OLD PROCESS

CURRENT PROCESS

The new Specific Claims Tribunal

<p>When claims were not accepted for negotiations by Canada or there was a disagreement on compensation, the First Nation could refer the issue to an independent commission for a non-binding recommendation.</p>	<p>First Nations can refer their claims to the Tribunal for a binding decision if the claim is not accepted for negotiations or if negotiations do not result in a final settlement.</p> <p><i>Benefits: Composed of superior court judges, the Tribunal provides an alternative to the courts and brings finality to the process.</i></p> <p><i>NB: Participation in the Tribunal process is optional. First Nations may still pursue litigation.</i></p>
<p>There were no time limits to assess a claim and make a decision on whether to negotiate. Likewise, negotiations could go on for as long as ten years or more.</p>	<p>The legislation creating the Tribunal introduces a new accountability tool - timeframes. First Nations may go to the Tribunal if Canada fails to complete its assessment of a claim within three years, as set out in the legislation, or if a final settlement has not been reached after three years of negotiations.</p> <p><i>Benefits: This tool will eliminate the backlog and speed up resolution, keeping the focus on concrete results.</i></p>

Other Key Changes

<p>The amount of funding set aside for settling specific claims has varied over the years, ranging from \$30 to \$75 million. Frequently, additional funds had to be sought for individual settlements.</p>	<p>A dedicated fund of \$250 million per year for a period of ten years has been set aside.</p> <p><i>Benefits: Significantly more funds dedicated solely to the payment of specific claims than ever before.</i></p>
<p>There were no guidelines for First Nations on the information required to submit a claim or the format of that information. As a result, incomplete claim submissions</p>	<p>A new Minimum Standard sets out what information is required and how claims are presented. Claims that do not meet the Minimum Standard will be returned to the First Nation. Once a claim meets the</p>

<p>often bogged down the system.</p> <p>First Nations could review and add new information at any stage of Canada's assessment, thereby slowing down the process.</p>	<p>Minimum Standard, it is officially filed with the Minister. The three-year time period then begins for Canada to assess the claim and decide whether to accept it for negotiation.</p> <p>Once a claim is filed, no new information can be added; however, a First Nation can re-submit the claim if it wishes to file new allegations or information.</p> <p><i>Benefits: These guidelines will speed up the processing for claims.</i></p>
<p>Each claim was processed separately and in the chronological order that it was received.</p> <p>All claims followed the exact same steps in negotiations, regardless of their potential settlement value.</p>	<p>Similar claims are bundled at the research and assessment stages to speed up decisions regarding their acceptance for negotiation.</p> <p>Special efforts can be made to negotiate small value claims more quickly. Large claims valued at more than \$150 million are referred for separate processing to better address their complexity and diversity.</p> <p><i>Benefits: Streamlined approach better addresses the diversity and complexity of specific claims.</i></p>