

OLTHUIS
KLEER
TOWNSHEND LLP
BARRISTERS AND SOLICITORS

Kate Kempton
kkempton@oktlaw.com
416.981.9347
416.981.9350
72794

October 12, 2010

By Email and Courier

Ontario Energy Board
PO Box 2319
2300 Yonge St, 27th floor
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: EB-2010-0243
Evidentiary Filings - Wahgoshig First Nation (intervener)**

As per Procedural Order No. 1 issued by the Ontario Energy Board on September 21, 2010 please accept the attached documents as the evidentiary filings of Wahgoshig First Nation.

As noted in the correspondence from Detour Gold to the Ontario Energy Board dated October 5, 2010 the Response to Interrogatories filed by Detour Gold included a large volume of material. These materials inform both the matters at issue and the evidence required for filing. Hardcopies were not received by our office until October 6, 2010 in the afternoon and the time period for review and response was further limited by the statutory holiday on October 11, 2010. Due to the limited time period for review and consideration of the materials filed by Detour Gold it was not possible to complete the hard copy filings of these materials within the specified time line. Nonetheless, electronic copies have been provided to the Applicant, the Ontario Energy Board and all of the interveners on the date of this letter. Hardcopies have been sent by courier to the Applicant and the interveners and they will be filed with the Ontario Energy Board on October 13, 2010.

The following documents are attached:

- Correspondence from Kate Kempton, legal counsel to Wahgoshig First Nation to Detour Gold and the Ministers of the Ministry of Northern Development, Mines and Forestry, Ministry of Natural Resources and Ministry of the Environment dated September 16, 2010 requesting urgent action on the part of the Applicant and the Crown to consult and accommodate Wahgoshig First Nation (please note that this correspondence expresses concerns regarding the environmental assessment and all processes for approvals being

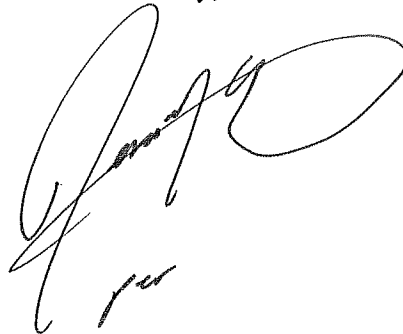
sought by Detour Gold contrary to the response provided by Detour Gold to interrogatory questions 2(a)(ii) and (iii) submitted by Wahgoshig First Nation);

- Land claim submitted to Indian and Northern Affairs Canada (“INAC”) by Wahgoshig First Nation dated January 18, 1995;
- “Without Prejudice” correspondence from INAC to Wahgoshig First Nation dated August 6, 2010 informing Wahgoshig First Nation of the decision of the Minister of Indian Affairs and Northern Development not to accept the specific claim contesting the validity of the joint ownership of Abitibi IR 70;
- Specific Claims Tribunal Act (demonstrates that the refusal of INAC to accept a specific claim is a necessary precondition for pursuing the claim before the Specific Claims Tribunal – see section 16(1)(a));
- Excerpts from the Specific Claims Policy and Process Guide (demonstrates that third party land interests may prevent the selection of those lands by a First Nation for additions to reserve lands – see pages 8-9); and,
- Excerpts from the INAC Land Management Manual (demonstrates that third party land interests must be addressed prior to acquisition of lands – see paragraphs 6.13 to 6.16).

Further, as noted in our correspondence of September 28, 2010, we would respectfully request that the Ontario Energy Board provide (or ensure that Detour Gold provides us) with a full copy of all materials filed with the Ontario Energy Board prior to September 28, 2010. We do not have a record of the materials filed in advance of that date. We request both electronic and hard copies of the materials.

If there are any questions please do not hesitate to contact the undersigned.

Yours truly,

A handwritten signature in black ink, appearing to read 'Kate Kempton', with a large, stylized flourish at the end.

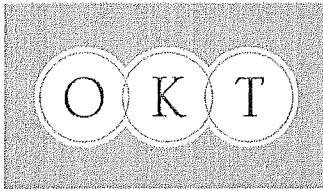
Kate Kempton

KK/jcm

Cc:

Chief David Babin Wahgoshig First Nation (wfnchief@wahgoshigfirstnation.com)
Derek Teevan, Detour Gold Corporation (dteevan@detourgold.com)
Scott Stoll, Aird & Berlis LLP, Legal Counsel, Detour Gold Corporation (sstoll@airdberlis.com)
Wayne Clark, SanZoe Consulting Inc., Consultant, Detour Gold Corporation (c.w.clark@sympatico.ca)
Nancy Wood, Coral Rapids Power, Taykwa Tagamou Nation (nwood@mcleod-wood.com)
Juli Abouchar, Willms & Shier Environmental Lawyers LLP, Legal Counsel, Taykwa Tagamou Nation (jabouchar@willmsshier.com)
Tracey Richards, Willms & Shier Environmental Lawyers LLP, Law Clerk, Taykwa Tagamou Nation (trichards@willmsshier.com)
Katherine Koostachin, Willms & Shier Environmental Lawyers LLP, Legal Counsel, Taykwa Tagamou Nation (kkoostachin@willmsshier.com)
David Sone, Earthroots (david.sone@gmail.com)
Carl Burrell, Independent Electricity System Operator (carl.burrell@ieso.ca)
Richard Lanni, Legal Counsel Independent Electricity System Operator (richard.lanni@ieso.ca)

N:\Matters\72794\Transmission line - OEB\kk ltr to OEB re filing relevant evidence - October 12 2010.doc



OLTHUIS
KLEER
TOWNSHEND LLP
BARRISTERS AND SOLICITORS

Kate Kempton
kkempton@oktlaw.com
416.981.9374
72794

September 16, 2010

Mr Derek Teevan
Vice President Aboriginal & Government Affairs
Detour Gold Corporation
Royal Bank Plaza - South Tower
200 Bay Street, Suite 2200, Box#23
Toronto, ON M5J 2J1
Fax: (416) 304-0184

The Honourable Michael Gravelle
Ministry of Northern Development, Mines and Forestry
99 Wellesley Street West
Whitney Block, Room 5630
Toronto ON M7A 1W3
Fax: (416) 327-0665

The Honourable Linda Jeffrey
Ministry of Natural Resources, Legal Services Branch
Whitney Block
6th Flr Rm 6630
99 Wellesley St W
Toronto ON M7A 1W3
Fax: (416) 325-5316

The Honourable John Wilkinson
Ministry of the Environment
Ferguson Block, 11th Flr
77 Wellesley St W
Toronto ON M7A 2T5

Fax: (416) 314-6748

Dear Sirs/Mesdames:

Re: URGENT - Need to Consult and Accommodate Wahgoshig First Nation

We are legal counsel to Wahgoshig First Nation and are writing on its behalf with an urgent request that Detour and the Ministries put on hold all processes for approvals currently being pursued for the Detour gold mine project and its related facilities, until an adequate process for consultation and accommodation of WFN is set up and implemented.

This letter constitutes WFN's "comments" in respect of the EAs listed below. Whether additional substantive comments will be made by WFN later depends on good measure on the Crown's and Detour's response to this letter.

We have recently been informed that the following processes for approvals are being pursued:

- The MNR Class EA relating to Resource Stewardship and Facility Development Projects (dealing with many aspects of the mine project), the final Environmental Study Report for which was issued in August 2010, and for which the Crown states that comments are due by September 17;
- Provincial screening level EA for early-construction-phase diesel generated power at the mine site;
- Provincial individual EA for contingency of 10 MW of diesel power for later construction phase of mine project (in case the transmission line element of the project does not get approved in time), the draft Terms of Reference for which were just released and which Detour states it needs comments back by October 4, 2010;
- Provincial individual EA for 230 KV transmission line, which the MOE reviewed and issued its Review Report in mid-August and which the MOE states it needs comments back by September 17, 2010;
- Application before the OEB for its approval of the transmission line, of which we were informed late August.

In addition to the above, there will be federal EAs and likely other approval processes to come. There have also likely been other approvals issued to date.

Detour states in its Class EA ESR that "Project construction is scheduled to commence in the latter half of 2010..." This timeframe is unrealistic and unfair given that the duty to consult and accommodate WFN remains unfulfilled.

Despite the failure to meet the duty to consult and accommodate, there appears to be a significant push on to begin construction on a very fast pace, without providing enough time, resources, or an adequate process for WFN participation and input.

What WFN requires, and what the *law* requires, is that a process be set up with WFN through which consultation and accommodation of WFN will be satisfied. Given the size and complexity of this project and its many elements, and the potential for serious impacts on WFN's rights and the environment in its traditional territory, and given the large number of EAs and approval processes, many of which are colliding on the same timeframe, there should have been and must be now, a single, coordinated, comprehensive process established that provides adequate time and resources for WFN's informed participation.

Instead, what has happened to date has been a series of ad-hoc, fragmented interactions, without anything close to adequate resourcing and time for WFN's informed involvement. This has caused a great deal of confusion and has overwhelmed the First Nation.

The establishment of an adequate process must occur now, before any further steps are taken in the above and other approval processes. Any so-called "deadlines" for comments must be considered suspended as they apply to WFN, until an adequate consultation and accommodation process is developed and underway.

Such a process should have been established a long time ago: courts have stated that the first step in consultation should be consulting with the First Nation about the appropriate process itself, and that consultation should begin at the earliest possible stage, or the strategic planning stage. It is only reasonable (and necessary) to insist that approval processes be halted while work is undertaken to create and resource this process now.

This process cannot simply just comprise public stakeholder processes for the above listed approvals and EAs. The Supreme Court of Canada has made it clear that public stakeholder processes will typically not, of themselves, satisfy the duty to consult and accommodate. They will certainly not satisfy the duty if the affected First Nation has not been included at a strategic planning level of participation (such as appointing panel members for EAs, being a member of high-level decision-making working groups, etc.), has not had sufficient time to respond at each stage, and has not received adequate resources to enable it to participate in an *informed* way. There is no way that the duty to consult and accommodate WFN will be met without the provision of adequate resources, especially for a project of this size.

The Class EA ESR of itself is a stack of documentation about 8 inches high, filled with highly technical information which cannot be understood or analysed without expertise. This documentation arrived at WFN at around the same time as several other technical and complex documents in regard to the other approval processes for Detour's project. This would overwhelm even a highly scientifically-sophisticated and well-resourced party. WFN on the other hand is a small First Nation, without adequate resources (for external and internal expertise, legal advice and the like) or time to provide informed input. Courts are highly unlikely to consider this a reasonable and adequate consultation and accommodation process in these circumstances.

Therefore, on behalf of WFN, we request that Detour and each of the above Crown parties appoint representatives with authority to make key decisions in a consultation and accommodation process with WFN, and that such representatives be made available to meet with WFN, Gerry Kerr as the consultant retained by WFN for negotiations of accommodation, and myself from our firm. We propose to meet near the end of September or early October, and we suggest this timeframe to accommodate Detour's desires to move this project ahead. At that meeting, we would propose WFN's preferred process for engagement, which will include a workplan and a budget, the costs of which we would expect the Crown and Detour to cover. It is also likely to include proposals to have WFN's involvement in high-level working groups, taskforces, or the like, that have oversight over the various approval processes.

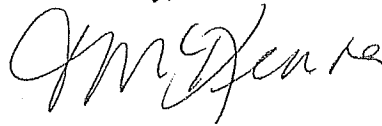
All of the above is becoming standard and commonplace in consultations with First Nations in Ontario, especially for large projects such as this one that are likely to have significant impacts on the environment and on the rights, interests and traditional lands of aboriginal peoples. We do not intend to propose anything out of the ordinary or unreasonable.


If the Crown and Detour wish this process to include other affected First Nations, WFN is amenable to that. But since the duty to consult and accommodate is the Crown's (and in a sense Detour's, being the Crown's delegate for certain consultation and accommodation purposes), and not WFN's, it will be up to the Crown and Detour to seek to engage the other First Nations to this end. If this does not happen, then we suggest that Detour and the Crown proceed with WFN alone at this time.

My office will be in contact to try to set up a meeting in the next few weeks. In the meantime, should you have any questions, please do not hesitate to contact me. If you prefer to have us work through your legal counsel, please provide us with their names and contact information.

Thank you in advance for your attention to this matter.

Sincerely,



 Kate Kempton

KK/

cc: Kirk Springett, Area Supervisor, Cochrane District MNR, email kirk.springett@ontario.ca
Agath Carcia-Wright, Director, Environmental Assessment and Approvals Branch, MOE email: agatha.garciawright@ontario.ca
Eric Doidge, Regional Director, Northeast Region, MNR, email: eric.doidge@ontario.ca
Alex Blasko, Project Officer, Environmental Assessment and Approvals Branch, MOE email: alex.blasko@ontario.ca

NISHNAWBE-ASKI NATION

P.O. Box 755, Stn. 'F'
Fort William Reserve
R.R. #4, Mission Road
Thunder Bay, ON
P7C 4W6

(807) 623-8228
(807) 623-7730 FAX

January 18, 1995

Rem Westland
Director General
Specific Claims
Indian & Northern Affairs Canada
25 St. Clair Avenue East, 5th Floor
Toronto, Ontario
M4T 2P8

Re: Wahgoshig (Abitibi) First Nation Land Claim

Dear Mr. Westland:

On behalf of the Wahgoshig First Nation, I am pleased to submit a land claim to be dealt with under the Specific Claims Policy.

The claim concerns the use of Timber Funds for the Abitibi Bands for the purchase of a reserve in Quebec for the Abitibiwinnie Band. The Wahgoshig First Nation contests the inclusion of the Quebec Indian Band into Treaty Nine and the subsequent splitting of assets of the Abitibi Reserve allotted to the Abitibi Ontario Band in 1906. This split resulted in a division of assets between the two bands on a 80%-20% basis in favour of the Abitibiwinnie Band of Quebec; a split which is still in effect today and which continues to affect all potential development of the reserve. The Treaty Land Entitlement of the Abitibi-Ontario Band (now called Wahgoshig) under Treaty Nine was consequently never fulfilled.

The First Nation, together with NAN's support, seek a redress for the past breaches and a solution to the current impasse regarding the reserves assets.

Enclosed is a letter sent to Brad Morse, Specific Advisor to the Minister, regarding this claim. I look forward to hearing from your Research Branch concerning the facts of this case.

Sincerely yours,

Brian Davey
Deputy Grand Chief
Nishnawbe-Aski Nation

Encl.

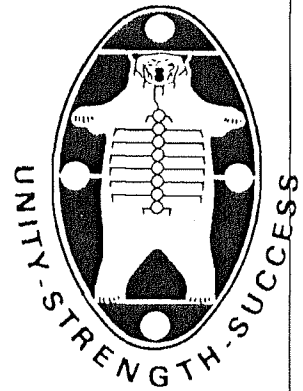
July Colman
For follow-up
D. Miller
copy
from me
cc to
Brad Morse

RECEIVED
SPECIFIC CLAIMS
JAN 25 1995
927
REVISIONS
PARTICULIERS

NISNAWBE-ASKI NATION

P.O. Box 755, Stn. 'F'
Fort William Reserve
R.R. #4, Mission Road
Thunder Bay, ON
P7C 4W6

(807) 623-8228
(807) 623-7730 FAX



January 18, 1995

Mr. Brad Morse
Special Advisor To The Minister
Indian & Northern Affairs Canada
57 Louis Pasture Rd.
Fauteux, Hull
K1N 6N5

WITHOUT PREJUDICE

Re: Wahgoshig (Abitibi) First Nation Land & Resources Issues

Dear Mr. Morse:

We are now submitting a land claim to the Specific Claims Branch to be reviewed by them and assessed for further action for the above-mentioned First Nation. I am writing to you because this claim has repercussions which affect the development of the reserve today. In the past, Abitibi-Wahgoshig First Nation has sought other avenues to resolve the matter, but all administrative solutions were turned down by the Department of Indian Affairs who have refused to discuss the problem leaving Abitibi-Wahgoshig in an impossible position and paralyzing any potential development on the reserve.

It is our belief that these problems arise from the fact that the government at the time of Treaty #9 in 1905/06 was unable to deal with a band that straddled the Quebec and Ontario borders.

The issue of the claim concerns the splitting of the assets of the original reserve Abitibi #70, in northeast Ontario allotted to the Abitibi Ontario Indians in 1906, under the provisions of Treaty #9. At that time (and still today), a group of Abitibi Indians was located in Quebec. The Treaty Commissioners (Treaty #9, 1905/06) although warned of the fact that there was a Quebec group, were unable to deal with the Quebec government and having made promises to the Quebec group, the Department in 1908 induced the Abitibi Ontario Band to accept the Abitibi Quebec Indians as members of the Band to share equally in all assets and with the same Treaty Rights as the original signatories to the Treaty. (This was done without the involvement of the Ontario government, who were also signatory to the treaty).

