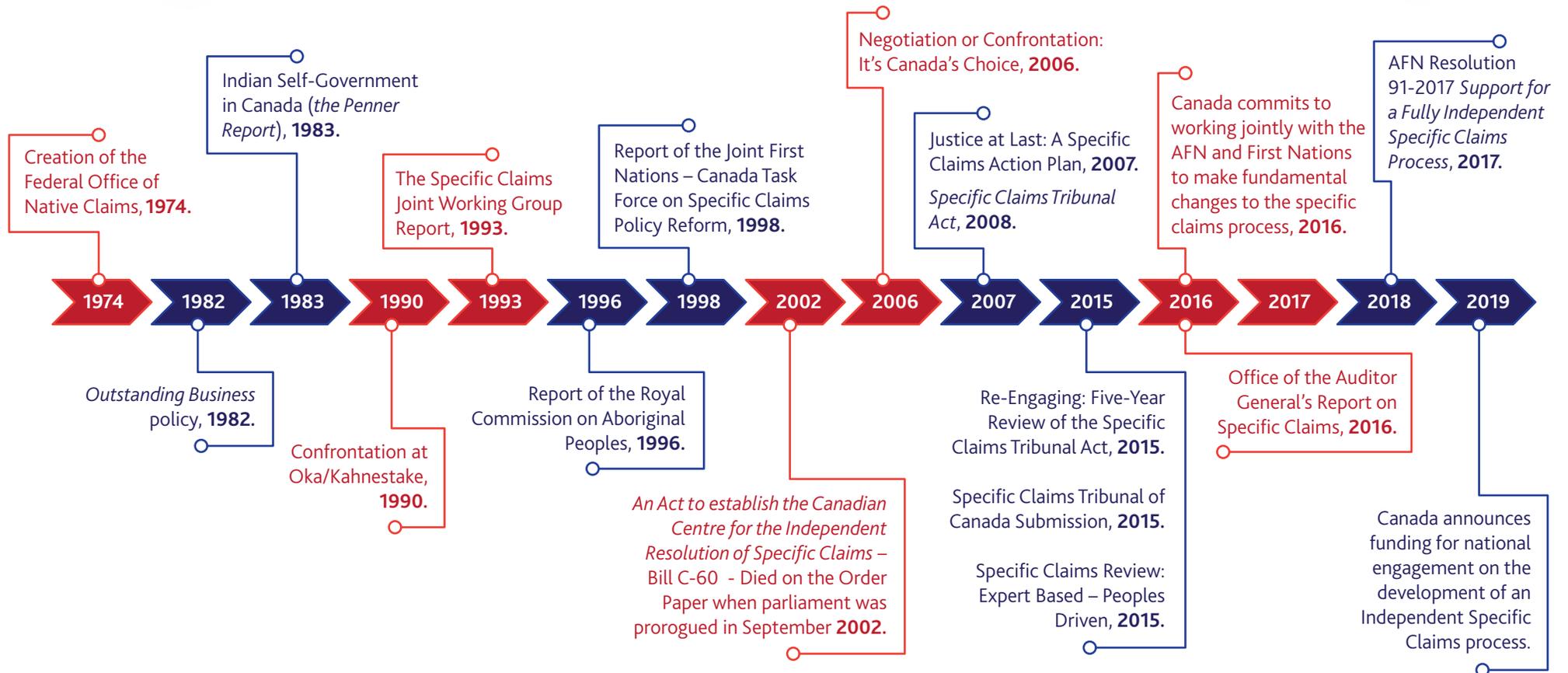




Timeline of Key National Events in Specific Claims Policy Reform

Saskatoon, SK • Winnipeg, MB • Vancouver, BC • Fort Saint John, BC • Six Nations, ON • Thunder Bay, ON • Edmonton, AB • Halifax • Montreal, QC • Whitehorse, YT





2019 Specific Claims Reform

National Dialogue Sessions

Saskatoon, SK • Winnipeg, MB • Vancouver, BC • Fort Saint John, BC • Six Nations, ON • Thunder Bay, ON • Edmonton, AB • Halifax • Montreal, QC • Whitehorse, YT

In 1974, the Office of Native Claims was created, taking on the dual role of reviewing 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 Outstanding Business: A Native Claims Policy. The policy was intended to outline the specific claims process, but did not address the conflict of interest.

The 1983 Penner report on Indian Self Government validated First Nations concerns recommending that the claims resolution process be replaced with an independent body. This recommendation was never implemented.

