

Indian Specific Claims Commission

2007-2008

Report on Plans and Priorities

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Métis and Non-Status Indians

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SECTION I – OVERVIEW

1. Chief Commissioner's Message

It is my honour to present the Indian Specific Claims Commission's (ISCC) first stand-alone Report on Plans and Priorities.

The ISCC operates according to the following four principles: 1. Independence and Impartiality; 2. Equity and Natural Justice; 3. Openness and Transparency; and 4. Importance of Oral History. These principles guide us in developing and sustaining our relationships, as well as conducting our activities.

In the fall of 2006, the ISCC celebrated its fifteenth anniversary operating as a Commission of Inquiry. Since its inception in 1991, the Commission has gained credibility as an independent, neutral body that conducts inquiries into specific claims disputes between First Nations and the Government of Canada, as well as providing mediation services at any stage of the claims process to foster achievement of positive outcomes. Since that time, we have completed 69 inquiries and 11 mediations.

The Commission's mandate – to conduct inquiries and to provide mediation/facilitation services – is fulfilled by a part-time Chief Commissioner and part-time Commissioners, with the support of staff. Our work is carried out in the ISCC's offices and in the field during staff visits, community sessions, oral hearings and mediation sessions anywhere in Canada. The ISCC's inquiry and mediation processes enable Canada and First Nations to take a fresh look at claims, and those processes offer innovative solutions to the parties in their efforts to resolve complex and contentious issues of policy and law.

In fulfilment of its mandate, the ISCC has developed a sound reputation for conducting its inquiries and providing mediation services in a balanced and neutral manner that favours neither party in the process. As Chief Commissioner, I actively support approaches to the issues and concerns of the parties that foster the greatest degree of impartiality and independence so that the credibility and acceptance of our work and findings is beyond reproach.

We at the Commission see our role as bridging different perspectives. The ISCC plays a unique role in Canada as we work between parties with opposing viewpoints during inquiries and with parties having different perspectives during mediations. Despite all of our best efforts, different perspectives will continue to characterize the specific claims process in Canada for some time. This concept of bridging will remain critical if we are to make collective progress in the specific claims area.

The Commissioners and staff look forward to making a positive contribution to the Indian specific claims process and we will continue to work diligently within our mandate and resources in order to remain effective.



Renée Dupuis, C.M.
Chief Commissioner

2. Management Representation Statement

I submit for tabling in Parliament, the 2007-2008 *Report on Plans and Priorities* (RPP) for the Indian Specific Claims Commission.

This document has been prepared based on the reporting principles contained in *Guide for the Preparation of Part III of the 2007-2008 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- It adheres to the specific reporting requirements outlined in the TBS guidance;
- It is based on the Commission's strategic outcome and Program Activity Architecture that was approved by the Treasury Board;
- It presents consistent, comprehensive, balanced and reliable information;
- It provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- It reports finances based on approved planned spending numbers from the Treasury Board Secretariat.

Alan Winberg
Executive Director
Indian Specific Claims Commission

3. Program Activity Architecture (PAA) Crosswalk

In June 2006 the ISCC sought and received Treasury Board approval of its Program Activity Architecture submission. While the ISCC's strategic outcome of "Fair resolution of Indian specific claims" remains the same as last year, the wording of the program activity has been changed from "Indian Specific Claims Commission" to "conduct inquiries and provide mediation services" in order to provide a better description of what we do.

2007-2008		
(\$ thousands)	Conduct Inquiries and Provide Mediation Services	Total
Indian Specific Claims Commission	\$6,800.0	\$6,800.0

4. Summary Information

Reason for Existence

The mission of the Indian Specific Claims Commission is to assist First Nations and Canada to resolve specific claims in the context of the Specific Claims Policy. The Commission operates at arms-length of the government and First Nations. It is a commission of inquiry offering to a First Nation, at its request, an independent and neutral process – other than litigation – to inquire into specific claims that have been examined and rejected by the Minister of DIAND or when the First Nation disputes the compensation criteria the government proposes to use in negotiating the settlement of its claim. At any stage of the specific claims process, the Commission can provide for mediation or facilitation services to assist the parties in reaching a satisfactory resolution when requested by both the First Nation and Canada. The Commission may also prepare reports from time to time that the Commissioners consider are required in respect of the Commission's activities and the activities of the Government of Canada and the Indian band(s) relating to specific claims.

Depending on the exact nature of the Indian specific claim, the fair resolution of the claim can provide a range of benefits including:

- better legal risk management;
- enhanced safety and security of people and property;
- closure for the First Nation of their historic grievance;
- greater certainty over lands and resources;
- enhanced socio-economic opportunities for First Nations and their neighbours;
- improved relationships between First Nations, governments and communities;
- enhanced international respect for Canada's treatment of its Aboriginal peoples;
- improved knowledge and understanding by the public of historical claims.

Financial Resources

(\$ thousands)		
2007-2008	2008-2009	2009-2010
\$6,800.0	--	--

Human Resources

2007-2008	2008-2009	2009-2010
49 FTEs	--	--

Departmental Priorities

Name	Type
1. Conduct fair and impartial inquiries.	Ongoing
2. Provide mediation services at any stage of a claim.	Ongoing

5. Departmental Plans and Priorities

Background

In 1991, following the Oka crisis of 1990, the federal government created the Indian Specific Claims Commission pursuant to the *Inquiries Act*. This statute permits the Governor in Council to approve an Order in Council that establishes independent commissions to conduct inquiries on matters associated with good government. The Order in Council for the establishment of the Indian Specific Claims Commission (the Commission) designated the Prime Minister as the appropriate Minister for purposes of the *Financial Administration Act*.