The initial effect of this was to change the land base and the treaty land entitlement was reduced. A second effect was the use of the reserve's timber resource in 1950 to purchase a reserve for the Abitibiwinnie (Quebec) Indians in Quebec. Since that time, the reserve assets and all resources have been split on a 80%-20% basis in favour of Abitibiwinnie. This has frustrated all development on the reserve.

We are concerned that this matter be settled quickly. Although the Wahgoshig First Nation is seeking redress for past grievances, loss of resources and revenues, the current situation must be addressed with a greater speed than has been demonstrated by the Specific Claims Branch. As we are moving into self-government negotiations, it is important that Wahgoshig First Nation have a reliable land base as promised them under Treaty #9.

Wahgoshig First Nation is willing to look into an administrative solution to resolve the immediate problem, without prejudice, to their land claim.

Sincerely yours,

Brian Davey
Deputy Grand Chief
Nishnawbe-Aski Nation

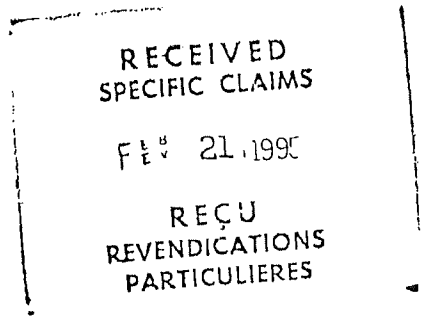
cc: Chief C. Diamond, Wahgoshig First Nation
R. Westland, Specific Claims Branch

WAHGOSHIG FIRST NATION LAND CLAIM

CONTESTING THE VALIDITY OF THE JOINT OWNERSHIP
OF THE ABITIBI INDIAN RESERVE NO.70
BETWEEN THE WAHGOSHIG (ONTARIO) INDIANS
AND ABITIBIWinni (QUEBEC) INDIANS

Please Find enclosed the following:

- 1. Historical report
- 2. Document Index
- 3. Records Researched
- 4. Five volumes of documents



THE LEGAL REVIEW WILL BE SUBMITTED BY MARCH 10. THE WAHGOSHIG FIRST NATION WISHED TO HAVE ANOTHER CONFERENCE WITH NAN'S LEGAL ADVISOR PRIOR TO FINALIZING THE LEGAL REVIEW. HOWEVER, THE FACTS AND SUBSTANCE OF THE CLAIM REMAIN AS LAID OUT IN THE HISTORICAL REPORT, AND ATTACHED DOCUMENTS.

WE APOLOGIZE FOR THE DELAY.

IF THEIR ARE ANY QUESTIONS REGARDING THIS RESEARCH THEY SHOULD BE ADDRESSED TO NAN'S RESEARCHER, CHRISTINE DERNOI, AT (613) 237-3208.

09/21/1995 12:49

613-565-6579

613 565 6579

ALISON GALE

PAGE... 01

38260-507

Christine Deroi & Associates INC.

68 MacDonald St., Ottawa, ON. K2P 1H6

Tel: (613) 237-3208, Fax 238-6500.

Fax # 991-1977

Number of pages incl. cover: 6

September 21

RECEIVED
SPECIFIC CLAIMS

SEP 21 1995

REÇU
REVENDEICATIONS
PARTICULIERES


ATTENTION : Pam Keating, Fred Hosking

Re: Wahgoshig (Abitibi) Claim Allegations

From : Christine Deroi, NAN

Please find attached the allegations on the above claim from Michael Sherry, Nishnawbe-Aski's Legal Advisor. Also, please confirm that these are sufficient to proceed with the counter-research on the above claim.

Thank you


Christine Deroi

09/21/1995 12:49

613-565-6579

ALISON GALE

MICHAEL SHERRY

9052708522

P. 02

MICHAEL W. SHERRY, B.A., LL.B., LL.M.*Barbier & Solicitor*

SYNOPSIS OF ALLEGATIONS AGAINST THE FEDERAL GOVERNMENT IN THE
WAGOSHIG (ABITIBI) CLAIM

First, when the Abitibi representatives accepted the terms of Treaty No.9 in 1906, they asked for as much frontage on Lake Abitibi as possible. Instead, the allocated reserve has a relatively narrow Lake frontage and a long extension into the interior. The Lake frontage was further curtailed when the government excluded from the reserve some land staked by a mineral prospector. By these actions the federal government breached its fiduciary duty to the Abitibi Band and its obligations under Treaty No.9.

Second, and more significantly, the federal seriously undermined the position of the Abitibi Band by a dubious and illegal transaction in 1908. Going back to 1905-06, the federal and provincial commissioners were faced with two groups of Abitibi Indian people, an Ontario group and a Quebec group. The reserve set aside in 1906 was sufficient for the Ontario numbers based on the Treaty No.9 land entitlement formula (one square mile per family of five). The Quebec group was told that the commissioners did not have the legal authority to deal with them in the context of Treaty No.9. However, the federal commissioner undertook that the federal government would be dealing with the Province of Quebec and that a reserve would be found for them in Quebec. The Quebec group was in fact encouraged to start looking for sites.

After 1906 the federal government made desultory efforts to negotiate with the Province of Quebec in order to obtain a

- 2 -

reserve in Quebec for the Quebec Abitibi group. At one point the Province did offer land for a reserve, but this offer was not acceptable to the federal government. It is alleged that the federal government failed to make reasonable efforts to find a Quebec solution for the Quebec Band. The federal government may have been deterred by the prospect of spending money to obtain a reserve in Quebec.

In order to deal with the entreaties of the Quebec group at no expense, the federal government came upon the idea of granting to the Quebec group rights in the Ontario reserve of the Abitibi band. Between 1906 and 1908, the Ontario group had been decimated by deadly disease. In this weakened condition (known to the federal government), a handful of Abitibi Band members purportedly agreed to a transaction whereby the Quebec Indian people would be merged into the Ontario band, obtaining thereby an undivided interest in the Ontario reserve. Thus, the federal government was able to deal with the Quebec "problem" at no cost to itself. However, in the long run, the solution was purely artificial as the Quebec Indian people had no intention of living on the Ontario reserve, or anywhere else in Ontario for that matter.

It is alleged that the 1908 transaction was a violation of the federal government's fiduciary duty. The value of the reserve "asset" was seriously diluted. The federal government (the fiduciary) was motivated by self-interest; it had to extricate itself from the Quebec situation. The transaction was not motivated by any desire to improve the situation of the Ontario

09/21/1995 12:49

613-565-6579

ALISON GALE

PAGE 04

MICHAEL SHERRY

9052709522

P.04

- 3 -

Band. The Ontario Band members were not given sufficient information on the nature of the transaction and its long term negative effects.

In addition, it is alleged that the 1908 transaction was illegal and void. First, the 1908 transaction violated the terms of Treaty No. 9. If it was not possible to join the two groups in an Ontario reserve in 1906, it was not possible to do it in 1908 either. To make the 1908 transaction somehow valid under the Treaty, Canada would have had to consult with Ontario; this was not done. Second, the 1908 transaction was not authorized by any provision of the Indian Act of the day. It is noteworthy that the order-in-council purporting to authorize the merger did not refer to any sanctioning section of the Act. While the federal government did have authority to authorize individual membership transfers, the 1908 Abitibi transaction was wholly different. Essentially, the Ontario Indian people were duped into surrendering a very significant interest in their reserve land without compensation and without authority under the Indian Act.

The reserve asset lay relatively dormant until the late 1940's. Throughout this interim period it is clear from the record that the Indian agents were primarily located in Quebec and heavily favoured the Quebec group of Indians. At times, the assumption seemed to be that the Quebec group owned the Ontario reserve in its entirety. There was a timber surrender which led to a significant flow of funds into the revenue account connected with the Ontario reserve. At this strategic point, a division of the Ontario and Quebec groups into separate bands was engineered in 1951. This

09/21/1995 12:49

613-565-6579

ALISON GALE

MICHAEL SHERRY

9052788522

P.05

- 4 -

transaction was highly prejudicial to the Ontario band. It allowed the Quebec band a continuing per capita interest in the Ontario reserve and its accounts. At the same time, the Ontario band was purportedly excluded from any interest in the separate assets of the Quebec band.

With the assistance of federal officials, the Quebec group used its per capita share of the timber money drawn from the Ontario reserve to purchase a new reserve in Quebec. Because of the structure of the 1951 transaction, the Ontario band was on the face of it excluded from any interest in the new Quebec reserve. This was an outrageous result as the Quebec land was purchased with money earned from the timber taken from the Ontario reserve.

It is alleged that the 1951 transaction was a further breach of the federal government's fiduciary duty owed to the Ontario Abitibi Band. The transaction continued the pattern whereby the reserve asset of the Ontario band was essentially plundered for the benefit of the Quebec band. As well, the federal government benefited substantially. The federal government was finally able to take care of the Quebec group's demand for a Quebec reserve, but at no expense to the federal government. The federal government was able to arrange a situation whereby the Ontario Indian people bought the Quebec reserve for the Quebec people.

In addition, it is alleged that the 1951 ^{ARRANGEMENT} was illegal and void. This is so because the 1951 transaction was based on the 1908 "merger". If, as alleged, the 1908 purported merger was illegal, it is clear that the 1951 arrangement had no foundation.

09/21/1995 12:49

613-565-6579

MICHAEL SHERRY

9052708322

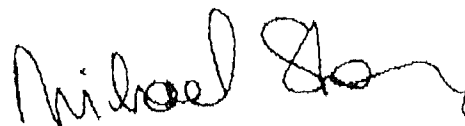
P.06

- 5 -

The 1951 arrangement was essentially part of a chain that was illegal and void from the very beginning. Since the 1908-1951 chain is illegal and void, it is alleged that the Ontario band in fact owns the Quebec reserve land purchased with money obtained from the Ontario timber assets.

The arrangement in favour of the Quebec band was refined somewhat in 1974. Instead of a flexible per capita arrangement, the Quebec group purportedly obtained a permanent 80% interest in the Ontario reserve. It is alleged that this arrangement is void and illegal since it depends on the chain going back to 1908.

By its illegal acts starting in 1908, the federal government has created a situation which is extremely prejudicial to the Ontario band that signed the Treaty in 1906. Instead of owning a full-size reserve as per the terms of Treaty No.9, it is left with a 20% interest. The lion's share is owned by a group that does not even live in the Province. This arrangement has led to a significant loss of timber and other revenues at least since 1951. It has created a situation today where the members of Wahgoshig (Abitibi) are reluctant to undertake community economic development projects on reserve. The difficulty is that if the projects are successful, 80% of the profits will disappear. In short, the current situation is intolerable and profoundly detrimental to the Ontario band. The liability of the federal government is substantial and continuing.





Affaires indiennes et du Nord Canada Indian and Northern Affairs Canada

Sous-ministre adjoint principal Senior Assistant Deputy Minister

Ottawa, Canada
K1A 0H4

WITHOUT PREJUDICE

72449

AOUT
AUG 6 2010

Chief David Babin
Wahgoshig First Nation
P.O. Box 629
MATHESON ON P0K 1N0

Dear Chief Babin:

I wish to inform you that, based on the analysis of evidence documented by the Wahgoshig First Nation and by the Specific Claims Branch, and pursuant to *The Specific Claims Policy and Process Guide*, it is the decision of the Minister of Indian Affairs and Northern Development not to accept the Contesting the Validity of the Joint Ownership of Abitibi IR 70 specific claim for negotiation on the basis that there is no outstanding lawful obligation on the part of the Government of Canada.

In the Contesting the Validity of the Joint Ownership of Abitibi IR 70 specific claim, it is alleged that the Government of Canada breached its legal and fiduciary obligations as set out below.

1. When the Ontario and Quebec Abitibi bands were amalgamated in 1908, the numerical size of the new band increased appreciably but no corresponding amount of land was added to IR 70, which they now shared, to provide for this increase. As a result, the amalgamated band received less than one square mile per family of five, which was the standard formula applied when the Treaty was signed in 1905-1906 and which was applied in other treaties of that period. The amalgamation had the effect of actually reducing the amount of land the Ontario Abitibi band had been allotted under the Treaty.
2. The federal government was unable to move the Government of Quebec to provide reserve lands for any of the indigenous groups that made up the Algonquin Nation in Quebec, including the Quebec Abitibi band, and others. As a consequence, these groups were required to live as squatters for many years until private land was purchased for them from band funds. The federal government, therefore, failed to carry out its responsibilities for the protection and well being (medical, housing and education services) of these groups during that period.

.../2

Canada

-2-

3. There is no evidence to show that interests of the Ontario Abitibi band were protected by the Agreement entered into in 1908 between the two bands or that the Ontario Abitibi band members were made fully aware by the federal government of the future implications of agreeing to share the assets and revenues of IR 70 with the larger Quebec Abitibi band. Later developments demonstrate that, in fact, the federal government did not protect the rights and interests of the Ontario Abitibi band guaranteed to them under Treaty 9.
4. The Ontario Abitibi band that signed the Treaty in 1906 and for whom IR 70 was originally set aside experienced a much reduced role in the management of the reserve after amalgamation as a result of the application of the *per capita* formula for the sharing of reserve assets. By 1947, the Ontario Abitibi band was outnumbered by the Quebec Abitibi band and, therefore, benefited less than they otherwise would have. Most of the correspondence during the years 1942-1956 concerning the disposition of the timber revenues of IR 70 reveals a bias on the part of the Government in favour of the Quebec Abitibi band's interests in acquiring land.
5. The Department of Indian Affairs failed to provide a solution to the problem that offered reasonable options to the two bands. The Department took the easy way out by promoting a solution that would allow the Quebec Abitibi band to receive annuity payments, to obtain reserve land, to share in the proceeds from the sale of reserve assets, but which at the same time, reduced the Treaty land entitlement of the Ontario Abitibi band (and the Quebec Abitibi band) in that the standard formula of one square mile per family of five was not applied.
6. In failing to secure for the Ontario Abitibi band as much reserve frontage on Lake Abitibi as possible, which had been their request at the outset of the Treaty negotiations, the federal government failed in its fiduciary duty to the band.
7. The federal government did not make reasonable efforts to find a Quebec solution for the Quebec Abitibi band and the solution it finally settled upon was motivated by self interest -- the desire to extricate itself from the impasse with the Government of Quebec and to save money.
8. The 1908 amalgamation was a violation of the federal government's fiduciary duty in that it seriously undermined the position of the Ontario Abitibi band.
9. The 1908 amalgamation Agreement was illegal and void in that it violated the terms of Treaty 9.
10. Since the 1908 and 1951 chain is illegal, the Ontario Abitibi Band (Wahgoshig First Nation), in fact, owns the Quebec reserve, Pikogan IR 1, land purchased with money obtained from the Ontario timber assets.

.../3

-3-

11. The permanent 80% interest in IR 70, which the Quebec Abitibi band obtained in 1974, is void and illegal since it depends on the chain going back to 1908.

It is the Government of Canada's position that there is no outstanding lawful obligation on the part of the Government of Canada for the reasons stated below.

1. The evidence shows that the Ontario Abitibi band agreed to the 1908 amalgamation Agreement with the Quebec Abitibi band and did not indicate at the time that a bigger reserve would be necessary as a result of the amalgamation. The 1908 Agreement, which should not be confused with the 1906 Treaty, established the Ontario Abitibi band's willingness to amalgamate. The Ontario Abitibi band had the chance to discuss the size of the reserve, to ask for more land, or to refuse the amalgamation.
2. The evidence does not demonstrate that the Crown was obligated to protect the Indians and ensure their well being while waiting for a reserve. The Crown tried to create a reserve on public lands in Quebec, but the provincial government repeatedly refused all requests for reserve lands in the province.
3. There is no evidence to support the allegation that the Department of Indian Affairs did not protect the rights and interests of the Ontario Abitibi band under Treaty 9. There is also no evidence that the Commissioners were dishonest, distorted the truth, or forced the Ontario Abitibi band to share IR 70. The Crown is not required to forecast economic consequences resulting from sharing lands, assets, and revenues.
4. Whether or not evidence demonstrated the alleged bias, it would not invalidate the sharing of reserve assets, which was concluded in accordance with the *Indian Act*. The sharing of funds between the two bands was reasonable given the consent of both bands as evidenced in Band Council Resolutions.
5. In February 1907, the federal government fulfilled its obligation to the Ontario Abitibi Indians by creating a reserve. On June 22, 1908, the Ontario Abitibi and Quebec Abitibi bands unanimously ratified an amalgamation agreement following a meeting where they had the chance to ask questions and receive explanations. The amalgamation option seemed reasonable to both bands. The Agreement suggested by the Department of Indian Affairs did not violate Treaty 9.
6. When creating reserves, the Crown took into account the Indians' request regarding where the reserve should be situated. However, there was no obligation on the Crown to establish a reserve exactly as requested, including Lake Abitibi frontage. The land was Provincial Crown land, and the province had to approve the location of reserves created on those lands. Also, the evidence does not demonstrate that the lands, as described in the schedule, were not the lands agreed upon.

