



ASSEMBLY OF
FIRST NATIONS

ASSEMBLÉE DES
PREMIÈRES NATIONS

Specific Claims Reform

Co-Development of an Independent Specific Claims Centre

October 19th, 2022



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Overview

- Specific Claims Reform Background
- Desire for Fundamental Reform and AFN Mandates
- AFN Reform Proposal:
 - Development and Publication
- CIRNAC Co-Development Mandate
- Co-Development Principles
- Joint Implementation
- Next Steps



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Background

- Since the early 20th century, First Nations have called upon Canada to implement a fully independent process to resolve historic grievances.
- While limited progress has been made (e.g., the establishment of the Specific Claims Tribunal in 2008), further reforms are required to eliminate Canada's conflict of interest and ensure its laws and policies are consistent with the UN Declaration.



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Desire for Fundamental Reform and AFN Mandates

- Two AFN forums in 2017 demonstrated an ongoing desire for fundamental reform and the elimination of Canada's conflict of interest.
- AFN Resolution 91/2017 *"Support for a Fully Independent Specific Claims Process"*
 - Calls on the AFN to "jointly develop a fully independent specific claims process"
- AFN resolution 09/2020 *"Jointly Develop a Fully Independent Specific Claims Process"* identified four principles required in any new specific claims process.
 - The Honour of the Crown
 - Full Independence of all Aspects of Claims Resolution
 - Recognition of Indigenous Laws
 - No Arbitrary Limits on Financial Compensation



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Development of AFN Reform Proposal

- AFN planned and carried out a comprehensive engagement process in the fall of 2019 with First Nations nationally seeking input into what a fully independent specific claims process should look like.
- This engagement led to the development of a draft AFN Proposal based on First Nations input and rigorous peer review.
- The AFN published the finalized Proposal on the AFN website in May 2022 and has shared the Proposal with federal officials.
- The AFN Proposal reflects a First Nations position on specific claims reform – it is not a joint Proposal.



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The Centre: Core Principles and Functions

- The AFN Proposal envisions an Independent Claims Resolution Center based on four principles mandated by AFN Resolution.
- (The Centre) which will operate as an independent entity with 5 core functions:
 1. Registrar
 2. Funder
 3. Resource Hub
 4. Commission
 5. Adjudication (Current Tribunal)



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CIRNAC Co- Development Mandate

- In July 2022, CIRNAC received a Cabinet Mandate to co-develop an independent centre for the resolution of specific claims with the AFN.
- CIRNAC's mandate appears flexible enough to negotiate all aspects of the AFN's mandate, including the removal of arbitrary limits on financial compensation.



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Proposed Co- Development Structure

- The Specific Claims Implementation Working Group will co-develop an independent centre for the resolution of specific claims.
- Senior representation from the AFN and the SCB.
- A series of technical task groups will address specific issues/elements and report back to the senior table.
- Political oversight to resolve disputes and impasses that arise.



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Proposed Timeline

- **Fall 2022:** Establishment of the Specific Claims Implementation Working Group (SCIWG).
- **Winter 2024:** Development of options for consideration by Cabinet, including a consensus-based Centre model.
- **Summer 2024:** Beginning of legislative drafting process.
- **Spring 2025:** Royal Assent for any legislation developed.



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Co-Development Principles

- The AFN envisions a co-development process that is transparent and principled:
 - Co-development must be a process between equals.
 - The co-development process must be well-defined and the goals clearly identified.
 - There must be early and full disclosure of all relevant information.
 - The process must be flexible.
 - Co-implementation is the key to success.



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Joint Implementatio n

- The 2007 *Justice at Last* co-development process fell short during implementation.
 - Despite an agreement between the Government of Canada and the AFN, no joint process to address claims over \$150 million has been established.
- The AFN is committed to jointly implementing the co-developed specific claims centre.



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Next Steps

1. Finalize Terms of Reference.
2. Joint co-development and legislative drafting process.
3. Joint implementation.



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