In July 2004, the Governor in Council approved an Order in Council designating the Minister of Indian Affairs and Northern Development (DIAND) as the appropriate Minister for purposes of the *Financial Administration Act*. It should be noted, however, that the Commission continues to operate at an arms-length basis, independent of government, while reporting on its activities in an annual report to the Governor in Council, as well as to Parliament and in its Report on Plans and Priorities and the Commission's Performance Report. The Commission also provides information to the public concerning its activities and results, issues special reports, and from time to time is called upon to conduct speaking engagements.

To maintain its arms-length relationship from the Minister of DIAND, the Commission has entered into an agreement with the Canadian Human Rights Commission for the provision of corporate services.

Operating Environment

The Commission operates at arms-length and is independent from government. It is a commission of inquiry offering to First Nations a process, other than litigation, to inquire into

specific claims that have been examined and rejected by the Minister of DIAND, or when the First Nation disputes the compensation criteria established by the Minister for that particular claim.

When a First Nation has researched its specific claim and submitted it to the Minister of DIAND together with any supporting documentation, DIAND's Specific Claims Branch performs its own research and, with the involvement of the federal Department of Justice, determines if the claim establishes an *outstanding lawful obligation* on the part of the government. If the federal government does not believe it has an outstanding lawful obligation, the First Nation's claim is denied and the Minister of DIAND informs the First Nation that it will not negotiate a settlement. The First Nation then has two options: it can seek a remedy from the appropriate court, or it can request the Commission to conduct an inquiry. An inquiry typically takes between two and five years to complete, depending on the number of parties involved and the complexity of issues considered.

In this regard, it is important to note that the Commission does not operate as a court and is not, therefore, bound by the strict rules of evidence, the limitation periods in which claims can be brought nor other technical defences that might present obstacles to resolving the First Nation's claim against the Crown. This flexibility enhances the Commission's ability to conduct its inquiries in a fair and impartial manner in order to expedite the process of making recommendations to the Minister of DIAND regarding a First Nation's specific claim, or objection to the compensation criteria. This process fosters the development and implementation of innovative solutions that can resolve complex and contentious issues of policy and law related to Indian specific claims.

The Commission's staff is working at full capacity within the resources provided. Currently the Commission is conducting 37 inquiries and supporting 27 mediation or facilitation cases, as well as meeting information demands from the public and First Nations. With respect to the future workload, DIAND's Specific Claims Branch reports specific claims under review are continually increasing with the backlog reaching increasingly higher levels. Given the size of the current caseload, the demand for the Commission's services is forecast to continue well into the foreseeable future.

Plans and Priorities

The ISCC has one strategic outcome: Fair resolution of Indian specific claims.

The first priority of conducting fair and impartial inquiries supports this strategic outcome by providing First Nations with a neutral and objective mechanism for reviewing the decision of the Minister of DIAND rejecting their claim, or the compensation criteria being proposed to resolve the claim.

At the request of a First Nation when their specific claim has been denied by the Minister of DIAND or the First Nation disputes the compensation criteria the government proposes to use in negotiating settlement of the claim, the Commission will: conduct an inquiry; identify the issues; hear and assess the evidence, testimony and submissions; deliberate; and prepare and issue a

report of its findings and recommendations. Currently, there are 37 claims within the ISCC's inquiry process.

The second priority of providing mediation services at any stage of the claim process supports the Commission's strategic outcome by providing the First Nation and Canada, at the request of either party and on consent of both parties, with mediation services that help the parties to reach agreement on issues and possible solutions. Currently, there are 27 mediation cases.

Together with the mediator or facilitator, the parties decide how the negotiation process will be conducted. This approach ensures that the unique circumstances of each particular negotiation reflect the views of both parties. Mediation or facilitation services can be provided at any stage of the specific claims process.

The *Specific Claims Resolution Act* received Royal Assent in November 2003; however, it has not been brought into force. A dialogue for the purpose of finding an alternative resolution body and process for addressing Indian specific claims that is acceptable to all the parties continues. A report concerning specific claims issues was published in December 2006, by the Standing Senate Committee on Aboriginal Peoples. This report can be found on the Committee's website at: <http://www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/abor-e/rep-e/rep05dec06pdf-e.htm>

Challenges

The Commission faces a number of key challenges which include: maintaining the excellence of its operations while First Nations and the federal government continue the dialogue exploring alternative approaches for resolving Indian specific claims; documenting the knowledge gained from experiences to build upon and preserve valuable information and important lessons learned; meeting the increasing demand for its inquiry, mediation and facilitation services within finite fiscal resources; and expanding the awareness of the public about Indian specific claims in general and the progress being made towards resolving them.

**SECTION II – ANALYSIS OF PROGRAM ACTIVITIES BY
STRATEGIC OUTCOME**

1. Analysis by Program Activity

In the summer of 2006, the ISCC presented its Program Activity Architecture submission to Treasury Board. The following information was approved by Treasury Board.