.../4

-4-

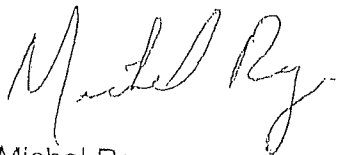
7. The Crown tried to create a reserve in the Province of Quebec in an effort to find a solution for the Quebec Abitibi band. These efforts demonstrate honourable conduct on the part of the federal government. The 1908 Agreement was viewed as a compromise to settle the impasse with the Government of Quebec, which refused to grant lands requested by the Indians as a reserve. At that time, the 1908 Agreement was the only viable solution. The solution was not unreasonable, not motivated by federal self interest, nor intended for the purpose of extricating the federal government from an impasse with the provincial government. The Crown was acting in both bands' interests.
8. The Ontario Abitibi and Quebec Abitibi bands were hunting on contiguous territories. Based on historical evidence, the two groups knew each other well. In fact, the 1908 Agreement recognized their willingness to be treated as one band. The historical documents do not reveal any practice to hide information or to force the bands to ratify the 1908 Agreement. Nothing indicates that the Ontario Abitibi band did not give informed consent when they accepted the Quebec Abitibi band into its band.
9. The Crown's obligations created at the signing of the Treaty in 1906 were fulfilled. The 1908 Agreement is subsequent to Treaty 9 and the treaty obligations should not be confused with the obligations created in the 1908 Agreement. The 1908 Agreement is a valid and binding contract upon the Ontario Abitibi and Quebec Abitibi bands.
10. The 1908 Agreement is a viable and binding contract upon the Ontario Abitibi and Quebec Abitibi bands. The new bands established in 1951 were created in conformity with the legal requirements at that time. Therefore, the 1908 and 1951 chains are valid. The money used to purchase lands for Pikogan IR 1 belonged exclusively to the Quebec Abitibi band. Therefore, Pikogan IR 1 is set aside exclusively for the benefit of the Quebec Abitibi band (Abitibiwinni First Nation).
11. Pursuant to the bands' desires, the funds were always shared in proportion to the bands' respective populations. The funds were reasonably shared, taking into account the fact that both bands jointly benefited from the reserve, despite the division in 1951.

.../5

-5-

Please be advised that this notice is written on a "without prejudice" basis and should not be considered as an admission of fact or liability by the Crown. In the event this claim becomes the subject of litigation, the government reserves the right to plead all defences available to it including technical defences such as limitation periods, strict rules of evidence or the doctrine of laches. Please be advised, as well, that Government of Canada files are subject to the *Access to Information Act* and the *Privacy Act*.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michel Roy".

Michel Roy
Senior Assistant Deputy Minister
Treaties and Aboriginal Government

c.c.: Kate Kempton, Olthuis, Kleer, Townshend, Legal Counsel of Wahgoshig First Nation

Second Session, Thirty-ninth Parliament,
56-57 Elizabeth II, 2007-2008

Deuxième session, trente-neuvième législature,
56-57 Elizabeth II, 2007-2008

STATUTES OF CANADA 2008

LOIS DU CANADA (2008)

CHAPTER 22

CHAPITRE 22

An Act to establish the Specific Claims Tribunal and to make
consequential amendments to other Acts

Loi constituant le Tribunal des revendications particulières et
modifiant certaines lois en conséquence

ASSENTED TO

18th JUNE, 2008

BILL C-30

SANCTIONNÉE

LE 18 JUIN 2008

PROJET DE LOI C-30

RECOMMENDATION

Her Excellency the Governor General recommends to the House of Commons the appropriation of public revenue under the circumstances, in the manner and for the purposes set out in a measure entitled "*An Act to establish the Specific Claims Tribunal and to make consequential amendments to other Acts*".

RECOMMANDATION

Son Excellence la gouverneure générale recommande à la Chambre des communes l'affectation de deniers publics dans les circonstances, de la manière et aux fins prévues dans une mesure intitulée « *Loi constituant le Tribunal des revendications particulières et modifiant certaines lois en conséquence* ».

SUMMARY

This enactment establishes the Specific Claims Tribunal, the mandate of which is to decide issues of validity and compensation relating to specific claims of First Nations, after their submission to the Minister of Indian Affairs and Northern Development. The enactment also makes consequential amendments to other Acts and repeals the *Specific Claims Resolution Act*.

SOMMAIRE

Le texte constitue le Tribunal des revendications particulières, chargé de statuer sur le bien-fondé des revendications particulières des premières nations et sur les indemnités afférentes après le dépôt de ces revendications auprès du ministre des Affaires indiennes et du Nord canadien. Il modifie aussi certaines lois en conséquence et abroge la *Loi sur le règlement des revendications particulières*.

TABLE OF PROVISIONS

AN ACT TO ESTABLISH THE SPECIFIC CLAIMS
TRIBUNAL AND TO MAKE CONSEQUENTIAL
AMENDMENTS TO OTHER ACTS

Preamble

SHORT TITLE

1. *Specific Claims Tribunal Act*

INTERPRETATION

2. Definitions

PURPOSE AND APPLICATION OF ACT

3. Purpose
4. Inconsistency or conflict
5. Application

SPECIFIC CLAIMS TRIBUNAL
ESTABLISHMENT

6. Tribunal
7. Tenure
8. Role of Chairperson
9. Acting after termination of appointment

ADMINISTRATION OF THE TRIBUNAL

10. Registry

FUNCTIONS, POWERS AND DUTIES

11. Functions
12. Rules of the Tribunal
13. Powers of the Tribunal

SPECIFIC CLAIMS

14. Grounds of a specific claim
15. Exceptions
16. Filing a specific claim

HEARINGS AND DECISIONS

17. Application to strike

TABLE ANALYTIQUE

LOI CONSTITUANT LE TRIBUNAL DES
REVENDEICATIONS PARTICULIÈRES ET MODIFIANT
CERTAINES LOIS EN CONSÉQUENCE

Préambule

TITRE ABRÉGÉ

1. *Loi sur le Tribunal des revendications particulières*

DÉFINITIONS

2. Définitions

OBJET ET APPLICATION DE LA LOI

3. Objet
4. Incompatibilité ou conflit
5. Application

TRIBUNAL DES REVENDEICATIONS PARTICULIÈRES
CONSTITUTION

6. Constitution
7. Durée du mandat
8. Rôle du président
9. Fonctions postérieures au mandat

ADMINISTRATION DU TRIBUNAL

10. Greffe

ATTRIBUTIONS DU TRIBUNAL

11. Fonction
12. Règles du Tribunal
13. Pouvoirs du Tribunal

REVENDEICATIONS PARTICULIÈRES

14. Revendications admissibles
15. Réserve
16. Dépôt de la revendication auprès du ministre

AUDIENCES ET DÉCISIONS

17. Demande de radiation

- 18. Hearing and decision
- 19. Limitation
- 20. Basis and limitations for decision on compensation
- 21. Unlawful disposition
- 22. Notice to others
- 23. Restriction
- 24. Party status of a First Nation
- 25. Intervention by persons affected
- 26. Conduct of hearings
- 27. Public hearings
- 28. Right to cross-examine
- 29. Defences of Crown
- 30. Withdrawal
- 31. Evidence not admissible in other proceedings
- 32. Advance notice of decision on compensation
- 33. Written reasons and publication
- 34. Judicial review
- 35. Release and indemnity
- 36. Payment of award
- 37. Abandoned specific claim
- 38. Public documents

GENERAL
REGULATIONS

- 39. Regulations

ANNUAL REPORT

- 40. Annual report

REVIEW AND REPORT

- 41. Review

TRANSITIONAL PROVISIONS

- 42. Existing claims
- 43. Previous decision not to negotiate

CONSEQUENTIAL AMENDMENTS

- 44-45. *Access to Information Act*
- 46. *Federal Courts Act*
- 47-49. *Financial Administration Act*
- 50. *Privacy Act*

- 18. Audience et décision
- 19. Limites
- 20. Conditions et limites à l'égard des décisions sur l'indemnité
- 21. Disposition illégale
- 22. Avis aux tiers
- 23. Réserve
- 24. Qualité de partie: première nation
- 25. Qualité d'intervenant
- 26. Tenue des audiences
- 27. Audiences publiques
- 28. Contre-interrogatoire
- 29. Moyens de défense
- 30. Retrait d'une question
- 31. Preuve non admissible
- 32. Préavis concernant les décisions sur l'indemnisation
- 33. Motifs écrits et publication
- 34. Révision judiciaire
- 35. Garantie
- 36. Paiement de l'indemnité
- 37. Revendication ne pouvant être maintenue
- 38. Documents publics

DISPOSITIONS GÉNÉRALES
RÈGLEMENTS

- 39. Règlements

RAPPORT ANNUEL

- 40. Rapport annuel

EXAMEN ET RAPPORT

- 41. Examen

DISPOSITIONS TRANSITOIRES

- 42. Revendications existantes
- 43. Précision

MODIFICATIONS CORRÉLATIVES

- 44-45. *Loi sur l'accès à l'information*
- 46. *Loi sur les Cours fédérales*
- 47-49. *Loi sur la gestion des finances publiques*
- 50. *Loi sur la protection des renseignements personnels*

51. *Public Service Superannuation Act*

REPEAL

52. *Specific Claims Resolution Act*

COMING INTO FORCE

53. Coming into force

SCHEDULE

51. *Loi sur la pension de la fonction publique*

ABROGATION

52. *Loi sur le règlement des revendications particulières*

ENTRÉE EN VIGUEUR

53. Entrée en vigueur

ANNEXE

56-57 ELIZABETH II

56-57 ELIZABETH II

CHAPTER 22

CHAPITRE 22

An Act to establish the Specific Claims Tribunal and to make consequential amendments to other Acts

Loi constituant le Tribunal des revendications particulières et modifiant certaines lois en conséquence

[Assented to 18th June, 2008]

[Sanctionnée le 18 juin 2008]

Preamble

Recognizing that

it is in the interests of all Canadians that the specific claims of First Nations be addressed; resolving specific claims will promote reconciliation between First Nations and the Crown and the development and self-sufficiency of First Nations;

there is a need to establish an independent tribunal that can resolve specific claims and is designed to respond to the distinctive task of adjudicating such claims in accordance with law and in a just and timely manner;

the right of First Nations to choose and have access to a specific claims tribunal will create conditions that are appropriate for resolving valid claims through negotiations;

the Assembly of First Nations and the Government of Canada have worked together on a legislative proposal from the Government of Canada culminating in the introduction of this Act;

Now, therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Specific Claims Tribunal Act*.

Attendu :

qu'il est dans l'intérêt de tous les Canadiens que soient réglées les revendications particulières des Premières Nations;

que le règlement de ces revendications contribuera au rapprochement entre Sa Majesté et les Premières Nations et au développement et à l'autosuffisance de celles-ci;

qu'il convient de constituer un tribunal indépendant capable, compte tenu de la nature particulière de ces revendications, de statuer sur celles-ci de façon équitable et dans les meilleurs délais;

que le droit des Premières Nations de saisir ce tribunal de leurs revendications particulières encouragera le règlement par la négociation des revendications bien-fondées;

que l'Assemblée des Premières Nations et le gouvernement du Canada ont travaillé conjointement à une proposition législative de celui-ci qui a mené à l'élaboration de la présente loi,

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

TITRE ABRÉGÉ

Préambule

Titre abrégé

1. *Loi sur le Tribunal des revendications particulières*.

INTERPRETATION

Definitions 2. The following definitions apply in this Act.

"asset" « élément d'actif »	"asset" means tangible property.
"claimant" « revendicateur »	"claimant" means a First Nation whose specific claim has been filed with the Tribunal.
"claim limit" « indemnité maximale »	"claim limit" means the maximum amount under paragraph 20(1)(b).
"Crown" « Sa Majesté »	"Crown" means Her Majesty in right of Canada.
"First Nation" « première nation »	"First Nation" means (a) a band as defined in subsection 2(1) of the <i>Indian Act</i> ; (b) a group of persons that was, but is no longer, a band within the meaning of paragraph (a) and that has, under a land claims agreement, retained the right to bring a specific claim; and (c) a group of persons that was a band within the meaning of paragraph (a), that is no longer a band by virtue of an Act or agreement mentioned in the schedule and that has not released its right to bring a specific claim.
"land claims agreement" « accord sur des revendications territoriales »	"land claims agreement" has the same meaning as in subsection 35(3) of the <i>Constitution Act, 1982</i> .
"Minister" « ministre »	"Minister" means the Minister of Indian Affairs and Northern Development.
"party" « partie »	"party", in respect of a specific claim, means any claimant, the Crown or any province or First Nation added as a party under section 23 or 24.
"specific claim" « revendication particulière »	"specific claim" means a claim that is filed under section 14.
"Tribunal" « Tribunal »	"Tribunal" means the Specific Claims Tribunal established by subsection 6(1).

DÉFINITIONS

2. Les définitions qui suivent s'appliquent à la présente loi.

« accord sur des revendications territoriales » S'entend au sens du paragraphe 35(3) de la <i>Loi constitutionnelle de 1982</i> .	« accord sur des revendications territoriales » "land claims agreement"
« élément d'actif » Tout bien matériel.	« élément d'actif » "asset"
« indemnité maximale » La somme maximale prévue à l'alinéa 20(1)b).	« indemnité maximale » "claim limit"
« ministre » Le ministre des Affaires indiennes et du Nord canadien.	« ministre » "Minister"
« partie » S'agissant d'une revendication particulière, tout revendicateur, Sa Majesté ou toute province ou première nation à qui la qualité de partie est accordée aux termes des articles 23 ou 24.	« partie » "party"
« première nation » a) Bande au sens du paragraphe 2(1) de la <i>Loi sur les Indiens</i> ; b) groupe de personnes qui, bien qu'il ne soit plus une bande visée à l'alinéa a), a maintenu, en vertu d'un accord sur des revendications territoriales, son droit de présenter une revendication particulière; c) groupe de personnes qui, bien qu'il ne soit plus une bande visée à l'alinéa a) en raison d'une loi ou d'un accord figurant à l'annexe, n'a pas abandonné son droit de présenter une revendication particulière.	« première nation » "First Nation"
« revendicateur » Première nation ayant saisi le Tribunal d'une revendication particulière.	« revendicateur » "claimant"
« revendication particulière » Revendication dont le Tribunal est saisi au titre de l'article 14.	« revendication particulière » "specific claim"
« Sa Majesté » Sa Majesté du chef du Canada.	« Sa Majesté » "Crown"
« Tribunal » Le Tribunal des revendications particulières constitué par le paragraphe 6(1).	« Tribunal » "Tribunal"

	PURPOSE AND APPLICATION OF ACT	OBJET ET APPLICATION DE LA LOI	
Purpose	3. The purpose of this Act is to establish the Specific Claims Tribunal, the mandate of which is to decide issues of validity and compensation relating to specific claims of First Nations.	3. La présente loi a pour objet de constituer le Tribunal des revendications particulières, chargé de statuer sur le bien-fondé des revendications particulières des premières nations et sur les indemnités afférentes.	Objet
Inconsistency or conflict	4. In the event of any inconsistency or conflict between this Act and any other Act of Parliament, this Act prevails to the extent of the inconsistency or conflict.	4. Les dispositions de la présente loi l'emportent en cas d'incompatibilité ou de conflit avec toute autre loi fédérale.	Incompatibilité ou conflit
Application	5. This Act affects the rights of a First Nation only if the First Nation chooses to file a specific claim with the Tribunal and only to the extent that this Act expressly provides.	5. La présente loi n'a d'effet sur les droits de la première nation que si celle-ci choisit de saisir le Tribunal d'une revendication particulière et que dans la mesure qui y est expressément prévue.	Application
	SPECIFIC CLAIMS TRIBUNAL	TRIBUNAL DES REVENDICATIONS PARTICULIÈRES	
	ESTABLISHMENT	CONSTITUTION	
Tribunal	6. (1) A tribunal to be known as the Specific Claims Tribunal is established.	6. (1) Est constitué le Tribunal des revendications particulières.	Constitution
Establishment of roster	(2) The Governor in Council shall establish a roster of 6 to 18 superior court judges to act as members of the Tribunal.	(2) Le gouverneur en conseil établit une liste de six à dix-huit juges de juridiction supérieure qui peuvent être nommés membres du Tribunal.	Liste de candidats
Chairperson and other members	(3) The Chairperson and other members shall be appointed from the roster referred to in subsection (2) by the Governor in Council.	(3) Le gouverneur en conseil choisit les membres du Tribunal — y compris le président — parmi les juges figurant sur la liste.	Choix des membres
Membership	(4) The Tribunal shall consist of (a) no more than six full-time members; or (b) any number of part-time members, or combination of full-time and part-time members, so long as the combined time devoted to their functions and duties does not exceed the combined time that would be devoted by six full-time members.	(4) Le Tribunal est formé : a) soit d'au plus six membres à temps plein; b) soit de membres à temps partiel, ou d'une combinaison de membres à temps plein et à temps partiel, pourvu que le temps qu'ils consacrent ensemble à l'exercice de leurs fonctions n'excède pas celui qu'y consacraient six membres à temps plein.	Formation
Tenure	7. (1) Each member shall be appointed for a term not exceeding five years and holds office so long as he or she remains a superior court judge.	7. (1) La durée maximale du mandat des membres est de cinq ans et ceux-ci occupent leur poste aussi longtemps qu'ils demeurent juges d'une juridiction supérieure.	Durée du mandat
Reappointment of members	(2) Each member, on the expiry of the first term of office, is eligible to be reappointed for one further term.	(2) Le mandat des membres est renouvelable une seule fois.	Nouveau mandat

Role of
Chairperson

8. (1) The Chairperson has supervision over and direction of the work of the Tribunal, including

(a) the allocation of work among the members and the assignment of members to preside at hearings of the Tribunal; and

(b) the performance of the functions and duties of the Tribunal.