In 1990, following the confrontations at Oka, the federal government once again agreed to take steps to reform the specific claims process; including increasing the budget for settlements and promising the creation of an independent body that could adjudicate claims. An Assembly of First Nations (AFN) – Canada Joint Working Group (JWG) was struck to review the issues.

Canada also established the Indian Specific Claims Commission (ICC) in 1991, which was a temporary independent advisory body tasked with mediating claims the minister has rejected. However, the ICC did not have the authority to make binding decisions.

In 1993, the JWG released a report with recommendations that included the need for legislation to establish an independent process and an independent claims body to settle outstanding claims. These recommendations were largely ignored by Canada.

In 1996 the Royal Commission on Aboriginal Peoples released called for a fully independent process to address all First Nations claims. Shortly after, a Joint AFN-Canada Task Force was established and mandated to study the structure and authority of a potential independent claims body.

The Joint Task Force issued its report in 1998 and recommended the creation of an independent commission to facilitate negotiations and a tribunal to adjudicate disputes where negotiations failed.

In 2003, in an attempt to create a fairer process and increase efficiency, Canada passed Bill C-60, the Specific Claims Resolution Act. While C-60 received Royal Assent it was never proclaimed into force as it was widely rejected by First Nations for failing to create an independent process.

The Senate Standing Committee on Aboriginal Affairs released a final report in 2006, called *Negotiation or Confrontation: It's Canada's Choice* which expressed the need for a truly independent claims process to be developed within a two year timeframe. The report also notes that the creation of an independent process has been recommended by 18 past government processes/inquiries.

In 2007, following a joint process with the AFN, Canada announced *Justice at Last: Specific Claims Action Plan*, (JAL) a strategy to reform the specific claims process. JAL, which was structured around four pillars, included the creation of an independent, binding tribunal. However, the department maintained its roll assessing and managing the claims process.

The Specific Claims Tribunal Act (SCTA), was viewed by many an important step towards an independent specific claims process. The STCA also included a commitment by Canada to undertake a 5-year legislative review of the specific claims policy and the Tribunal Act which would include the AFN.

At the same time, in 2009 Canada unilaterally closed the ICC and announced that Specific Claims Branch would administer mediation services. This undermined the commitment to independence made under JAL and ultimately resulted in mediation services being rarely used.

In 2014 Canada appointed Mr. Bernard Peltier as Ministerial Special Representative (MSR) to undertake the 5-year review – which they limited to the SCTA only.

The AFN opposed both the unilateral appointment of the MSR, as well as the decision to limit the scope of the review. To ensure the entire specific claims process received adequate attention the AFN developed an independent expert panel process to provide a parallel review. The expert panel accepted submissions resulting in a 2015 report *Specific Claims Review: Expert Based – People Driven* which outlined a number of concerns with the implementation of JAL and concluded there

was a need for a fully independent process. The report was submitted to the MSR for inclusion in the 5-year review.

In 2016 Canada released its 5-year review which ultimately acknowledged some of the concerns expressed by First Nations regarding the policy and process. Then in the fall of 2016, the Minister tabled her report on the 5-year review to Parliament. This report recognized the Departments failure to implement JAL and committed to working with First Nations and the AFN to address their concerns.

The Office of the Auditor General (OAG) carried out its own independent audit of Canada's handling of specific claims and released its report in November, 2016. The OAG report clearly stated that Canada had failed to fulfill the commitments made in JAL, and identified ten recommendations for change. In response, Canada accepted all ten recommendations and committed to working with the AFN and First Nations to develop solutions to their concerns.

Immediately following the Minister's report on the 5-year review, the AFN and Canada struck a Joint Technical Working Group on Specific Claims (JTWG) with a mandate to review the Specific Claims policy and process and to make recommendations for change.

In 2017 the AFN and members of the JTWG hosted two AFN dialogue sessions, one in Ottawa and one in Vancouver. First Nations made it clear that while welcome, the OAG recommendations failed to reflect the type of transformative change required and that the AFN and JTWG needed to explore options for a fully independent specific claims process.

The AFN Chiefs-in-Assembly passed resolution 91-2017 *Support for a Fully Independent Specific Claims Process* which directs the AFN and the JTWG to develop a fully independent specific claims process which would replace JAL and the existing process.

At the same time Crown Indigenous Relations and Northern Affairs began seeking a Cabinet mandate to undertake extensive engagement with the JTWG and AFN on what a fully independent specific claims process might look like.