Strategic Outcome:

Fair resolution of Indian specific claims

Program Activity Name:

Conduct inquiries and provide mediation services

Financial Resources:

(\$ thousands)		
2007-2008	2008-2009	2009-2010
\$6,800.0	--	--

Human Resources:

2007-2008	2008-2009	2009-2010
49	--	--

The ISCC conducts impartial inquiries when a First Nation disputes rejection of their specific claim by the Minister of Indian Affairs and Northern Development, or when a First Nation disagrees with the compensation criteria prescribed by the Government in negotiating a settlement of their claim.

As well as conducting formal inquiries, the ISCC can, at the request of either party and with consent of both the Government and the First Nation(s), provide or arrange for such mediation services at any stage in the claims process that the ISCC believes may assist the parties in reaching an agreement in respect of any matter relating to an Indian specific claim.

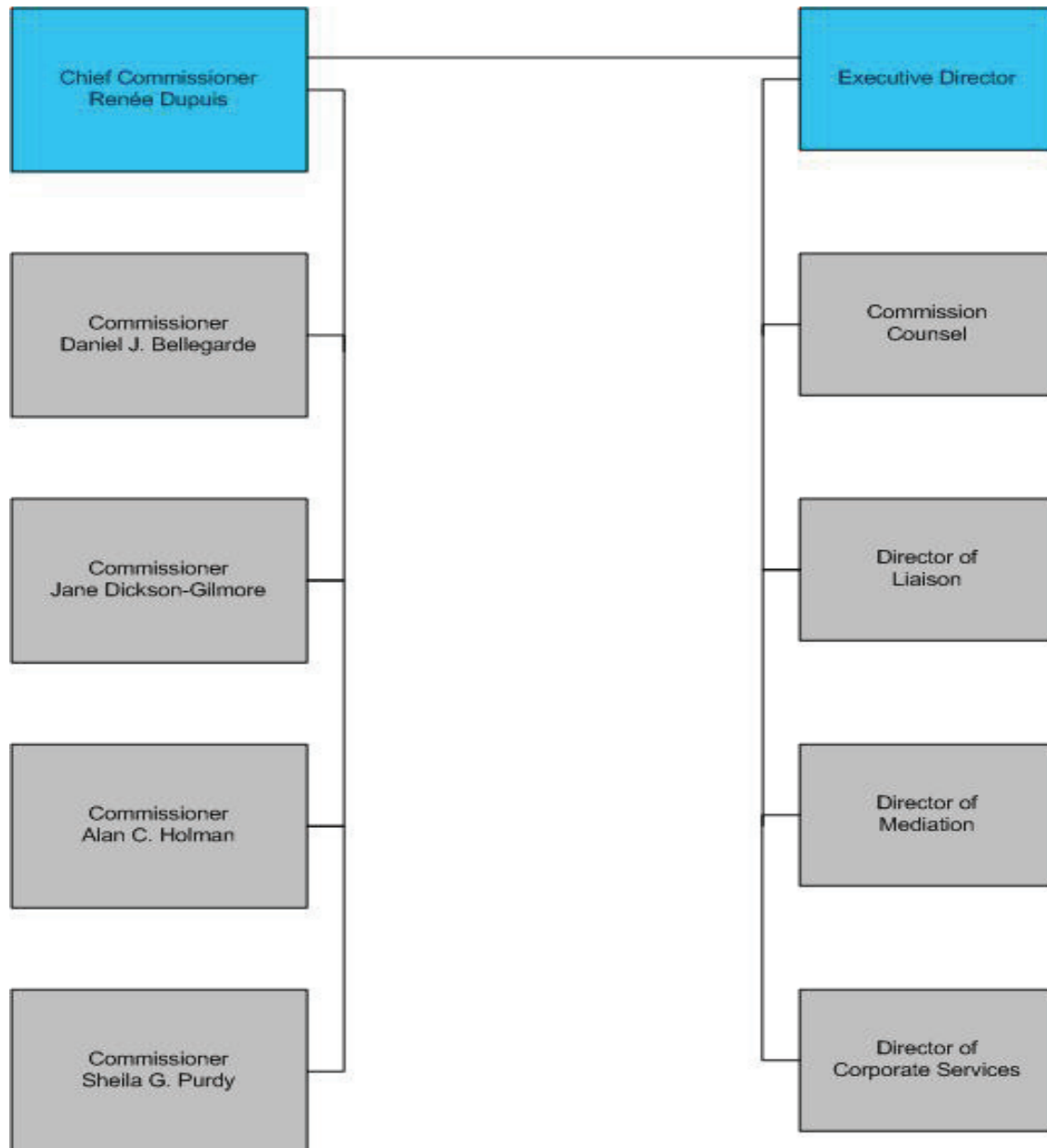
This activity results in inquiries being held and reports written containing findings and recommendations to the Minister of Indian Affairs. Mediation results in better understanding between the parties, leading to agreement on the issues and development of innovative solutions that support efforts to resolve the Indian specific claim.

The key performance measure for these results is the number of inquiries and mediations accepted and undertaken by the Commission, and the number of reports written and distributed. The intended strategic outcome of these reports is a fair resolution of the Indian specific claim.

SECTION III – SUPPLEMENTARY INFORMATION

1. Organizational Information

The ISCC is currently comprised of a part-time Chief Commissioner and four part-time Commissioners. There are two vacant Commissioner positions. The Commissioners are supported by Commission staff, headed by an Executive Director. The Management Committee includes the Executive Director, Commission Counsel, Director of Liaison, Director of Mediation, and Director of Corporate Services.