8. (1) Le président assure la direction du Tribunal et en contrôle les activités; il peut notamment répartir les tâches et les séances entre les membres et régir l'exercice des attributions du Tribunal.

Rôle du
président

Powers of
Chairperson

(2) On application by a party, the Chairperson may order that

(a) specific claims be heard together or consecutively if they have issues of law or fact in common;

(b) a specific claim is, together with any other specific claim, subject to one claim limit under subsection 20(4); and

(c) specific claims be decided together if decisions with respect to the claims could be irreconcilable or if the claims are subject to one claim limit.

(2) Il peut en outre, à la demande de toute partie :

a) ordonner que certaines revendications particulières soient entendues ensemble ou de façon consécutive parce qu'elles ont en commun certains points de droit ou de fait;

b) décider si la revendication particulière et toute autre revendication particulière sont visées par une seule indemnité maximale au titre du paragraphe 20(4);

c) ordonner que certaines revendications particulières soient tranchées ensemble parce qu'elles pourraient donner lieu à des décisions incompatibles ou parce qu'elles sont visées par une seule indemnité maximale au titre de ce paragraphe.

Pouvoirs du
président

Absence or
incapacity

(3) If the office of Chairperson is vacant, or the Chairperson is absent or is for any reason unable to act, the powers of the Chairperson shall be exercised and the duties performed by the member who is the senior judge and is able and willing to act.

(3) En cas d'absence ou d'empêchement du président ou de vacance de son poste, le membre qui est le juge de rang le plus élevé assure l'intérim à condition d'être en mesure d'agir et d'y consentir.

Absence ou
empêchement

Acting after
termination of
appointment

9. (1) Subject to subsection (2), a judge who has ceased to be a member, for any reason other than removal, may, with the authorization of the Chairperson, perform and complete any functions or duties that they would otherwise have had if they had not ceased to be a member and that are in connection with any matter in which that judge became engaged while holding office as a member, and a judge so authorized is, for that purpose, deemed to be a member of the Tribunal.

9. (1) Sous réserve du paragraphe (2), tout membre dont le mandat a pris fin pour des raisons autres que sa révocation peut, avec l'autorisation du président, s'acquitter intégralement des fonctions ou responsabilités qui auraient par ailleurs été les siennes en ce qui concerne toute affaire soumise au Tribunal avant qu'il ne cesse d'en être membre et dont il a eu à connaître pendant son mandat. Il est alors réputé agir à titre de membre.

Fonctions
postérieures au
mandat

Limitation
period

(2) No judge who has ceased to be a member may, after the expiry of 120 days after ceasing to be a member, take part in the disposition of any matter under the authority granted by the Chairperson under subsection (1).

(2) Sa participation ne peut se prolonger au-delà du cent vingtième jour qui suit l'expiration de son mandat.

Durée limitée

ADMINISTRATION OF THE TRIBUNAL

Registry	10. (1) There shall be a Registry of the Tribunal consisting of an office in the National Capital Region described in the schedule to the <i>National Capital Act</i> .
Staff	(2) The registrar and any staff that is required for the proper conduct of the work of the Tribunal shall be appointed in accordance with the <i>Public Service Employment Act</i> .
Role of the registrar	(3) The registrar is responsible for the management of the Tribunal's administrative affairs and the duties of the staff of the Tribunal.
Organization	(4) The staff of the Tribunal shall be organized and the offices shall be operated in any manner that may be provided by the rules referred to in subsection 12(1).

FUNCTIONS, POWERS AND DUTIES

Functions	11. (1) The Tribunal is responsible for holding hearings to decide the validity of specific claims and any compensation arising from those claims.
Hearings	(2) A hearing before the Tribunal shall be held before a single member.
Decision	(3) A decision of a member of the Tribunal is a decision of the Tribunal.
Rules of the Tribunal	12. (1) A committee of no more than six Tribunal members, appointed by the Chairperson, may make general rules for carrying out the work of the Tribunal, the management of its internal affairs and the duties of its staff, as well as rules governing its practice and procedures, including rules governing <ul style="list-style-type: none"> (a) the giving of notice; (b) the presentation of the positions of the parties with respect to issues before the Tribunal and of matters of fact or law on which the parties rely in support of their positions; (c) the summoning of witnesses; (d) the production and service of documents; (e) applications; (f) discovery proceedings;

ADMINISTRATION DU TRIBUNAL

Greffé	10. (1) Le greffe du Tribunal se compose d'un bureau situé dans la région de la capitale nationale définie à l'annexe de la <i>Loi sur la capitale nationale</i> .
Personnel	(2) La nomination du greffier et des autres membres du personnel nécessaire au bon fonctionnement du Tribunal se fait conformément à la <i>Loi sur l'emploi dans la fonction publique</i> .
Rôle du greffier	(3) Le greffier est chargé de la gestion des affaires administratives du Tribunal et de l'exécution des fonctions de son personnel.
Organisation	(4) Le personnel du Tribunal de même que le fonctionnement de ses bureaux sont régis selon ce que prévoient les règles établies au titre du paragraphe 12(1).

ATTRIBUTIONS DU TRIBUNAL

Fonction	11. (1) Le Tribunal tient audience en vue de statuer sur le bien-fondé des revendications particulières et sur les indemnités afférentes.
Audiences	(2) Les audiences du Tribunal sont tenues par un seul membre.
Décision	(3) La décision du membre vaut décision du Tribunal.
Règles du Tribunal	12. (1) Un comité formé d'au plus six membres du Tribunal nommés par le président peut établir des règles d'application générale concernant l'accomplissement des travaux du Tribunal, la gestion de ses affaires internes et les responsabilités de son personnel ainsi que des règles de procédure pour régir ses activités, notamment en ce qui concerne : <ul style="list-style-type: none"> a) l'envoi d'avis; b) la présentation de la position des parties à l'égard des questions dont il est saisi et des moyens de droit et de fait invoqués à l'appui de leur position; c) l'assignation des témoins; d) la production et la signification de documents; e) la présentation des demandes;

	<p>(g) the taking and preservation of evidence before the start of a hearing;</p> <p>(h) case management, including pre-hearing conferences and the use of mediation;</p> <p>(i) the introduction of evidence;</p> <p>(j) the imposition of time limits; and</p> <p>(k) costs.</p>	<p>f) les enquêtes préalables;</p> <p>g) la collecte et la préservation des éléments de preuve avant le début des audiences;</p> <p>h) la gestion des instances, y compris les conférences préparatoires et le recours à la médiation;</p> <p>i) la présentation des éléments de preuve;</p> <p>j) la fixation de délais;</p> <p>k) les dépens.</p>	
Advisory committee	(2) The committee referred to in subsection (1) may establish an advisory committee of interested parties to advise it in the development of the Tribunal's rules of practice and procedure, including efficiencies.	(2) Le comité visé au paragraphe (1) peut mettre sur pied un comité — composé de personnes intéressées — ayant pour rôle de le conseiller lors de l'établissement des règles de procédure, notamment à l'égard des questions d'efficacité.	Comité consultatif
Rules respecting costs	(3) The Tribunal's rules respecting costs shall accord with the rules of the Federal Court, with any modifications that the Tribunal considers appropriate.	(3) Les règles du Tribunal relatives aux dépens sont conformes à celles de la Cour fédérale, sous réserve des modifications que le Tribunal estime indiquées.	Dépens
Publication of rules	(4) The Tribunal shall make its rules available to the public and, if possible, publish them in the <i>First Nations Gazette</i> .	(4) Le Tribunal met ses règles à la disposition du public, notamment en les faisant paraître, si possible, dans la <i>First Nations Gazette</i> .	Publication
Effect of failure to publish	(5) Failure to publish the rules in the <i>First Nations Gazette</i> does not affect the validity of the rules.	(5) La non-publication des règles dans la <i>First Nations Gazette</i> ne porte pas atteinte à leur validité.	Précision
Powers of the Tribunal	<p>13. (1) The Tribunal has, with respect to the attendance, swearing and examination of witnesses, the production and inspection of documents, the enforcement of its orders and other matters necessary or proper for the due exercise of its jurisdiction, all the powers, rights and privileges that are vested in a superior court of record and may</p> <p>(a) determine any questions of law or fact in relation to any matter within its jurisdiction under this Act;</p> <p>(b) receive and accept any evidence, including oral history, and other information, whether on oath or by affidavit or otherwise, that it sees fit, whether or not that evidence or information is or would be admissible in a court of law, unless it would be inadmissible in a court by reason of any privilege under the law of evidence;</p>	<p>13. (1) Le Tribunal a, pour la comparution, la prestation de serment et l'interrogatoire des témoins, la production et l'examen des pièces, l'exécution de ses décisions, ainsi que pour toutes autres questions liées à l'exercice de sa compétence, les attributions d'une cour supérieure d'archives; il peut :</p> <p>a) trancher tout point de droit ou de fait dans les affaires relevant de sa compétence au titre de la présente loi;</p> <p>b) recevoir des éléments de preuve — notamment l'histoire orale — ou des renseignements par déclaration verbale ou écrite sous serment ou par tout autre moyen qu'il estime indiqué, indépendamment de leur admissibilité devant un tribunal judiciaire, à moins que, selon le droit de la preuve, ils ne fassent l'objet d'une immunité devant les tribunaux judiciaires;</p>	Pouvoirs du Tribunal

	(c) take into consideration cultural diversity in developing and applying its rules of practice and procedure; and	c) tenir compte de la diversité culturelle dans l'élaboration et l'application de ses règles;	
	(d) award costs in accordance with its rules of practice and procedure.	d) adjuger les dépens en conformité avec ses règles.	
Costs	(2) The Tribunal shall deduct from any award of costs in favour of the claimant, any amount provided to the claimant by the Crown for the purpose of bringing the claim before the Tribunal.	(2) Le Tribunal déduit des dépens adjugés au revendicateur les sommes que celui-ci a reçues de Sa Majesté pour lui permettre de saisir le Tribunal de sa revendication.	Précision

SPECIFIC CLAIMS

REVENDEICATIONS PARTICULIÈRES

Grounds of a specific claim	14. (1) Subject to sections 15 and 16, a First Nation may file with the Tribunal a claim based on any of the following grounds, for compensation for its losses arising from those grounds:	14. (1) Sous réserve des articles 15 et 16, la première nation peut saisir le Tribunal d'une revendication fondée sur l'un ou l'autre des faits ci-après en vue d'être indemnisée des pertes en résultant :	Revendications admissibles
	(a) a failure to fulfil a legal obligation of the Crown to provide lands or other assets under a treaty or another agreement between the First Nation and the Crown;	a) l'inexécution d'une obligation légale de Sa Majesté liée à la fourniture d'une terre ou de tout autre élément d'actif en vertu d'un traité ou de tout autre accord conclu entre la première nation et Sa Majesté;	
	(b) a breach of a legal obligation of the Crown under the <i>Indian Act</i> or any other legislation — pertaining to Indians or lands reserved for Indians — of Canada or of a colony of Great Britain of which at least some portion now forms part of Canada;	b) la violation d'une obligation légale de Sa Majesté découlant de la <i>Loi sur les Indiens</i> ou de tout autre texte législatif — relatif aux Indiens ou aux terres réservées pour les Indiens — du Canada ou d'une colonie de la Grande-Bretagne dont au moins une portion fait maintenant partie du Canada;	
	(c) a breach of a legal obligation arising from the Crown's provision or non-provision of reserve lands, including unilateral undertakings that give rise to a fiduciary obligation at law, or its administration of reserve lands, Indian moneys or other assets of the First Nation;	c) la violation d'une obligation légale de Sa Majesté découlant de la fourniture ou de la non-fourniture de terres d'une réserve — notamment un engagement unilatéral donnant lieu à une obligation fiduciaire légale — ou de l'administration par Sa Majesté de terres d'une réserve, ou de l'administration par elle de l'argent des Indiens ou de tout autre élément d'actif de la première nation;	
	(d) an illegal lease or disposition by the Crown of reserve lands;	d) la location ou la disposition, sans droit, par Sa Majesté, de terres d'une réserve;	
	(e) a failure to provide adequate compensation for reserve lands taken or damaged by the Crown or any of its agencies under legal authority; or	e) l'absence de compensation adéquate pour la prise ou l'endommagement, en vertu d'un pouvoir légal, de terres d'une réserve par Sa Majesté ou un organisme fédéral;	
	(f) fraud by employees or agents of the Crown in connection with the acquisition, leasing or disposition of reserve lands.		

