

Indian Specific Claims Commission

Performance Report

For the period ending
March 31, 2009

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Minister's Message

Specific claims deal with past grievances of First Nations relating to Canada's obligations regarding the administration of land and other First Nations assets and the fulfillment of Indian Treaties.

Created in 1991 under the federal *Inquiries Act*, the primary role of the Indian Specific Claims Commission (ISCC) was to provide an alternative to the courts for First Nations whose specific claims have been rejected by Canada.

However, the Commission was only meant as an interim measure. In its annual reports to Parliament over the past ten years, the ISCC repeated the recommendation that it should be replaced by an independent body with real adjudicative powers. Such an independent body was created on October 16, 2008 when the *Specific Claims Tribunal Act* came into effect.

As a result, the Commission ceased its operations and closed its doors on March 31, 2009.

The mediation and facilitation services provided by the Commission have been of great assistance to Canada and First Nations over the past 18 years. We are grateful for the hard work of the many people who graced its doors.

As the doors of the ISCC close, Canada steps into a next phase to speed up the resolution of specific claims in Canada, after a history of calls for and efforts to create an independent Tribunal on specific claims. While negotiations will continue to be Canada's first choice for resolving specific claims, First Nations can now refer their claims to the independent Tribunal for a binding decision when other options fail.

The past work of the ISCC supported Canada's specific claims policy. Today, we continue to make progress in implementing and resolving specific claims across the country in order to provide justice to First Nation claimants and certainty for all Canadians.

The Honourable Chuck Strahl, P.C., M.P.
Minister of Indian Affairs and Northern Development and
Federal Interlocutor for Métis and Non-Status Indians

Section I: Overview

Raison d'être and Responsibilities

The Indian Claims Commission of Inquiry established by Order in Council in 1991 under Part I of the *Inquiries Act*. The Commission had a double mandate: to inquire, at the request of a First Nation, into its specific claim, and to provide mediation services, with the consent of both parties, for specific claims at any stage of the process. An inquiry took place when the Minister of Indian and Northern Affairs Canada rejected a First Nation's claim, or when the Minister had accepted the claim for negotiation but a dispute had arisen over the compensation criteria applied to settle the claim.

As part of its mandate to find more effective ways to resolve specific claims, the Commission had established a process to inquire into and review government decisions regarding the merits of a claim and the applicable compensation principles when negotiations had reached an impasse. Since the Commission was not a court, it was not bound by strict rules of evidence, limitation periods and other technical defences that could have presented obstacles in litigation of grievances against the Crown. This flexibility removed those barriers and gave the Commission the freedom to conduct fair and objective inquiries in as expeditious a way as possible. In turn, these inquiries offered the parties innovative solutions in their efforts to resolve a host of complex and contentious issues of policy and law. Moreover, the process emphasized principles of fairness, equity and justice to promote reconciliation and healing between First Nation and non-First Nation Canadians.

The Commission provided broad mediation and facilitation services at the request of both the First Nation and the Government of Canada. Together with the mediator, the parties decided how the mediation process was to be conducted. This method ensured that the process fit the unique circumstances of each particular negotiation.

The process used by the Commission for handling claims was aimed at increasing efficiency and effectiveness in resolving specific claims. There were five stages to the inquiry process and four stages in the mediation process, which began when a request was received from a First Nation.

In November 2007, the Indian Claims Commission's mandate was amended by Order in Council to conclude the Commission's work on March 31, 2009. The changes were as follows:

- The Commission could not accept new claims for inquiry;
- It was directed to cease all activities on inquiries that had not yet reached the community session phase, or if requested to do so by the First Nation;
- It must complete all the inquiries, including the related reports, that have reached the community session phase by December 31, 2008;
- And cease all its activities, including those related to mediation, by March 31, 2009.

Program Activity Architecture (PAA)

The ISCC operates with strategic outcome: "Fair Resolution of Indian Specific Claims". The description of the program activity was changed from "*Indian Specific Claims Commission*" to "*Conduct Inquiries and Provide Mediation Services*" in order to provide a more informative description of the Commission's mandate.

Strategic Outcome	Program Activity
Fair Resolution of Indian Specific Claims	Conduct Inquiries and Provide Mediation Services

Planning Summary

2008–2009 Financial Resources (\$ thousands)			2008–2009 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
4,229	5,430	4,994	37	22	15

Strategic Outcome: Fair Resolution of Indian Specific Claims

(\$ thousands)

Program Activity	2007–2008 Actual Spending	2008–2009				Alignment to Government of Canada Outcomes
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Conduct inquiries and provide mediation services	6,106	4,229	4,229	5,430	4,994	The ISCC's strategic outcome is linked to the Government of Canada Outcome Area entitled: "A diverse society that promotes linguistic duality and social inclusion.
Total	6,106	4,229	4,229	5,430	4,994	

The 2008–2009 Actual Spending represent a decrease of approximately \$0.4M or 8% over the 2008–2009 Total Authorities of \$5.4M. The difference is attributed to the concluding operations that were completed by March 31, 2009.

Departmental Performance

By Order in Council, the Indian Claims Commission formally closed its doors on March 31, 2009, after 18 year of operation. This last year, the Commission finished 7 inquiries and published 9 inquiry reports; in the area of mediation, the ICC worked on 12 files and released 5 reports, for a grand total, over the 18 years of its existence, of 88 inquiries with reports and 17 mediation reports.

Voted and Statutory Items

(\$ thousands)

Vote or Statutory Item (S)	Truncated Vote or Statutory Wording	2006–2007 Actual Spending	2007–2008 Actual Spending	2008–2009 Main Estimates	2008–2009 Actual Spending
50	Program expenditures	5,936	5,561	3,867	4,696
(S)	Contributions to employee benefit plans	598	545	362	298
<i>The 2008–2009 Actual Spending represent a decrease of approximately \$1.1M or 18% compared to the 2007–2008 Actual Spending. The difference is attributed to the concluding operations that were completed by March 31, 2009.</i>					

Section II: Analysis of Program Activities

Strategic Outcome

Fair Resolution of Indian Specific Claims

Program Activity

Conduct Inquiries and Provide Mediation Services

The Commission finished 7 inquiries and published 9 inquiry reports; in the area of mediation, the ICC worked on 12 files and released 5 reports. For more details please see the Indian Claims Commission Annual Report 2008–2009.

Section III: Financial Highlights

(\$ thousands)

Condensed Statement of Financial Position At End of Year (March 31, 2009)	% change	2009	2008
Total Assets	-50%	70	141
Total Liabilities	85%	1,170	634
Total Equity	123%	(1,100)	(493)
TOTAL	-50%	70	141

(\$ thousands)

Condensed Statement of Operations For the year ended March 31, 2009	% change	2009	2008
Total Expenses	-24%	5,083	6,678
Total Revenues	-94%	1	16
NET COST OF OPERATIONS	-24%	5,082	6,662