2. Commission's Links to the Government of Canada Outcomes

2007-2008				
(\$ thousands)	Budgetary			
Program Activity	Operating	Gross	Total Main Estimates	Total Planned Spending
Strategic Outcome: <i>Achievement of all Government of Canada outcomes</i>				
Conduct inquiries and provide mediation services	\$6,800.0	\$6,800.0	\$6,800.0	\$6,800.0

The Commission's strategic outcome contributes to all of the Government of Canada outcomes. In this regard, resolution of Indian specific claims often provides greater certainty over lands and resources, enhancing economic opportunities for First Nations, and contributing to strong economic growth. Resolution of Indian specific claims can result in improved relations between governments, First Nations and their neighbouring communities, fostering safer and more secure communities. Improved relations also support Canada's efforts to achieve a strong and mutually beneficial North American partnership.

3. Financial Tables

Table 1: Commission Planned Spending and Full-time Equivalents

(\$ thousands)	Forecast Spending 2006-2007*	Planned Spending 2007-2008	Planned Spending 2008-2009	Planned Spending 2009-2010
Conduct inquiries and provide mediation services	5,572.0	6,733.0	--	--
Total Main Estimates	5,572.0	6,733.0	--	--
<i>Adjustments:</i>				
Supplementary Estimates				
Funding to continue the operations of the Commission	1,093.0	--	--	--
Operating funding – Inquiries workload increase	20.0	--	--	--
Treasury Board Vote 15				
Salary increases resulting from collective bargaining agreements	72.0	67.0	--	--
<i>Total Adjustments</i>	1,185.0	67.0	--	--
Total Planned Spending	6,757.0	6,800.0	--	--
Total Planned Spending	6,757.0	6,800.0	--	--
Plus: Cost of services received without charge	676.0	667.0	--	--
Total Commission Spending	7,433.0	7,467.0	--	--
Full-time Equivalents	45	49	--	--

* Reflects the best forecast of total net planned spending to the end of the fiscal year.

The increase of \$34 thousand for 2007-2008 Total Planned Spending is mainly attributed to the increase for compensation for collective bargaining agreements signed by July 31, 2006.

The ISCC does not operate any transfer payment grant and contribution programs. All of the ISCC's funds are used to meet its operating costs. Slightly more than three-quarters of the budget is used to meet the costs of salaries, benefits and professional and special services. The balance of the budget is used to meet the costs of transportation to hold inquiries and mediation in First Nation communities, financial and administrative services, accommodation, and office equipment and supplies. This spending supports the work of the Commissioners and staff concerning the 37 inquiries and 27 mediations currently before the ISCC.

Table 2: Voted and Statutory Items Listed in Main Estimates

(\$ thousands)			
Vote or Statutory Item	Truncated Vote or Statutory Wording	Main Estimates 2007-2008	Main Estimates 2006-2007
50	Program expenditures	6,136.0	5,043.0
(S)	Contributions to employee benefit plans	597.0	529.0
	Total Commission	6,733.0	5,572.0

The increase of \$1.2 million between the 2007-2008 and the 2006-2007 Main Estimates represents the funding received through the 2006-2007 Supplementary Estimates (A), and that amount was for conducting regular operations of the Commission. In conclusion, the amount approved in 2006-2007 in Main Estimates and Supplementary Estimates equal Main Estimates of 2007-2008.

Table 3: Services Received Without Charge

(\$ thousands)	2007-2008
Accommodation provided by Public Works and Government Services Canada	441.0
Contributions covering employer's share of employees' insurance premiums and expenditures paid by Treasury Board of Canada Secretariat	226.0
Total 2007-2008 Services Received Without Charge	667.0

Table 4: Resource Requirement by Branch

2007-2008		
(\$ thousands)	Conduct inquiries and provide mediation services	Total Planned Spending
Commissioners' Office	707.0	707.0
Executive Office	360.0	360.0
Liaison	365.0	365.0
Legal and Research	2,137.0	2,137.0
Mediation	1,009.0	1,009.0
Corporate Services	2,222.0	2,222.0
Total	6,800.0	6,800.0

The organizational units of the Commission are not structured into Branches or Sectors.

4. Logic Model

To depict the relationships between the program inputs, results and outcomes, the following vertically aligned presentation displays the logic of the program design for the ISCC's strategic outcome of "Fair resolution of Indian specific claims." Accountability for the activities, results and outcomes resides with the Chief Commissioner.

Planned Outcomes

- Long-term: Inquire into specific land claims under appropriate circumstances; provide mediation and facilitation services for specific claims.
- Intermediate: Address specific claims on request.
- Immediate: Enhanced relationship between the First Nations and the government. Alternatives to litigation are available.

Results

Reports of inquiry and of mediation and other related reports; mediated or facilitated specific claims settlement agreements; improved public understanding of specific claims.

Activities

- Inquiries: research and document; receive and exchange information; conduct inquiries; deliberate, prepare and issue reports.
- Mediation: develop negotiation plans; facilitate meetings and communications; help define the issues; develop and propose innovative solutions to resolve the issues; and foster harmonious relationships between the parties.
- Public information: issue reports; maintain website.
-

5. Claims Process and Stages of Inquiry

The Commission operates at arms-length and is independent from government. It is a commission of inquiry offering to First Nations a process, other than litigation, to inquire into specific claims that have been examined and rejected by the Minister of DIAND, or when the First Nation disputes the compensation criteria established by the Minister for that particular claim.