Extended meaning of "Crown" — obligations	<p>(2) For the purpose of applying paragraphs (1)(a) to (c) in respect of any legal obligation that was to be performed in an area within Canada's present boundaries before that area became part of Canada, a reference to the Crown includes the Sovereign of Great Britain and its colonies to the extent that the legal obligation or any liability relating to its breach or non-fulfilment became — or would, apart from any rule or doctrine that had the effect of limiting claims or prescribing rights against the Crown because of passage of time or delay, have become — the responsibility of the Crown in right of Canada.</p>	<p>f) la fraude, de la part d'un employé ou mandataire de Sa Majesté, relativement à l'acquisition, à la location ou à la disposition de terres d'une réserve.</p> <p>(2) Pour l'application des alinéas (1)a) à c) à l'égard d'une obligation légale qui devait être exécutée sur un territoire situé à l'intérieur des limites actuelles du Canada avant l'entrée de ce territoire au sein du Canada, la mention de Sa Majesté vaut également mention du souverain de la Grande-Bretagne et de ses colonies, dans la mesure où cette obligation, ou toute responsabilité en découlant, a été imputée à Sa Majesté, ou aurait été imputée à celle-ci n'eût été les règles ou théories qui ont eu pour effet de limiter un recours ou de prescrire des droits contre elle en raison de l'écoulement du temps ou d'un retard.</p>	Période préconfédérative — obligation
Extended meaning of "Crown" — illegal lease or disposition	<p>(3) For the purpose of applying paragraph (1)(d) in respect of an illegal lease or disposition of reserve land located in an area within Canada's present boundaries before that area became part of Canada, a reference to the Crown includes the Sovereign of Great Britain and its colonies to the extent that liability for the illegal lease or disposition became — or would, apart from any rule or doctrine that had the effect of limiting claims or prescribing rights against the Crown because of passage of time or delay, have become — the responsibility of the Crown in right of Canada.</p>	<p>(3) Pour l'application de l'alinéa (1)d) à l'égard de la location ou de la disposition, sans droit, de terres d'une réserve se trouvant sur un territoire situé à l'intérieur des limites actuelles du Canada avant l'entrée de ce territoire au sein du Canada, la mention de Sa Majesté vaut également mention du souverain de la Grande-Bretagne et de ses colonies, dans la mesure où toute responsabilité découlant de la location ou de la disposition a été imputée à Sa Majesté ou aurait été imputée à celle-ci n'eût été les règles ou théories qui ont eu pour effet de limiter un recours ou de prescrire des droits contre elle en raison de l'écoulement du temps ou d'un retard.</p>	Période préconfédérative — location ou disposition
Extended meaning of "Crown" — other	<p>(4) For the purpose of applying paragraphs (1)(e) and (f) in respect of reserve lands located in an area within Canada's present boundaries, a reference to the Crown includes the Sovereign of Great Britain and its colonies for the period before that area became part of Canada.</p>	<p>(4) Pour l'application des alinéas (1)e) et f) à l'égard de terres d'une réserve se trouvant sur un territoire situé à l'intérieur des limites actuelles du Canada, la mention de Sa Majesté vaut également mention du souverain de la Grande-Bretagne et de ses colonies pour la période antérieure à l'entrée de ce territoire au sein du Canada.</p>	Période préconfédérative — autres cas
Exceptions	<p>15. (1) A First Nation may not file with the Tribunal a claim that</p> <p>(a) is based on events that occurred within the 15 years immediately preceding the date on which the claim was filed with the Minister;</p>	<p>15. (1) La première nation ne peut saisir le Tribunal d'une revendication si, selon le cas :</p> <p>a) elle est fondée sur des événements survenus au cours des quinze années précédant la date de son dépôt auprès du ministre;</p>	Réserve

	<p>(b) is based on a land claims agreement entered into after December 31, 1973, or any related agreement or Act of Parliament;</p> <p>(c) is based on an Act of Parliament or agreement that is mentioned in the schedule, or an Act of Parliament or agreement for the implementation of such an Act or agreement;</p> <p>(d) concerns the delivery or funding of programs or services related to policing, regulatory enforcement, corrections, education, health, child protection or social assistance, or of any similar programs or services;</p> <p>(e) is based on any agreement between the First Nation and the Crown that provides for another mechanism for the resolution of disputes arising from the agreement;</p> <p>(f) is based on, or alleges, aboriginal rights or title; or</p> <p>(g) is based on treaty rights related to activities of an ongoing and variable nature, such as harvesting rights.</p>	<p>b) elle est fondée sur un accord sur des revendications territoriales conclu après le 31 décembre 1973, un accord connexe ou une loi fédérale connexe;</p> <p>c) elle est fondée sur une loi fédérale ou un accord figurant à l'annexe, ou sur une loi fédérale ou un accord de mise en oeuvre d'une telle loi ou d'un tel accord;</p> <p>d) elle concerne la prestation ou le financement de services ou programmes relatifs à la police, à l'exécution de la réglementation, aux affaires correctionnelles, à l'éducation, à la santé, à la protection des enfants ou à l'assistance sociale, ou de tout autre service ou programme de nature similaire;</p> <p>e) elle est fondée sur un accord conclu entre la première nation et Sa Majesté et prévoyant un autre mécanisme de règlement des différends;</p> <p>f) elle est fondée sur des droits ou titres ancestraux, ou invoque de tels droits ou titres;</p> <p>g) elle est fondée sur des droits conférés par traité relativement à des activités susceptibles d'être exercées de façon continue et variable, notamment des droits de récolte.</p>	
Limitation	(2) Nothing in paragraph (1)(g) prevents a claim that is based on a treaty right to lands or to assets to be used for activities, such as ammunition to be used for hunting or plows to be used for cultivation, from being filed.	(2) L'alinéa (1)g) ne s'applique pas aux revendications fondées sur des droits conférés par traité soit sur des terres, soit sur des éléments d'actif destinés à des activités, tels les munitions, pour la chasse, et les charrues, pour l'agriculture.	Précision
When other proceedings	(3) A First Nation may not file a claim if (a) there are proceedings before a court or tribunal other than the Tribunal that relate to the same land or other assets and could result in a decision irreconcilable with that of the claim, or that are based on the same or substantially the same facts; (b) the First Nation and the Crown are parties to those proceedings; and (c) the proceedings have not been adjourned.	(3) La première nation ne peut saisir le Tribunal d'une revendication si les conditions suivantes sont réunies : a) une juridiction autre que le Tribunal est saisie d'une demande portant sur les mêmes terres ou autres éléments d'actif et susceptible de donner lieu à une décision incompatible ou fondée essentiellement sur les mêmes faits; b) la première nation et Sa Majesté sont parties à l'instance; c) l'instance est toujours en cours.	Litispendance
Restrictions	(4) A First Nation may not file a claim if (a) it is not claiming any compensation;	(4) La première nation ne peut saisir le Tribunal d'une revendication si, selon le cas : a) elle ne demande aucune indemnité;	Réserve

	<p>(b) it is claiming any remedy other than monetary compensation; or</p> <p>(c) the amount of its claim exceeds the claim limit.</p>	<p>b) la réparation recherchée n'est pas strictement pécuniaire;</p> <p>c) celle-ci excède l'indemnité maximale.</p>	
Filing a specific claim	<p>16. (1) A First Nation may file a claim with the Tribunal only if the claim has been previously filed with the Minister and</p> <p>(a) the Minister has notified the First Nation in writing of his or her decision not to negotiate the claim, in whole or in part;</p> <p>(b) three years have elapsed after the day on which the claim was filed with the Minister and the Minister has not notified the First Nation in writing of his or her decision on whether to negotiate the claim;</p> <p>(c) in the course of negotiating the claim, the Minister consents in writing to the filing of the claim with the Tribunal; or</p> <p>(d) three years have elapsed after the day on which the Minister has notified the First Nation in writing of the Minister's decision to negotiate the claim, in whole or in part, and the claim has not been resolved by a final settlement agreement.</p>	<p>16. (1) La première nation ne peut saisir le Tribunal d'une revendication que si elle l'a préalablement déposée auprès du ministre et que celui-ci, selon le cas :</p> <p>a) l'a avisée par écrit de son refus de négocier le règlement de tout ou partie de la revendication;</p> <p>b) ne l'a pas avisée par écrit, dans les trois ans suivant la date de dépôt de la revendication, de son acceptation ou de son refus de négocier un tel règlement;</p> <p>c) a consenti par écrit, à toute étape de la négociation du règlement, à ce que le Tribunal soit saisi de la revendication;</p> <p>d) l'a avisée par écrit de son acceptation de négocier un tel règlement mais qu'aucun accord définitif n'en a découlé dans les trois ans suivant l'avis.</p>	Dépôt de la revendication auprès du ministre
Form and content of specific claim	<p>(2) For the purpose of subsection (1), the Minister shall</p> <p>(a) establish a reasonable minimum standard to be followed in relation to the kind of information required for any claim to be filed with the Minister, as well as a reasonable form and manner for presenting the information;</p> <p>(b) publish the standard on the Department of Indian Affairs and Northern Development's Internet site; and</p> <p>(c) notify the First Nation in writing of the date on which the claim was filed with the Minister.</p>	<p>(2) Pour l'application du paragraphe (1), le ministre :</p> <p>a) établit la norme minimale acceptable relativement au type de renseignements à fournir pour le dépôt des revendications, ainsi que des modalités acceptables de forme et de présentation de ceux-ci;</p> <p>b) affiche le texte de cette norme sur le site Internet du ministère des Affaires indiennes et du Nord canadien;</p> <p>c) avise par écrit la première nation de la date du dépôt de la revendication.</p>	Dépôt et avis
Meeting minimum standard	<p>(3) A claim is to be filed with the Minister only if the information in it meets the minimum standard referred to in paragraph (2)(a) and is presented in the form and manner established under that paragraph.</p>	<p>(3) La revendication n'est déposée auprès du ministre que si elle lui est présentée en conformité avec la norme et les modalités établies en application de l'alinéa (2)a).</p>	Validité du dépôt

HEARINGS AND DECISIONS

AUDIENCES ET DÉCISIONS

Application to strike	17. On application by a party to a specific claim, the Tribunal may, at any time, order that the claim be struck out in whole or in part, with or without leave to amend, on the ground that it	17. Le Tribunal peut à tout moment, sur demande de toute partie, ordonner la radiation de tout ou partie de la revendication particulière avec ou sans autorisation de la modifier, pour l'un ou l'autre des motifs suivants :	Demande de radiation
	<p>(a) is, on its face, not admissible under sections 14 to 16;</p> <p>(b) has not been filed by a First Nation;</p> <p>(c) is frivolous, vexatious or premature; or</p> <p>(d) may not be continued under section 37.</p>	<p>a) la revendication n'est manifestement pas admissible aux termes des articles 14 à 16;</p> <p>b) elle n'a pas été déposée par une première nation;</p> <p>c) elle est frivole, vexatoire ou prématurée;</p> <p>d) elle ne peut être maintenue aux termes de l'article 37.</p>	
Hearing and decision	18. After providing notice to the parties, the Tribunal shall hold a hearing, at the time and place that it considers most appropriate, into the issue before it and make a decision on that issue.	18. Après en avoir avisé les parties, le Tribunal tient audience aux date, heure et lieu qu'il juge indiqués pour entendre la question dont il est saisi, et statue sur celle-ci.	Audience et décision
Limitation	19. In deciding the issue of the validity of a specific claim, the Tribunal shall not consider any rule or doctrine that would have the effect of limiting claims or prescribing rights against the Crown because of the passage of time or delay.	19. Lorsqu'il statue sur le bien-fondé d'une revendication particulière, le Tribunal ne tient compte d'aucune règle ou théorie qui aurait pour effet de limiter un recours ou de prescrire des droits contre Sa Majesté en raison de l'écoulement du temps ou d'un retard.	Limites
Basis and limitations for decision on compensation	20. (1) The Tribunal, in making a decision on the issue of compensation for a specific claim,	20. (1) Lorsqu'il statue sur l'indemnité relative à une revendication particulière, le Tribunal :	Conditions et limites à l'égard des décisions sur l'indemnité
	<p>(a) shall award monetary compensation only;</p> <p>(b) shall not, despite any other provision in this subsection, award total compensation in excess of \$150 million;</p> <p>(c) shall, subject to this Act, award compensation for losses in relation to the claim that it considers just, based on the principles of compensation applied by the courts;</p> <p>(d) shall not award any amount for</p> <p style="padding-left: 20px;">(i) punitive or exemplary damages, or</p> <p style="padding-left: 20px;">(ii) any harm or loss that is not pecuniary in nature, including loss of a cultural or spiritual nature;</p> <p>(e) shall award compensation equal to the market value of a claimant's reserve lands at the time they were taken brought forward to the current value of the loss, in accordance with legal principles applied by the courts, if</p>	<p>a) ne peut accorder qu'une indemnité pécuniaire;</p> <p>b) malgré toute autre disposition du présent paragraphe, ne peut accorder une indemnité totale supérieure à cent cinquante millions de dollars;</p> <p>c) sous réserve des autres dispositions de la présente loi, accorde une indemnité qu'il estime juste, pour les pertes en cause, en fonction des principes d'indemnisation sur lesquels se fondent les tribunaux judiciaires;</p> <p>d) ne peut accorder :</p> <p style="padding-left: 20px;">(i) de dommages-intérêts exemplaires ou punitifs,</p> <p style="padding-left: 20px;">(ii) d'indemnité pour un dommage autre que pécuniaire, notamment un dommage sur le plan culturel ou spirituel;</p>	

the claimant establishes that those reserve lands were taken under legal authority, but that inadequate compensation was paid;

(f) shall award compensation equal to the value of the damage done to reserve lands brought forward to the current value of the loss, in accordance with legal principles applied by the courts, if the claimant establishes that certain of its reserve lands were damaged under legal authority, but that inadequate compensation was paid;

(g) shall award compensation equal to the current, unimproved market value of the lands that are the subject of the claim, if the claimant establishes that those lands were never lawfully surrendered, or otherwise taken under legal authority;

(h) shall award compensation equal to the value of the loss of use of a claimant's lands brought forward to the current value of the loss, in accordance with legal principles applied by the courts, if the claimant establishes the loss of use of the lands referred to in paragraph (g); and

(i) shall, if it finds that a third party caused or contributed to the acts or omissions referred to in subsection 14(1) or the loss arising from those acts or omissions, award compensation against the Crown only to the extent that the Crown is at fault for the loss.

e) dans le cas où le revendicateur a établi que certaines terres de réserve ont été prises par autorisation légale et qu'une indemnité inadéquate lui a été accordée en échange, accorde une indemnité, égale à la valeur marchande de ces terres au moment où elles ont été prises ajustée à la valeur actuelle des pertes conformément aux principes juridiques appliqués par les tribunaux judiciaires;

f) dans le cas où le revendicateur a établi que certaines terres de réserve ont été endommagées par autorisation légale et qu'une indemnité inadéquate lui a été accordée à cet égard, accorde une indemnité, égale à la valeur des dommages subis ajustée à la valeur actuelle des pertes conformément aux principes juridiques appliqués par les tribunaux judiciaires;

g) dans le cas où le revendicateur a établi que les terres visées par la revendication n'ont jamais été cédées légalement, ou autrement prises par autorisation légale, accorde une indemnité, égale à la valeur marchande actuelle de ces terres, sans égard aux améliorations qui ont pu y être apportées entre-temps;

h) dans le cas où le revendicateur a établi qu'il a perdu l'usage des terres visées à l'alinéa g), accorde une indemnité, égale à la valeur de la perte de cet usage ajustée à la valeur actuelle des pertes conformément aux principes juridiques appliqués par les tribunaux judiciaires;

i) dans le cas où il estime qu'un tiers est, en tout ou en partie, à l'origine des faits ou pertes mentionnés au paragraphe 14(1), n'accorde une indemnité à la charge de Sa Majesté que dans la mesure où ces pertes sont attribuables à la faute de celle-ci.

For greater
certainty

(2) For greater certainty, in awarding the compensation referred to in subsection (1), the Tribunal may consider losses related to activities of an ongoing and variable nature, such as activities related to harvesting rights.

(2) Il demeure entendu que le Tribunal peut prendre en compte, pour le versement de l'indemnité visée au paragraphe (1), les pertes relatives aux activités susceptibles d'être exercées de façon continue et variable, notamment les activités liées aux droits de récolte.

Précision

Deduction of
benefit

(3) The Tribunal shall deduct from the amount of compensation calculated under subsection (1) the value of any benefit received by

(3) Le Tribunal déduit de l'indemnité calculée au titre du paragraphe (1) la valeur de tout avantage — ajustée à sa valeur actuelle

Déduction

	the claimant in relation to the subject-matter of the specific claim brought forward to its current value, in accordance with legal principles applied by the courts.	conformément aux principes juridiques appliqués par les tribunaux judiciaires — reçu par le revendicateur à l'égard de l'objet de la revendication particulière.	
One claim limit for related claims	(4) Two or more specific claims shall, for the purpose of paragraph (1)(b), be treated as one claim if they (a) are made by the same claimant and are based on the same or substantially the same facts; or (b) are made by different claimants, are based on the same or substantially the same facts and relate to the same assets.	(4) Pour l'application de l'alinéa (1)b), sont considérées comme une seule revendication : a) les revendications particulières présentées par le même revendicateur et fondées essentiellement sur les mêmes faits; b) les revendications particulières présentées par des revendicateurs différents, fondées essentiellement sur les mêmes faits et portant sur les mêmes éléments d'actif.	Indemnité maximale unique pour les revendications connexes
Equitable apportionment	(5) If claims are treated as one claim under paragraph (4)(b), the Tribunal shall apportion equitably among the claimants the total compensation awarded.	(5) Pour l'application de l'alinéa (4)b), le Tribunal répartit équitablement entre les revendicateurs l'indemnité totale accordée.	Répartition de l'indemnité
Compensation against province	(6) If the Tribunal finds that a province that has been granted party status caused or contributed to the acts or omissions referred to in subsection 14(1) or the loss arising from those acts or omissions, it may award compensation against the province to the extent that the province was at fault in causing or contributing to the loss.	(6) S'il estime qu'une province qui a la qualité de partie est, en tout ou en partie, à l'origine des faits ou des pertes mentionnés au paragraphe 14(1), le Tribunal peut accorder une indemnité à la charge de la province dans la mesure où ces pertes sont attribuables à la faute de celle-ci.	Indemnité à la charge de la province
Unlawful disposition	21. (1) If compensation is awarded under this Act for an unlawful disposition of all of the interests or rights of a claimant in or to land and the interests or rights have never been restored to the claimant, then all of the claimant's interests in and rights to the land are released, without prejudice to any right of the claimant to bring any proceeding related to that unlawful disposition against a province that is not a party to the specific claim.	21. (1) Si une indemnité est accordée sous le régime de la présente loi en raison de la disposition illégale de tous les droits et intérêts du revendicateur sur des terres, sans que ces droits et intérêts lui aient jamais été restitués, tous ces droits et intérêts sont abandonnés, sans préjudice de son droit de poursuivre une province non partie à l'instance pour le même motif.	Disposition illégale
Unlawful disposition of partial interest	(2) If compensation is awarded under this Act for the unlawful disposition of a partial interest or right of a claimant in or to reserve land, then the persons who, if the disposition had been lawful, would have had the partial interest or right in or to the land are deemed to have had that interest or right.	(2) Si une indemnité est accordée sous le régime de la présente loi en raison de la disposition illégale d'une partie des droits ou intérêts du revendicateur sur des terres de réserve, les personnes qui, si la disposition avait été légale, auraient eu cette partie des droits ou intérêts sont réputées l'avoir eue.	Disposition illégale
Notice to others	22. (1) If the Tribunal's decision of an issue in relation to a specific claim might, in its opinion, significantly affect the interests of a province, First Nation or person, the Tribunal	22. (1) Lorsqu'il estime qu'une décision peut avoir des répercussions importantes sur les intérêts d'une province, d'une première	Avis aux tiers

	shall so notify them. The parties may make submissions to the Tribunal as to whose interests might be affected.	nation ou d'une personne, le Tribunal en avise les intéressés. Les parties peuvent présenter leurs observations sur l'identité des intéressés.	
Effect of failure to notify	(2) Failure to provide notice does not invalidate any decision of the Tribunal.	(2) Le défaut d'avis n'invalide pas les décisions du Tribunal.	Défaut d'avis
Restriction	23. (1) The Tribunal has jurisdiction with respect to a province only if the province is granted party status.	23. (1) Le Tribunal n'a compétence à l'égard d'une province que si celle-ci est partie à la revendication particulière.	Réserve
Party status of a province—mandatory	(2) If the Crown alleges that a province that has been notified under subsection 22(1) is wholly or partly at fault for the claimant's losses, the Tribunal shall grant the province party status provided that the province certifies in writing that it has taken the steps necessary for it to be bound by decisions of the Tribunal.	(2) Si Sa Majesté allègue que les pertes à l'origine de la revendication particulière sont imputables, en tout ou en partie, à la province avisée au titre du paragraphe 22(1), le Tribunal accorde à celle-ci la qualité de partie, à condition qu'elle lui ait confirmé par écrit qu'elle a pris les mesures nécessaires pour être liée par les décisions du Tribunal.	Qualité de partie obligatoire : province
Party status of a province—discretionary	(3) If the Crown does not allege that a province that has been notified under subsection 22(1) is wholly or partly at fault for the claimant's losses, the Tribunal may, on application by the province, grant the province party status if the Tribunal considers it a necessary or proper party and provided that the province certifies in writing that it has taken the steps necessary for it to be bound by decisions of the Tribunal.	(3) Si Sa Majesté n'allègue pas que les pertes à l'origine de la revendication particulière sont imputables à la province avisée au titre du paragraphe 22(1), le Tribunal peut, sur demande, s'il le juge indiqué, accorder à celle-ci la qualité de partie, à condition qu'elle lui ait confirmé par écrit qu'elle a pris les mesures nécessaires pour être liée par les décisions du Tribunal.	Qualité de partie facultative : province
Party status of a First Nation	24. The Tribunal may, on application by a First Nation to whom notice under subsection 22(1) is provided, grant the First Nation party status if the Tribunal considers it a necessary or proper party.	24. Si elle lui en fait la demande, le Tribunal peut, s'il le juge indiqué, accorder à toute première nation avisée au titre du paragraphe 22(1) la qualité de partie.	Qualité de partie : première nation
Intervention by persons affected	25. (1) A First Nation or person to whom notice under subsection 22(1) is provided may, with leave of the Tribunal, intervene before it, to make representations relevant to the proceedings in respect of any matter that affects the First Nation or person.	25. (1) Toute personne ou première nation avisée au titre du paragraphe 22(1) peut, avec l'autorisation du Tribunal, intervenir dans les procédures se déroulant devant celui-ci afin de présenter toutes observations la concernant à l'égard de ces procédures.	Qualité d'intervenant
Factors	(2) In exercising its discretion under subsection (1), the Tribunal shall consider all relevant factors, including the effect that granting intervenor status would have on the cost and length of the hearing.	(2) Pour accorder la qualité d'intervenant, le Tribunal prend en compte les facteurs qu'il estime indiqués, notamment les frais ou délais supplémentaires qui pourraient en découler.	Facteurs à prendre en compte
Conduct of hearings	26. (1) Subject to this Act, the Tribunal shall conduct its hearings in any manner that it considers fit.	26. (1) Sous réserve des autres dispositions de la présente loi, le Tribunal tient audience de la façon qu'il estime indiquée.	Tenue des audiences

Limitation	(2) In deciding how to conduct a hearing, the Tribunal shall have regard to any submissions that a party has made regarding the manner in which the hearing is to be conducted and to the importance of achieving an expeditious resolution.	(2) Pour décider de la façon de tenir audience, il tient compte des observations présentées par les parties à ce sujet et de l'importance de parvenir rapidement à un règlement.	Restrictions
Public hearings	27. (1) Subject to subsection (2), Tribunal hearings shall be public.	27. (1) Les audiences du Tribunal sont publiques.	Audiences publiques
Confidential hearings	(2) The Tribunal may, on application by a party, take any measures and make any order that it considers necessary to ensure the confidentiality of a hearing if it is satisfied that the reasons for confidentiality outweigh the societal interest that the hearing be public.	(2) Le Tribunal peut toutefois, à la demande de toute partie, prendre toute mesure ou rendre toute ordonnance qu'il juge nécessaire pour assurer la confidentialité des audiences s'il est convaincu que les raisons justifiant la confidentialité l'emportent sur l'intérêt qu'a la société à la publicité des audiences.	Confidentialité
Right to cross-examine	28. A party may cross-examine a witness (a) as of right, if the witness is called by a party adverse in interest; and (b) with leave of the Tribunal, in any other case.	28. Toute partie peut contre-interroger un témoin : a) de plein droit, dans le cas où le témoin est appelé par une partie adverse; b) avec l'autorisation du Tribunal, dans les autres cas.	Contre-interrogatoire
Defences of Crown	29. Subject to section 19, section 24 of the <i>Crown Liability and Proceedings Act</i> applies in respect of a specific claim as if it were a proceeding.	29. Sous réserve de l'article 19, l'article 24 de la <i>Loi sur la responsabilité civile de l'État et le contentieux administratif</i> s'applique à la revendication particulière et, à cette fin, celle-ci est assimilée à la poursuite.	Moyens de défense
Withdrawal	30. (1) A party may withdraw an issue from the Tribunal at any time before the Tribunal gives its decision on it and, in such a case, the Tribunal shall not render a decision on it.	30. (1) Toute partie peut retirer la question qu'elle a présentée au Tribunal tant que ce dernier n'a pas statué sur celle-ci. Le Tribunal en est alors dessaisi.	Retrait d'une question
Costs	(2) The Tribunal may award costs on the withdrawal of an issue from the Tribunal.	(2) Le Tribunal peut adjuger les dépens lors du retrait de la question.	Dépens
Not a bar	(3) Withdrawal of an issue does not bar any subsequent consideration of the issue by the Tribunal.	(3) Le fait pour une partie de retirer sa question ne la rend pas irrecevable à en saisir à nouveau le Tribunal.	Saisine du Tribunal
Evidence not admissible in other proceedings	31. Subject to subsection 34(1), evidence given by any person in the course of a Tribunal hearing, including anything said, any position taken or any admission made, is not admissible in any other proceeding.	31. Sous réserve du paragraphe 34(1), aucune preuve des actes — déclarations, aveux ou prises de position — faits par une personne au cours des audiences du Tribunal n'est admissible dans le cadre d'une autre procédure.	Preuve non admissible
Advance notice of decision on compensation	32. The Tribunal shall, not later than 14 days before it renders its decision on the issue of compensation, give notice to the parties and to the Chairperson that the decision will be rendered.	32. Au plus tard quatorze jours avant toute décision du Tribunal sur la question de l'indemnisation, le Tribunal avise les parties et le président qu'une telle décision sera rendue.	Préavis concernant les décisions sur l'indemnisation

Written reasons and publication	33. The Tribunal shall give written reasons for its decisions and shall cause the reasons and the decisions to be published in the manner that it considers fit.	33. Le Tribunal motive par écrit ses décisions. Il fait publier les décisions et les motifs de la manière qu'il estime indiquée.	Motifs écrits et publication
Judicial review	34. (1) A decision of the Tribunal is subject to judicial review under section 28 of the <i>Federal Courts Act</i> .	34. (1) Les décisions du Tribunal sont susceptibles de révision judiciaire au titre de l'article 28 de la <i>Loi sur les Cours fédérales</i> .	Révision judiciaire
Final and conclusive	(2) Subject to subsection (1), the Tribunal's decisions are final and conclusive between the parties in all proceedings in any court or tribunal arising out of the same or substantially the same facts and are not subject to review.	(2) Sous réserve du paragraphe (1), les décisions du Tribunal ne sont pas susceptibles de révision, sont définitives et ont l'autorité de la chose jugée entre les parties dans tout recours pris devant une autre juridiction et découlant essentiellement des mêmes faits.	Chose jugée
Release and indemnity	35. If the Tribunal decides that a specific claim is invalid or awards compensation for a specific claim, (a) each respondent is released from any cause of action, claim or liability to the claimant and any of its members of any kind, direct or indirect, arising out of the same or substantially the same facts on which the claim is based; and (b) the claimant shall indemnify each respondent against any amount that the respondent becomes liable to pay as a result of a claim, action or other proceeding for damages brought by the claimant or any of its members against any other person arising out of the same or substantially the same facts.	35. Lorsque le Tribunal rend une décision établissant qu'une revendication particulière est mal fondée ou accordant une indemnité pour une revendication particulière : a) chaque partie intimée est libérée de toute responsabilité, à l'égard de la première nation revendicatrice et de chacun de ses membres, découlant essentiellement des mêmes faits que ceux sur lesquels la revendication est fondée; b) le revendicateur est tenu de garantir chaque partie intimée contre toute somme qu'elle est tenue de payer par suite d'un recours pris dans le cadre d'une action intentée par la première nation revendicatrice ou l'un de ses membres contre un tiers et fondée essentiellement sur les mêmes faits que la revendication particulière.	Garantie
Payment of award	36. (1) An award of compensation against the Crown may, at the discretion of the Crown, be paid by instalments, but the award must be fully paid within five years after the day on which the Tribunal makes its decision.	36. (1) Le cas échéant, Sa Majesté peut opter pour le paiement de l'indemnité en versements échelonnés, la somme totale devant être payée dans les cinq ans suivant la date de la décision du Tribunal.	Paiement de l'indemnité
Interest	(2) The unpaid balance of the award bears simple interest from the date of the award, at a rate equal to the Bank of Canada's overnight rate on that day plus 2.5%, which shall be paid together with each instalment.	(2) La portion impayée de l'indemnité porte intérêt simple, à partir de la date où la décision a été rendue, au taux de financement à un jour de la Banque du Canada à cette date, majoré de 2,5 %, tel intérêt devant être payé en même temps que chaque versement.	Intérêts
Abandoned specific claim	37. A specific claim is discontinued if the claimant	37. La revendication particulière ne peut être maintenue dans l'un ou l'autre des cas suivants :	Revendication ne pouvant être maintenue

(a) commences, before another tribunal or a court, a proceeding against the Crown that is based on the same or substantially the same facts as the claim, or that relates to the same land or other assets as the claim and could result in a decision irreconcilable with that of the claim, unless the claimant immediately has the proceeding adjourned; or

(b) takes a new step in, or does not continue to adjourn, a proceeding mentioned in paragraph (a) or in subsection 15(3).

a) le revendicateur introduit devant une autre juridiction une instance contre Sa Majesté fondée essentiellement sur les mêmes faits, ou portant sur les mêmes terres ou autres éléments d'actif que sa revendication et susceptible de donner lieu à une décision incompatible, sans prendre immédiatement les mesures nécessaires pour suspendre l'instance;

b) le revendicateur fait un nouvel acte de procédure dans l'instance visée à l'alinéa a) ou au paragraphe 15(3), ou ne maintient pas la suspension de l'instance.

Public documents

38. (1) Subject to subsection (2), documents filed with the Tribunal are public documents.

38. (1) Tout document déposé auprès du Tribunal est public.

Documents publics

Confidential documents

(2) The Tribunal, on the application of a party, may take any measures that it considers necessary to ensure the confidentiality of a document if it is satisfied that the interest of a party or a person that the document not be disclosed outweighs the societal interest that it be public.

(2) Le Tribunal peut toutefois, à la demande de toute partie, prendre toute mesure qu'il juge nécessaire pour assurer la confidentialité d'un document s'il est convaincu que l'intérêt d'une personne ou d'une partie à la non-divuligation l'emporte sur l'intérêt qu'a la société à la publicité du document.

Documents confidentiels

GENERAL

DISPOSITIONS GÉNÉRALES

REGULATIONS

RÈGLEMENTS

Regulations

39. The Governor in Council may make regulations adding to Part 2 of the schedule the name of any agreement related to aboriginal self-government.

39. Le gouverneur en conseil peut, par règlement, ajouter à la partie 2 de l'annexe le nom de tout accord relatif à l'autonomie gouvernementale autochtone.

Règlements

ANNUAL REPORT

RAPPORT ANNUEL

Annual report

40. (1) The Chairperson shall submit an annual report on the work of the Tribunal in a fiscal year and its projected activities for the following fiscal year to the Minister within six months after the end of that fiscal year, including the financial statements of the Tribunal and any report on them of the Auditor General of Canada.

40. (1) Dans les six premiers mois de chaque exercice, le président présente au ministre un rapport sur les activités du Tribunal pour l'exercice précédent et sur les activités projetées pour le prochain exercice, ainsi que les états financiers et tout rapport du vérificateur général du Canada à leur égard.

Rapport annuel

Resources

(2) The annual report may include a statement on whether the Tribunal had sufficient resources, including a sufficient number of members, to address its case load in the past fiscal year and whether it will have sufficient resources for the following fiscal year.

(2) Il peut indiquer dans le rapport si le nombre de ses membres et les ressources dont dispose le Tribunal ont permis à celui-ci de s'acquitter de ses fonctions pendant l'exercice en cause et lui permettront de s'en acquitter au cours du prochain exercice.

Ressources

Tabling of report	(3) The Minister shall submit a copy of the report to each House of Parliament on any of the first 30 days on which that House is sitting after the report is submitted to the Minister.	(3) Le ministre dépose une copie du rapport devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant le jour où le rapport lui a été présenté.	Dépôt
REVIEW AND REPORT		EXAMEN ET RAPPORT	
Review	41. (1) Within one year after the fifth anniversary of the coming into force of this Act, the Minister shall undertake a review of the mandate and structure of the Tribunal, of its efficiency and effectiveness of operation and of any other matters related to this Act that the Minister considers appropriate. In carrying out the review, the Minister shall give First Nations an opportunity to make representations.	41. (1) La cinquième année suivant l'entrée en vigueur de la présente loi, le ministre effectue l'examen du mandat et de la structure du Tribunal, de l'efficacité de son fonctionnement et de toute autre question liée à la présente loi qu'il estime indiquée. Au cours de l'examen, il donne aux premières nations la possibilité de présenter leurs observations.	Examen
Report	(2) Within one year after a review is undertaken, the Minister shall cause to be prepared and sign a report that sets out a statement of any changes to this Act, including any changes to the Tribunal's functions, powers or duties, that the Minister recommends and the representations which have been made by First Nations.	(2) Dans l'année suivant le début de l'examen, il fait dresser et signe un rapport où sont consignées ses recommandations de modification de la présente loi, notamment en ce qui touche les attributions du Tribunal, ainsi que les observations présentées par les premières nations.	Rapport
Tabling and referral of report	(3) The Minister shall submit to each House of Parliament a copy of the report on any of the first 90 days on which that House is sitting after the Minister signs the report, and each House shall refer the report to the appropriate committee of that House.	(3) Enfin, il dépose une copie du rapport devant chaque chambre du Parlement dans les quatre-vingt-dix premiers jours de séance de celle-ci suivant la signature du rapport et la chambre renvoie ce rapport à son comité compétent.	Dépôt du rapport au Parlement et renvoi
TRANSITIONAL PROVISIONS		DISPOSITIONS TRANSITOIRES	
Existing claims	42. (1) If a First Nation has submitted a claim based on any one or more of the grounds referred to in subsection 14(1) to the Minister before the day on which this Act comes into force containing the kind of information that would meet the minimum standard established under subsection 16(2), or if the claim is being negotiated on the day on which this Act comes into force, the claim is deemed to have been filed with the Minister in accordance with section 16, or the Minister is deemed to have decided to negotiate the claim and to have notified the First Nation in writing of that decision, as the case may be, on the day on which this Act comes into force.	42. (1) Si, avant la date d'entrée en vigueur de la présente loi, une première nation a présenté au ministre une revendication fondée sur l'un ou l'autre des faits mentionnés au paragraphe 14(1), et lui a communiqué le type de renseignements requis par la norme établie en application du paragraphe 16(2) :	Revendications existantes
		<i>a)</i> la première nation est réputée avoir déposé la revendication conformément à l'article 16 à la date d'entrée en vigueur de la présente loi;	
		<i>b)</i> si le règlement de tout ou partie de la revendication est en cours de négociation à cette date, le ministre est réputé avoir avisé la première nation de son acceptation de négocier le règlement au titre de cet article à la même date.	