In this regard, it is important to note that the Commission does not operate as a court and is not, therefore, bound by the strict rules of evidence, the limitation periods in which claims can be brought nor other technical defences that might present obstacles to resolving the First Nation's claim against the Crown. This flexibility enhances the Commission's ability to conduct its

inquiries in a fair and impartial manner in order to expedite the process of making recommendations to the Minister of DIAND regarding a First Nation's specific claim or objection to the compensation criteria. This process fosters the development and implementation of innovative solutions that can resolve complex and contentious issues of policy and law related to Indian specific claims.

A specific claim starts with a First Nation that has researched its claim and submitted it to the Minister of DIAND together with any supporting documentation. DIAND'S Specific Claims Branch performs its own research and, with the involvement of the Department of Justice, assesses the merits of the claim to determine if the claim establishes an *outstanding lawful obligation* on the part of the government, as defined in the Specific Claims Policy. If the federal government does not believe it has an outstanding lawful obligation, the First Nation's claim is denied and the Minister of DIAND informs the First Nation that it will not negotiate settlement of the claim. In this instance, apart from accepting the decision of the Minister, the First Nation has two options that it can pursue; it can seek a remedy from the appropriate court, or it can request the Commission to conduct an inquiry.

There are five stages to the Commission's inquiry process:

1. **Initial Request for Inquiry** – The Commission reviews the First Nation's request for an independent inquiry and, if it agrees to accept the specific claim for review and assessment, a panel of three Commissioners is formed to hear the inquiry.
2. **Preparation for Inquiry** – Briefing material is prepared and sent to all of the parties in advance to facilitate discussion. Counsel for both parties are asked to state the issues to be addressed by the inquiry, from which the Commission staff will attempt, in consultation with counsel for the parties, to generate a single list of issues. A planning conference is held among the parties and their counsel. In many instances, the need for further research is identified. If there is no consensus by the parties on a single list of issues, this matter is placed before the panel for decision.
3. **Staff Visit and Community Session(s)** – Commissioners and staff attend a session or series of sessions in the First Nation's community to hear directly from Elders and other knowledgeable members of the First Nation. In some instances, expert witnesses may be called upon to present evidence or testimony and are subject to cross examination by the other party.
4. **Written and Oral Submissions** – Both parties present submissions to the panel.
5. **Commissioners' Final Report** – The panel of Commissioners consider the evidence, testimony and submissions presented to them and issue a final report that contains their findings and recommendation that the Minister of DIAND not reconsider the decision to deny the specific claim, or that the Minister of DIAND accept the specific claim for negotiation.

These five stages typically take between two to five years to complete depending on the number and complexity of the parties involved and of the issues being considered.

The Commission's terms of reference also permit it to prepare reports, from time to time, that the Commissioners consider are required in respect of the Commission's activities and the activities of the Government of Canada and the Indian band(s) relating to specific claims.

6. Mediation/Facilitation Process

At the request of either Canada or the First Nation and with the consent of both, the Commission can provide or arrange for mediation assistance at any stage of the claims process. Depending on the nature of the claim, the Commission offers a broad range of alternative dispute resolution services tailored to suit the particular needs of the parties. The Indian Specific Claims Commission provides facilitative mediation services that are culturally sensitive, informal, non-threatening, and flexible. Together with the mediator, the parties decide how the mediation process will be conducted.

There are four steps in the Commission's mediation process:

1. **Preparation for Mediation** – The Commission reviews the claim being negotiated and brings representatives of the negotiating parties together face-to-face to discuss the issues and terms of the negotiation and mediation protocol agreements.
2. **Negotiation Process** – The Commission facilitates discussions on compensation, assists the parties by coordinating the gathering of information including land appraisals and joint loss of use studies, and monitors the parties' decisions and undertakings.
3. **Settlement** – When and after the negotiating parties reach an agreement in principle, lawyers for the First Nation and Canada work together to draft a final settlement agreement which is initialled by the negotiators and ratified by both parties.
4. **Final Mediation Report** – The Commission reports to the federal government, the First Nation and the public on the outcome of the negotiation.

7. CONTACTS

Indian Specific Claims Commission
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Ottawa, Ontario
K1P 1A2

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Internet: <http://www.indianclaims.ca>
E-mail: feedback@indianclaims.ca

SECTION IV – OTHER ITEMS OF INTEREST

1. List of All ISCC Concluded Inquiries and Mediations

This table updates readers on the status of claims for which the Indian Specific Claims Commission has completed its inquiry or mediation activities. For all the claims listed below, an inquiry or mediation report has been published and is available at <http://www.indianclaims.ca/publications/claimsreports-en.asp>.

The table tracks the progress of each claim through the specific claims process once the ISCC has completed its inquiry or mediation/facilitation services.

The first column lists the name of the First Nation and the type or title of the specific claim it brought to the ISCC for inquiry or mediation/facilitation. This information is followed by the outcome of the ISCC's inquiry or its mediation activities. The next column contains the date of the ISCC's report, which is followed by a column containing the date of Canada's response to ISCC's recommendation(s). The nature of that response and any settlement information available are also found in the last column.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
1 Alexis, AB TransAlta Utilities rights of way <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2003	In July 2005, government rejected recommendations, stating that a lump sum payment was adequate compensation, that there was no duty to advise the First Nation respecting its taxation powers, and that informed consent to the expropriation was not required.
2 Athabasca Chipewyan, AB W.A.C. Bennett Dam and damage to IR 201 <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1998	In April 2001, government rejected recommendations made in March 1998: "Canada did not have a fiduciary duty to protect Reserve No. 201 against damage caused by construction and the operation of the Bennett Dam by a third party. Canada did not have the duty to invoke the provisions of the <i>Navigable Waters Protection Act</i> to stop the construction of the Bennett Dam or dispose of it once it was built. Furthermore, Canada did not have an obligation on the basis of Treaty No. 8 to ensure that the reserve would be protected from any damage resulting from the construction and operation of the Bennett Dam."

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
3 Athabasca Denesuline, SK Treaty harvesting rights <i>1993 report recommended negotiation outside specific claims process. 1995 supplementary report noted failure of negotiations; recommended government recognize treaty rights or provide litigation funding.</i>	Inquiry December 1993 Supplementary report November 1995	In August 1994, government accepted recommendations made in December 1993 report. November 1995 supplementary report acknowledged; no further response.
4 Betsiamites Band, QC Highway 138 <i>Accepted with assistance of Commission</i>	Inquiry March 2005	In January 2004, government accepted claim for negotiation while inquiry underway.
5 Betsiamites Band, QC Rivière Betsiamites Bridge <i>Accepted with assistance of Commission</i>	Inquiry March 2005	In January 2004, government accepted claim for negotiation while inquiry underway.
6 Bigstone Cree Nation, AB Treaty land entitlement <i>Accepted with assistance of Commission</i>	Inquiry March 2000	In October 1998, government accepted claim for negotiation.
7 Blood Tribe/Kainaiwa, AB 1889 Akers surrender <i>Accepted with assistance of Commission</i>	Inquiry June 1999	In April 1998, government accepted claim for negotiation.
8 Blood Tribe/Kainaiwa, AB Akers surrender <i>Settled with assistance of Commission</i>	Mediation August 2005	In September 2003, claim settled for \$3.55 million in compensation.
9 Blueberry River and Doig River, BC Highway right of way IR 172 <i>Accepted while inquiry underway</i>	Inquiry March 2006	In September 2004, government accepted claim for negotiation while inquiry underway.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
10 Buffalo River, SK Primrose Lake Air Weapons Range II – loss of commercial and treaty harvesting rights <i>Recommended part of claim be accepted for negotiations</i>	Inquiry September 1995	In March 2002, government rejected recommendations stating: “[C]ompensation for commercial harvesting rights was not based on either Indian status or membership in an Indian Band; rather, it was to be paid to anyone who held a licence on the land which became the Primrose Lake Air Weapons Range.”
11 Canoe Lake, SK Primrose Lake Air Weapons Range – breach of treaty and fiduciary obligations <i>Recommended claim be accepted for negotiation</i>	Inquiry August 1993	In June 1997, claim settled for \$13,412,333 in federal compensation and a requirement that the First Nation purchase between 2,786 hectares and 20,224 hectares of land.
12 Canupawakpa Dakota, MB Turtle Mountain surrender <i>Recommended claim not be accepted, but recommended Canada and the First Nation work together to acquire and properly designate the burial sites</i>	Inquiry July 2003	Report acknowledged October 2003.
13 Carry the Kettle, SK Cypress Hills <i>Recommended claim not be accepted, but, pursuant to supplementary mandate, recommended government recognize the Carry the Kettle First Nation’s historical connection to the Cypress Hills and restore to the Assiniboine people their connection to the territory</i>	Inquiry July 2000	Rejected in January 2001. Government agreed with the Commission’s conclusion that the claim did not disclose a lawful obligation on the part of the government under the Specific Claims Policy. The government rejected the Commission’s recommendation to restore to the Assiniboine people their connection to the territory.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
14 Chippewa Tri-Council, ON Coldwater-Narrows reservation surrender <i>Accepted with assistance of Commission</i>	Inquiry March 2003	In July 2002, government accepted claim for negotiation while inquiry underway.
15 Chippewa Tri-Council, ON Collins Treaty <i>Accepted with assistance of Commission</i>	Inquiry March 1998	In December 1998, claim settled for \$565,000 in federal compensation.
16 Chippewas of Kettle and Stony Point, ON 1927 surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	No response from government. In 1998, the Supreme Court of Canada rendered its decision in the First Nation's appeal of the Ontario Court of Appeal's finding that the surrender was valid. The Supreme Court of Canada upheld the reasons of the lower court to find the surrender valid.
17 Chippewas of the Thames, ON Clench defalcation <i>Accepted with assistance of Commission</i>	Inquiry March 2002	In June 2001, government accepted claim for negotiation while inquiry underway.
18 Chippewas of the Thames, ON Clench defalcation <i>Settled with assistance of Commission</i>	Mediation August 2005	In November 2004, claim settled for \$15 million in federal compensation.
19 Chippewas of the Thames, ON Muncey land inquiry <i>Settled with assistance of Commission</i>	Inquiry December 1994	In January 1995, claim settled for \$5,406,905 in federal compensation.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
20 Cold Lake, AB Primrose Lake Air Weapons Range – breach of treaty and fiduciary obligations <i>Recommended claim be accepted for negotiation</i>	Inquiry August 1993	In March 2002, claim settled for \$25.5 million in federal compensation.
21 Cowessess, SK 1907 surrender <i>Recommended the portion of IR 73 surrendered in 1907 be accepted for negotiation</i>	Inquiry March 2001	In March 2002, government rejected recommendation, disagreeing with finding of number of voters present and with interpretation of “majority,” but will proceed to phase II of this inquiry as previously agreed upon by the parties.
22 Cowessess, SK 1907 surrender–Phase II <i>Split panel: 2 Commissioners recommended claim not be accepted for negotiation on the single issue of fiduciary duty; while 1 Commissioner recommended it be accepted</i>	Inquiry July 2006	No response from government.
23 Cowessess, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
24 Cumberland House, SK IR 100A <i>Recommended that the claim regarding IR 100A be accepted for negotiation</i>	Inquiry March 2005	No response from government.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
25 Duncan's, AB 1928 surrender <i>Majority of claim not recommended for negotiation, however, recommended that the surrender of IR 151E be accepted for negotiation</i>	Inquiry September 1999	In June 2001, government rejected recommendation regarding IR 151E made in September 1999 report, stating: "[T]he Commission did not examine the terms of the proposed lease and, as a result, made no finding that the 1923 lease proposal was either more or less advantageous to the First Nation than a surrender."
26 Eel River Bar, NB Eel River Dam <i>Recommended claim not be accepted for negotiation</i>	Inquiry December 1997	No substantive response from government required.
27 Esketemc, BC IR 15, 17, and 18 <i>Recommended that the disallowance or reduction of IR 15, 17, and 18 be accepted for negotiation</i>	Inquiry November 2001	In June 2005, government rejected recommendation, stating that Canada had no obligation or power to create reserves for the First Nation, and that the Commission's conclusions "are largely premised on findings ... that the First Nation had aboriginal rights and title to the land at issue."
28 Fishing Lake, SK 1907 surrender <i>Accepted with assistance of Commission</i>	Inquiry March 1997	In August 1996, government accepted claim for negotiation while inquiry underway.
29 Fishing Lake, SK 1907 surrender <i>Settled with assistance of Commission</i>	Mediation March 2002	In August 2001, claim settled for \$34.5 million in federal compensation.
30 Flying Dust, SK Primrose Lake Air Weapons Range II – loss of commercial and treaty harvesting rights <i>Recommended part of claim be accepted for negotiations</i>	Inquiry September 1995	In March 2002, government rejected recommendations made in September 1995 report, stating: "[C]ompensation for commercial harvesting rights was not based on either Indian status or membership in an Indian Band; rather, it was to be paid to anyone who held a licence on the land which became the Primrose Lake Air Weapons Range."