Examination by
Minister

(2) Within six months after the day on which this Act comes into force, the Minister shall examine all claims — except those that the Minister has notified the First Nation in writing of the Minister's decision not to negotiate, in whole or in part — that are based on any one or more of the grounds referred to in subsection 14(1) submitted by First Nations to the Minister before the day on which this Act comes into force, and

(a) if a claim contains the kind of information that would meet the minimum standard established under subsection 16(2), the Minister shall notify the First Nation in writing that its claim is deemed to have been filed with the Minister in accordance with section 16 on the day on which this Act comes into force;

(b) if a claim does not contain that kind of information, the Minister shall request in writing that the First Nation provide the Minister with the missing information; or

(c) if a claim is being negotiated, in whole or in part, the Minister shall notify the First Nation in writing that for the purpose of section 16 the date of the Minister's decision to negotiate the claim is deemed to be the day on which this Act comes into force.

Amended
claim — deemed
filing date

(3) If a First Nation provides the Minister with the information requested under paragraph (2)(b)

(a) within six months after the date of the Minister's request, its claim is deemed to have been filed with the Minister in accordance with section 16 on the day on which this Act comes into force; or

(b) later than six months after the date of the Minister's request, its claim will be filed with the Minister in accordance with section 16 on the date the requested information is received by the Minister.

Notice of filing
date

(4) On receiving the information referred to in paragraph (2)(b), the Minister shall notify the First Nation in writing of the date on which its claim was filed with the Minister.

(2) Dans les six mois suivant la date d'entrée en vigueur de la présente loi, le ministre examine chacune des revendications fondées sur l'un ou l'autre des faits mentionnés au paragraphe 14(1) qui lui ont été présentées par une première nation avant cette date, à l'exception de celles dont il a avisé par écrit la première nation de son refus d'en négocier le règlement, en tout ou en partie, et prend l'une des mesures suivantes :

a) si la première nation lui a communiqué le type de renseignements requis par la norme établie en application du paragraphe 16(2), il l'informe par écrit qu'elle est réputée avoir déposé la revendication conformément à l'article 16 à la date d'entrée en vigueur de la présente loi;

b) si elle ne lui a pas communiqué ce type de renseignements, il lui demande par écrit de lui communiquer les renseignements manquants;

c) si le règlement de tout ou partie de la revendication est en cours de négociation à cette date, il l'informe par écrit que, pour l'application de l'article 16, il est réputé l'avoir avisée de son acceptation de négocier ce règlement à la même date.

(3) La première nation est réputée avoir déposé conformément à l'article 16 la revendication à l'égard de laquelle elle a communiqué les renseignements visés à l'alinéa (2)b) :

a) soit à la date d'entrée en vigueur de la présente loi, dans le cas où le ministre reçoit les renseignements dans les six mois suivant la demande de communication;

b) soit à la date de réception de ceux-ci par le ministre, dans le cas où celle-ci est postérieure de plus de six mois à la demande de communication.

(4) Sur réception des renseignements visés à l'alinéa (2)b), le ministre avise par écrit la première nation de la date du dépôt.

Examen des
revendications
par le ministre

Date de dépôt

Avis de la date
du dépôt

Previous
decision not to
negotiate

43. For greater certainty, if, before the coming into force of this Act, a First Nation has been notified by the Minister of his or her decision not to negotiate a claim, the First Nation may not file that claim with the Tribunal on the basis of that decision but nothing prevents the First Nation from filing the claim with the Minister after the coming into force of this Act.

43. Il demeure entendu que le refus du ministre de négocier le règlement d'une revendication, s'il a été opposé à la première nation avant la date d'entrée en vigueur de la présente loi, ne peut être pris en compte pour saisir le Tribunal de la revendication mais n'a pas pour effet d'empêcher la première nation de déposer la même revendication auprès du ministre après cette date.

Précision

CONSEQUENTIAL AMENDMENTS

MODIFICATIONS CORRÉLATIVES

R.S., c. A-1

ACCESS TO INFORMATION ACT

LOI SUR L'ACCÈS À L'INFORMATION

L.R., ch. A-1

44. Schedule I to the *Access to Information Act* is amended by adding the following in alphabetical order under the heading "OTHER GOVERNMENT INSTITUTIONS":

44. L'annexe I de la *Loi sur l'accès à l'information* est modifiée par adjonction, selon l'ordre alphabétique, sous l'intertitre «AUTRES INSTITUTIONS FÉDÉRALES», de ce qui suit :

Specific Claims Tribunal

Tribunal des revendications particulières

Tribunal des revendications particulières

Specific Claims Tribunal

45. Schedule II to the Act is amended by adding, in alphabetical order, a reference to

45. L'annexe II de la même loi est modifiée par adjonction, selon l'ordre alphabétique, de ce qui suit :

Specific Claims Tribunal Act

Loi sur le Tribunal des revendications particulières

Loi sur le Tribunal des revendications particulières

Specific Claims Tribunal Act

and a corresponding reference to "subsections 27(2) and 38(2)".

ainsi que de la mention « paragraphes 27(2) et 38(2) » en regard de ce titre de loi.

R.S., c. F-7;
2002, c. 8, s. 14

FEDERAL COURTS ACT

LOI SUR LES COURS FÉDÉRALES

L.R., ch. F-7;
2002, ch. 8,
art. 14

46. Subsection 28(1) of the *Federal Courts Act* is amended by striking out the word "and" at the end of paragraph (p), by adding the word "and" at the end of paragraph (q) and by adding the following after paragraph (q):

46. Le paragraphe 28(1) de la *Loi sur les Cours fédérales* est modifié par adjonction, après l'alinéa q), de ce qui suit :

(r) the Specific Claims Tribunal established by the *Specific Claims Tribunal Act*.

r) le Tribunal des revendications particulières constitué par la *Loi sur le Tribunal des revendications particulières*.

R.S., c. F-11

FINANCIAL ADMINISTRATION ACT

LOI SUR LA GESTION DES FINANCES PUBLIQUES

L.R., ch. F-11

47. Schedule I.1 to the *Financial Administration Act* is amended by adding, in alphabetical order in column I, a reference to

47. L'annexe I.1 de la *Loi sur la gestion des finances publiques* est modifiée par adjonction, dans la colonne I, selon l'ordre alphabétique, de ce qui suit :

Registry of the Specific Claims Tribunal
Greffe du Tribunal des revendications particulières

and a corresponding reference in column II to the “Minister of Indian Affairs and Northern Development”.

48. Schedule IV to the Act is amended by adding the following in alphabetical order:

Specific Claims Tribunal
Tribunal des revendications particulières

49. Part III of Schedule VI to the Act is amended by adding, in alphabetical order in column I, a reference to

Registry of the Specific Claims Tribunal
Greffe du Tribunal des revendications particulières

and a corresponding reference in column II to the “Registrar”.

R.S., c. P-21

PRIVACY ACT

50. The schedule to the *Privacy Act* is amended by adding the following in alphabetical order under the heading “OTHER GOVERNMENT INSTITUTIONS”:

Specific Claims Tribunal
Tribunal des revendications particulières

R.S., c. P-36

PUBLIC SERVICE SUPERANNUATION ACT

51. Part I of Schedule I to the *Public Service Superannuation Act* is amended by adding the following in alphabetical order:

Specific Claims Tribunal
Tribunal des revendications particulières

REPEAL

Repeal

52. The *Specific Claims Resolution Act*, chapter 23 of the Statutes of Canada, 2003, is repealed.

Greffe du Tribunal des revendications particulières
Registry of the Specific Claims Tribunal

ainsi que de la mention « Le ministre des Affaires indiennes et du Nord canadien », dans la colonne II, en regard de ce secteur.

48. L'annexe IV de la même loi est modifiée par adjonction, selon l'ordre alphabétique, de ce qui suit :

Tribunal des revendications particulières
Specific Claims Tribunal

49. La partie III de l'annexe VI de la même loi est modifiée par adjonction, dans la colonne I, selon l'ordre alphabétique, de ce qui suit :

Greffe du Tribunal des revendications particulières
Registry of the Specific Claims Tribunal

ainsi que de la mention « Greffier », dans la colonne II, en regard de ce ministère.

L.R., ch. P-21

LOI SUR LA PROTECTION DES RENSEIGNEMENTS PERSONNELS

50. L'annexe de la *Loi sur la protection des renseignements personnels* est modifiée par adjonction, selon l'ordre alphabétique, sous l'intertitre « AUTRES INSTITUTIONS FÉDÉRALES », de ce qui suit :

Tribunal des revendications particulières
Specific Claims Tribunal

L.R., ch. P-36

LOI SUR LA PENSION DE LA FONCTION PUBLIQUE

51. La partie I de l'annexe I de la *Loi sur la pension de la fonction publique* est modifiée par adjonction, selon l'ordre alphabétique, de ce qui suit :

Tribunal des revendications particulières
Specific Claims Tribunal

ABROGATION

Abrogation

52. La *Loi sur le règlement des revendications particulières*, chapitre 23 des Lois du Canada (2003), est abrogée.

COMING INTO FORCE

ENTRÉE EN VIGUEUR

Coming into
force

53. This Act comes into force 120 days after the day on which it receives royal assent.

53. La présente loi entre en vigueur cent vingt jours après la date de sa sanction.

Entrée en
vigueur

SCHEDULE
(Section 2, paragraph 15(1)(c) and section 39)

PART 1

ACTS RELATED TO SELF-GOVERNMENT

Cree-Naskapi (of Quebec) Act
Loi sur les Cris et les Naskapis du Québec

Kanesatake Interim Land Base Governance Act
Loi sur le gouvernement du territoire provisoire de Kanesatake

Mi'kmaq Education Act
Loi sur l'éducation des Mi'kmaq

Nisga'a Final Agreement Act
Loi sur l'Accord définitif nisga'a

Sechelt Indian Band Self-Government Act
Loi sur l'autonomie gouvernementale de la bande indienne sechelte

Tlicho Land Claims and Self-Government Act
Loi sur les revendications territoriales et l'autonomie gouvernementale du peuple tlicho

Westbank First Nation Self-Government Act
Loi sur l'autonomie gouvernementale de la première nation de Westbank

Yukon First Nations Self-Government Act
Loi sur l'autonomie gouvernementale des premières nations du Yukon

PART 2

AGREEMENTS RELATED TO SELF-GOVERNMENT

Carcross/Tagish First Nation Self-Government Agreement
Entente sur l'autonomie gouvernementale de la Première nation de Carcross/Tagish

Champagne and Aishihik First Nations Self-Government Agreement
Entente sur l'autonomie gouvernementale des Premières Nations de Champagne et de Aishihik

Kluane First Nation Self-Government Agreement
Entente sur l'autonomie gouvernementale de la Première nation de Kluane

Kwanlin Dun First Nation Self-Government Agreement
Entente sur l'autonomie gouvernementale de la Première nation des Kwanlin Dun

Little Salmon/Carmacks Self-Government Agreement
Entente sur l'autonomie gouvernementale de la première nation de Little Salmon/Carmacks

Nacho Nyak Dun First Nation Self-Government Agreement
Entente sur l'autonomie gouvernementale de la première nation des Nacho Nyak Dun

Selkirk First Nation Self-Government Agreement
Entente sur l'autonomie gouvernementale de la première nation de Selkirk

ANNEXE
(article 2, alinéa 15(1)c) et article 39)

PARTIE 1

LOIS RELATIVES À L'AUTONOMIE GOUVERNEMENTALE AUTOCHTONE

Loi sur l'Accord définitif nisga'a
Nisga'a Final Agreement Act

Loi sur l'autonomie gouvernementale de la bande indienne sechelte
Sechelt Indian Band Self-Government Act

Loi sur l'autonomie gouvernementale de la première nation de Westbank
Westbank First Nation Self-Government Act

Loi sur l'autonomie gouvernementale des premières nations du Yukon
Yukon First Nations Self-Government Act

Loi sur l'éducation des Mi'kmaq
Mi'kmaq Education Act

Loi sur le gouvernement du territoire provisoire de Kanesatake
Kanesatake Interim Land Base Governance Act

Loi sur les Cris et les Naskapis du Québec
Cree-Naskapi (of Quebec) Act

Loi sur les revendications territoriales et l'autonomie gouvernementale du peuple tlicho
Tlicho Land Claims and Self-Government Act

PARTIE 2

ACCORDS RELATIFS À L'AUTONOMIE GOUVERNEMENTALE AUTOCHTONE

Entente sur l'autonomie gouvernementale de la Première nation de Carcross/Tagish
Carcross/Tagish First Nation Self-Government Agreement

Entente sur l'autonomie gouvernementale de la Première nation de Kluane
Kluane First Nation Self-Government Agreement

Entente sur l'autonomie gouvernementale de la première nation de Little Salmon/Carmacks
Little Salmon/Carmacks Self-Government Agreement

Entente sur l'autonomie gouvernementale de la première nation de Selkirk
Selkirk First Nation Self-Government Agreement

Entente sur l'autonomie gouvernementale de la première nation des Gwitchin Vuntut
Vuntut Gwitchin First Nation Self-Government Agreement

Entente sur l'autonomie gouvernementale de la Première nation des Kwanlin Dun
Kwanlin Dun First Nation Self-Government Agreement

Entente sur l'autonomie gouvernementale de la première nation des Nacho Nyak Dun
Nacho Nyak Dun First Nation Self-Government Agreement

Ta'an Kwach'an Council Self-Government Agreement
Entente sur l'autonomie gouvernementale du Conseil des Ta'an Kwach'an

Teslin Tlingit Council Self-Government Agreement
Entente sur l'autonomie gouvernementale du conseil des Tlingits de Teslin

Tr'ondek Hwech'in Self-Government Agreement
Entente sur l'autonomie gouvernementale des Tr'ondèk Hwèch'in

Vuntut Gwitchin First Nation Self-Government Agreement
Entente sur l'autonomie gouvernementale de la première nation des Gwitchin Vuntut

Entente sur l'autonomie gouvernementale des Premières Nations de Champagne et de Aishihik
Champagne and Aishihik First Nations Self-Government Agreement

Entente sur l'autonomie gouvernementale des Tr'ondèk Hwèch'in
Tr'ondek Hwech'in Self-Government Agreement

Entente sur l'autonomie gouvernementale du Conseil des Ta'an Kwach'an
Ta'an Kwach'an Council Self-Government Agreement

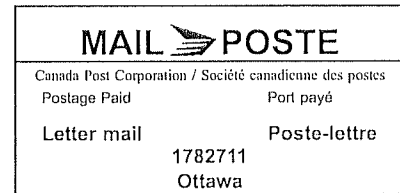
Entente sur l'autonomie gouvernementale du conseil des Tlingits de Teslin
Teslin Tlingit Council Self-Government Agreement

Published under authority of the Speaker of the House of Commons

Available from:
 Publishing and Depository Services
 Public Works and Government Services Canada
 Ottawa, Ontario K1A 0S5
 Telephone: (613) 941-5995 or 1-800-635-7943
 Fax: (613) 954-5779 or 1-800-565-7757
publications@pwgsc.gc.ca
<http://publications.gc.ca>