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
31 Fort McKay, AB Treaty land entitlement <i>Recommended that government owed outstanding entitlement of 3,815 acres to First Nation</i>	Inquiry December 1995	In April 1998, government accepted claim for negotiation.
32 Friends of the Michel Society, AB 1958 enfranchisement <i>No lawful obligation found, but recommended that government grant special standing to submit specific claims</i>	Inquiry March 1998	In October 2002, government rejected recommendation made in March 1998 report, stating: "Canada has declined to accept the ISCC's recommendation to grant the Friends of the Michel Society special standing to advance specific claims."
33 Gamblers, MB Treaty land entitlement <i>Recommended that outstanding entitlement if any should be based on 1877 date of first survey</i>	Inquiry October 1998	In November 1998, government accepted recommendation.
34 Homalco, BC Aupe IR 6 and 6A – statutory or fiduciary obligation to obtain 80 acres of land from province of BC <i>Part of claim recommended for negotiation re: 10 acres</i>	Inquiry December 1995	In December 1997, government rejected recommendation, stating that, as the lands were not alleged to be reserve lands, the Policy does not apply, and that Canada does not "recognize a general duty to protect traditional Indian lands (as distinct from reserve lands) from the actions of others."
35 James Smith, SK IR 100A <i>Recommended that the lawful obligations that arise from Canada's dispositions of IR 100A be accepted for negotiation</i>	Inquiry March 2005	No response from government.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
36 James Smith, SK Chakastaypaysin IR 98 <i>Recommended that the claim be accepted for negotiation</i>	Inquiry March 2005	No response from government.
37 Joseph Bighead, SK Primrose Lake Air Weapons Range II – loss of commercial and treaty harvesting rights <i>Recommended claim not be accepted for negotiation</i>	Inquiry September 1995	No substantive response from government required.
38 Kahkewistahaw, SK Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry November 1996	No substantive response from government required.
39 Kahkewistahaw, SK 1907 reserve land surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1997	In December 1997, government accepted claim for negotiation.
40 Kahkewistahaw, SK 1907 surrender <i>Settled with assistance of Commission</i>	Mediation February 2003	In November 2002, claim settled for \$94.65 million in federal compensation.
41 Kawacatoose, SK Treaty land entitlement <i>Recommended that government owed a shortfall of 8,576 acres to Band, subject to confirming research</i>	Inquiry March 1996	In October 2000, claim settled for \$23 million in federal compensation.
42 The Key, SK 1909 surrender <i>Recommended claim not be accepted for negotiation</i>	Inquiry March 2000	No substantive response from government required.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
43 Keeseekoowenin, MB 1906 land claim <i>Settled with assistance of Commission</i>	Mediation August 2005	In March 2005, claim settled for \$6,999,900 in compensation.
44 Lac La Ronge, SK Treaty land entitlement <i>Recommended claim not be accepted for negotiation</i>	Inquiry March 1996	No substantive response from government required.
45 Lax Kw'alaams, BC Demand for absolute surrender as precondition to settlement <i>Recommended that government exclude Aboriginal rights from the surrender that was to be a condition of the claim settlement</i>	Inquiry June 1994	In December 2001, government rejected recommendations stating "Aboriginal interests were never excluded from any of the appraisals considered during the negotiations ... they cannot be considered to have been excluded from the discussions ... It is legally impossible to exempt Aboriginal interests from the scope of a section 38 surrender without jeopardizing the legal effect of the surrender ..."
46 Long Plain, MB Loss of use of treaty entitlement land <i>Recommended claim be accepted for negotiation</i>	Inquiry February 2000	In November 2005, government accepted claim for negotiation.
47 Lucky Man, SK Treaty land entitlement <i>Recommended further research to establish the proper TLE population</i>	Inquiry March 1997	In May 1997, government accepted recommendation: government research indicated no TLE shortfall; First Nation is reviewing and conducting its own research.
48 Mamalelegala Qwe'Qwa'Sot'Enox, BC McKenna-McBride applications <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	In December 1999, government rejected recommendations, disagreeing with the interpretation of "lawful obligation" in <i>Outstanding Business</i> , and asserting that no fiduciary obligation can exist "in relation to Aboriginal interests in non-reserve lands."