Publié avec l'autorisation du président de la Chambre des communes

Disponible auprès de :
 Les Éditions et Services de dépôt
 Travaux publics et Services gouvernementaux Canada
 Ottawa (Ontario) K1A 0S5
 Téléphone: (613) 941-5995 ou 1-800-635-7943
 Télécopieur: (613) 954-5779 ou 1-800-565-7757
publications@tpsgc.gc.ca
<http://publications.gc.ca>



If undelivered, return COVER ONLY to:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5

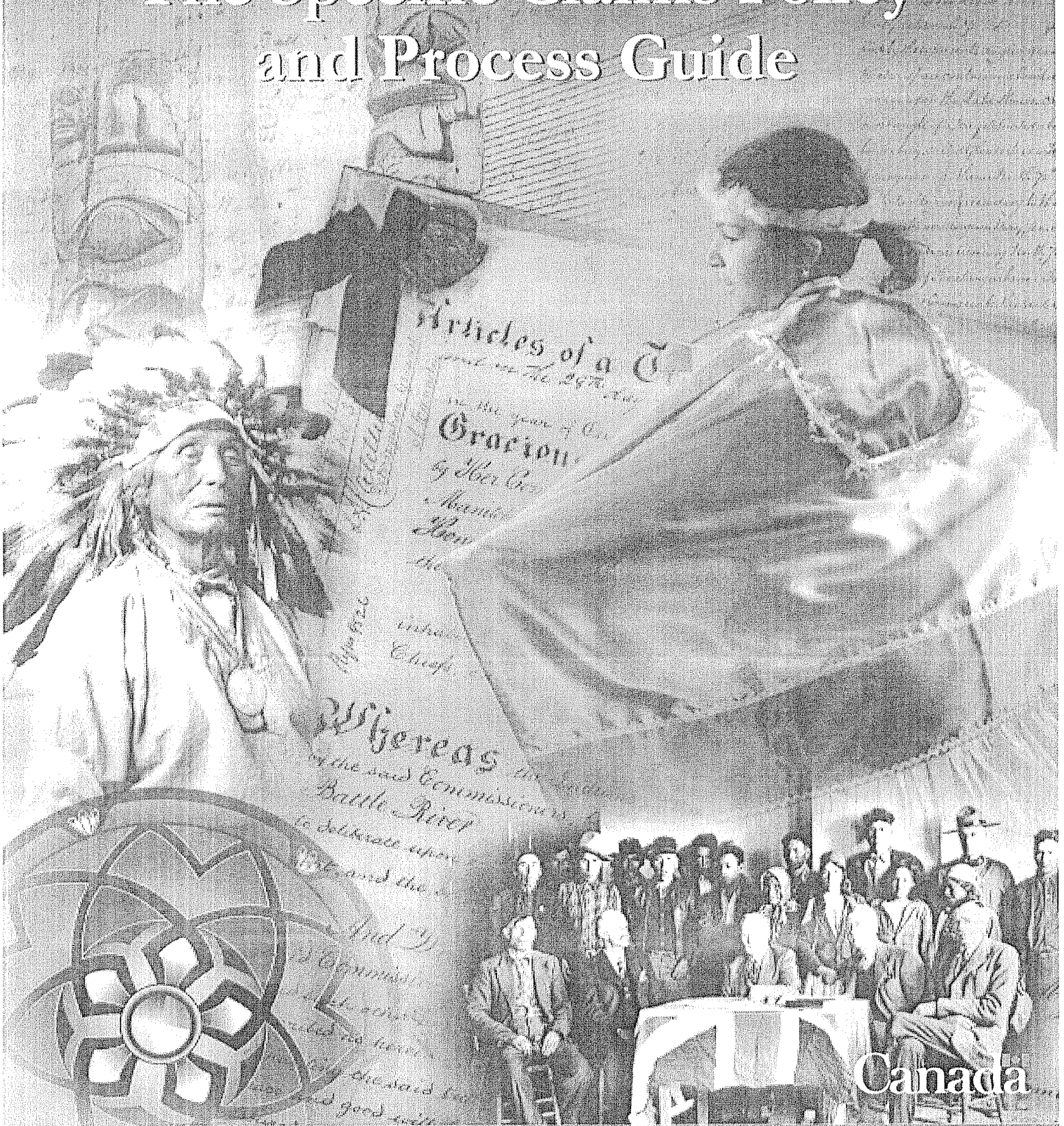
En case de non-livraison,
retourner cette COUVERTURE SEULEMENT à :
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5

Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
<http://www.parl.gc.ca>

Available from:
Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: (613) 941-5995 or 1-800-635-7943
Fax: (613) 954-5779 or 1-800-565-7757
publications@pwgsc.gc.ca
<http://publications.gc.ca>

Disponible auprès de :
Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : (613) 941-5995 ou 1-800-635-7943
Télécopieur : (613) 954-5779 ou 1-800-565-7757
publications@tpsgc.gc.ca
<http://publications.gc.ca>

The Specific Claims Policy and Process Guide



Published under the authority of the
Minister of Indian Affairs and Northern
Development and Federal Interlocutor for
Métis and Non-Status Indians
Ottawa, 2009

www.aanic-inaic.gc.ca
1-800-567-9604
TTY only 1-800-563-0554

CN 6401-000-004-A1
Cat. no. R12-245/2009
ISBN 978-0-662-06458-0

Minister of Public Works and Government
Services Canada

Cette publication est aussi disponible en français
sous le titre : Politique sur les revendications
particulières et Crûde sur le processus de règlement

4. Compensation shall not include any additional amount based on "special value to the owner" unless it can be established that the land in question had a special economic value to the claimant band, over and above its market value.
5. Compensation shall not include any additional amount for the forcible taking of land.
6. Where compensation received is to be used by the First Nation for the purchase of other lands, such compensation may include reasonable acquisition costs, but these costs must not exceed 10% of the appraised value of the lands to be acquired.
7. Where it can be justified, a reasonable portion of the costs of negotiation may be added to the compensation paid.
8. In any settlement of specific native claims the government will take third party interests into account. As a general rule, the government will not accept any settlement which will lead to third parties being dispossessed.
9. Any compensation paid in respect to a claim shall take into account any previous expenditures already paid to the claimant in respect to the same claim.
10. The criteria above are general in nature and the actual amount which the claimant is offered will depend on the extent to which the claimant has established a valid claim, the burden of which rests with the claimant. As an example, where there is doubt that the lands were ever reserve land, the degree of doubt will be reflected in the compensation offered.

In respect to criterion 2, established practice will continue. Compensation will be equal to the market value of the reserve land at the time that it was taken brought forward to the present value. Similarly, in respect to damage, compensation will be equal to the historical value of the damage done brought forward to the present value.

Certainty and Finality

The federal government requires certainty and finality when it settles a claim. A claim settlement must achieve complete and final redress of the claim. First Nations must, therefore, provide the federal government with a release and an indemnity with respect to the claim, and may be required to provide a surrender, end litigation or take other steps so that the claim cannot be re-opened at some time in the future.

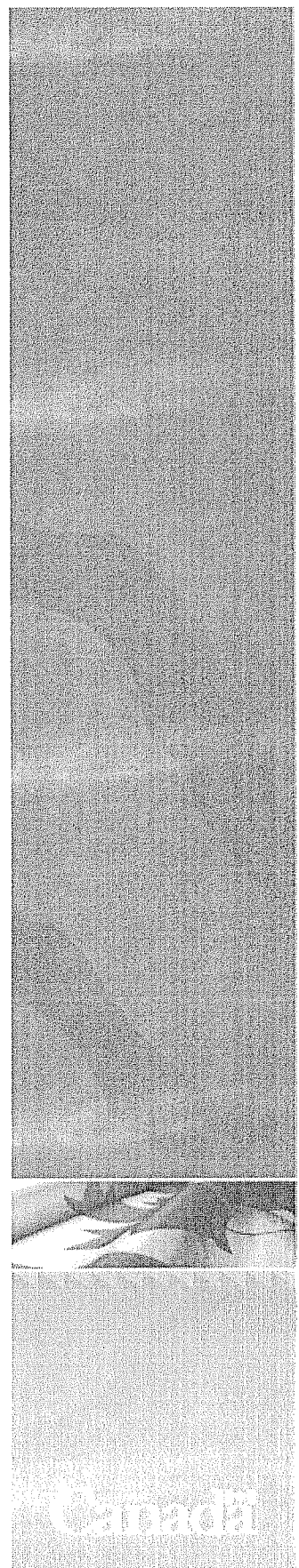
In any settlement of specific claims the federal government will take third party interests into account. The federal government will not accept any settlement which will lead to third parties being dispossessed. A claimant may use settlement money to purchase lands. Any land purchased by a claimant would be on a willing-seller/willing-buyer basis.

First Nations achieving a settlement of their claims are expected to manage the proceeds of the settlement themselves. In the case of substantial settlements, the final agreement may specify the structure of mechanisms established by the First Nation to administer settlement benefits.



Indian and Northern Affairs Canada
Affaires indiennes et du Nord Canada

LAND MANAGEMENT MANUAL



Canada

INDEX TO CHAPTER 10 ADDITIONS TO RESERVE

INDEX OF DIRECTIVES

DIRECTIVE TITLE AND NUMBER		PAGES
Directive 10-1:	Contents	3 - 5
	Additions to Reserves / Introduction	5 - 20
	Annex A	21 - 30
	Annex B	31 - 40
	Annex C	41 - 58
	Annex D	59 - 61
Directive 10-2:	Partial Subsurface Interest Additions	63 - 64
Directive 10-3:	Accretion / Erosion	65 - 66
Directive 10-4:	Small Mineral Additions	67 - 68
Directive 10-5:	Small Surface Additions	69 - 71
Directive 10-6	Section 36 - Special Reserves	73 - 74
Directive 10-7	Joint Reserves	75 - 78

CONTENTS

SECTION	PAGE
Directive 10 - 1	
1. Introduction	5
2. Authorities	7
3. Definitions	8
4. ATR Process Overview	9
5. ATR Policy Categories	10
6. Principles for Site Specific Criteria	14
7. References	18
 ANNEX	
A. Site Specific Criteria: Legal Obligation	21
B. Site Specific Criteria: Community Additions	31
C. Site Specific Criteria: New Reserves / Other Policy	43
D. The ATR Process	61

- 6.13 **Good Title Transfer and Third Party Interests in Land** Appropriate surveys, proper land descriptions and title searches must be done for every ATR proposal.
- 6.14 Additionally, lessees, subsurface right holders and other third parties may have legal interests in the land proposed for ATR or have a legal right of access to the land or a legal right to use the land, e.g., through leases, licences, permits, easements, rights of way, etc.
- 6.15 The change in title and jurisdiction involved in granting reserve status to land is a complicating factor affecting third party interests which does not occur in otherwise similar municipal boundary expansions. Once the land becomes a reserve, these interests will be subject to federal jurisdiction and the statutory regime of the *Indian Act*. This often involves negotiating an agreement to purchase the interests outright or to ensure that the interests remain in force and effect on the land once it is granted reserve status.
- 6.16 These third party interests must therefore be dealt with prior to the acquisition of land by INAC or the granting of reserve status. In regions where claims implementation legislation applies, it may be possible for First Nations to conduct a referendum/designation vote addressing third party interests on land being proposed under a claim before the land is granted reserve status. Otherwise, the First Nation can only designate the land after the land becomes reserve.
- 6.17 **Financial Implications and Funding Sources** An ATR reserve proposal may potentially impact on INAC and other federal government programming. Additions to reserves and new reserves must be affordable and the funding sources for any anticipated costs must be identified before an AIP can be given.
- 6.18 INAC funding impacts may include increased requirements for investments in capital and maintenance funding to service the new or expanded reserve land base. (e.g., both core and non-core funding for construction of roads and road maintenance, new schools, extension of subdivisions, sewer and water, etc.), as well as ongoing program funding (to support social programs, health services, education, etc.), to serve any potential increase in the on-reserve population.

Annex A

Site-Specific Criteria for Legal Obligations Proposals (Treaty Land Entitlement, Specific Claims and Legal Reversions)

1. General

- 1.1 These criteria apply to proposals that seek reserve status under specific claim settlement agreements (Treaty Land Entitlement, Specific Claims), as well as to legal reversions of former reserve land (where the original expropriation/transfer included a specific reversion clause returning the land to Canada when the land is no longer required for the original purposes, e.g., railways, roads, etc.).
- 1.2 In order to implement a court order, INAC regions must consult with the Department of Justice.
- 1.3 Where site-specific criteria are covered by claim settlement agreements, the provisions in such agreements take precedence over any of the site-specific criteria in this annex.
- 1.4 Where settlement agreements are silent on land selection, the ATR policy is that proposal must involve additions to reserve (as opposed to new reserves).
- 1.5 Where settlement agreements are silent on funding entitlement, the ATR policy is that there is no such entitlement.
- 1.6 In cases of legal reversions, proposals can result in additions to reserves or new reserves. It should be noted that reversions resulting from the restrictions in the *Railway Act* will not fall under the "Legal Obligations/Legal Reversions" policy of this directive unless there was also an express reversionary provision in the order authorizing the taking for railway purposes. Where there is no such reversionary clause, such proposals may be considered under either the "Community Additions" or "New Reserves/Policy" category (depending on whether they result in additions to reserves or new reserves).
- 1.7 Regions, and, where applicable, specific claim negotiators, should ensure that any communications planning with the First Nation is addressed well in advance of land selections by the First Nation.

5. Other Federal Government Departments/Agencies

- 5.1 The cost implications of ATR proposals for other federal government departments and agencies should also be provided for in the claim settlement agreement. Since these pressures cannot be used to frustrate a legal commitment to reserve creation, First Nations should be informing other federal departments and agencies of potential operational pressures in advance of potential reserve creation, i.e., preferably, before claim settlement agreements are concluded. Notice of proposed individual additions however should be given, as a courtesy, to other affected federal government departments or agencies, e.g., Health Canada, the RCMP, etc. Three months should be allowed for a response.

6. Existing Encumbrances

- 6.1 Land to be acquired under an ATR proposal may be subject to either existing legal interests in the land or existing rights to use the land. Examples of such encumbrances are leases, licences, permits, easements, rights of way, etc. The claim settlement agreement should provide how these interests will be treated.
- 6.2 In order to determine what, if any, encumbrances there are, INAC should ask the Department of Justice to arrange for a title search to be done against the land which is the subject of a proposal.
- 6.3 These encumbrances, which are legal interests in or rights to use the land, are distinct from the non-legal issues or concerns that a municipality or other third party may raise and should not be confused with such issues.
- 6.4 Where such encumbrances are not addressed in the settlement agreement, they should be minimized to the extent possible by the time the land is granted reserve status. This will allow the First Nation to enjoy the intended benefits from its proposed land use. If necessary, a limited degree of encumbrance is acceptable, as long as it does not affect the First Nation's proposed land use and does not conflict with the *Indian Act*, e.g. short-term licences granted under the *Federal Real Property and Federal Immovables Act* (FRPFIA) or provincial grants of subsurface mineral rights.

- 6.5 Existing encumbrances must be specifically identified and mechanisms for dealing with them must be determined in conjunction with the Department of Justice prior to the proposed acquisition by INAC. Encumbrances include both registered and unregistered interests/uses (where such unregistered interests are known).
- 6.6 Unless otherwise provided for in the claim settlement agreement, consistent with the objective of speeding up the ATR process, consideration should be given to taking title to the land subject to the existing interests/uses, as opposed to negotiating the revocation of such interests/uses and their conversion into an interest/use under the *Indian Act*. On this last point, if a third-party is concerned over the legality and/or certainty of its interest or right to use the land, another technical option is to create the interest/use under FRPFIA, set the land aside subject to the FRPFIA interest/use and then convert the interest/use into an *Indian Act* transaction once the land has reserve status.

7. Access

- 7.1 Where third party land would be "landlocked" by the addition to reserve or new reserve, legal access over the proposed reserve is to be negotiated, as a legal conveyancing requirement, by the First Nation before agreement in principle is granted. The need for access to utilities should also be negotiated with respect to the proposed reserve land. Upon First Nation request, INAC may lend technical assistance in support of the First Nation's negotiating lead.

8. Contiguity of Multiple Parcels

- 8.1 Where more than one parcel is proposed to be set aside as reserve, parcels should be contiguous/adjacent to one another.

9. Parcel Boundaries

- 9.1 Where relevant, the boundaries of additions/new reserves should follow natural water boundaries.
- 9.2 Parcel boundaries shall be described in accordance with the February 6, 1998 INAC/NRCan agreement on legal descriptions.