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
49 Micmacs of Gesgapegiag, QC Pre-Confederation claim to 500-acre island <i>No substantive recommendations made because government agreed to reconsider merits of claim</i>	Inquiry December 1994	In March 1995, government acknowledged receipt of report and advised claim was in abeyance pending outcome of related court case.
50 Mikisew Cree, AB Economic benefits under Treaty 8 <i>Accepted with assistance of Commission</i>	Inquiry March 1997	In December 1996, government accepted claim for negotiation while inquiry underway.
51 Mississaugas of the New Credit, ON Toronto Purchase <i>Accepted with assistance of Commission</i>	Inquiry June 2003	In July 2002, Government accepted claim for negotiation while inquiry underway.
52 Mistawasis, SK 1911, 1917, and 1919 surrenders <i>Accepted with assistance of Commission</i>	Inquiry March 2002	In September 2001, claim settled for \$16.3 million in federal compensation.
53 Moose Deer Point, ON Pottawatomi rights <i>Recommended additional research</i>	Inquiry March 1999	In March 2001, government rejected recommendations, stating that the claim submission had already been “fully researched.”
54 Moosomin, SK 1909 reserve land surrender <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1997	In December 1997, government accepted claim for negotiation.
55 Moosomin, SK 1909 reserve land surrender <i>Settled with assistance of Commission</i>	Mediation March 2004	In September 2003, claim settled for \$41 million in federal compensation.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
56 Muscowpetung, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
57 Nak'azdli, BC Aht-Len-Jees IR 5 <i>Accepted with assistance of Commission</i>	Inquiry March 1996	In January 1996, government accepted claim for negotiation while inquiry underway.
58 'Namgis, BC Cormorant Island <i>Recommended claim be accepted for negotiation</i>	Inquiry March 1996	In May 2001, government rejected recommendation, disagreeing that any fiduciary obligation arose on the facts of this claim.
59 'Namgis, BC McKenna-McBride applications <i>Recommended part of claim be accepted for negotiation</i>	Inquiry February 1997	In December 1999, government rejected recommendation, disagreeing with the interpretation of "lawful obligation" in <i>Outstanding Business</i> and disagreeing that any fiduciary obligation arose on the facts of this claim.
60 Nekaneet, SK Agricultural and other benefits under Treaty 4 <i>Accepted with assistance of Commission</i>	Inquiry March 1999	In October 1998, government accepted claim for negotiation while inquiry underway.
61 Ochapowace, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
62 Pasqua, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
63 Peepeekisis, SK File Hills Colony <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2004	In June 2006, government rejected recommendation on ground that 1956 court decision which the Commission held was limited to validity of memberships, was applied to all issues in inquiry.
64 Peguis, MB Treaty land entitlement <i>Accepted with assistance of Commission</i>	Inquiry March 2001	In June 1998, government accepted claim for negotiation while inquiry underway.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
65 Qu'Appelle Valley Indian Development Authority (Cowessess, Kahkewistahaw, Muscowpetung, Ochapowace, Pasqua, Piapot, Sakimay), SK Flooding claim <i>Mediation unable to resolve issues; separate negotiations ongoing with Cowessess, Muscowpetung, Pasqua</i>	Mediation December 2005	No substantive response from government required.
66 Roseau River Anishinabe, MB Medical aid <i>Recommended claim be accepted for negotiation</i>	Inquiry February 2001	In September 2003, government rejected recommendations, stating that medical aid deductions from the trust fund account were permissible, that no treaty promise of medical aid was made or survived, and that no outstanding lawful obligation exists.
67 Roseau River Anishinabe, MB Treaty land entitlement <i>Settled with assistance of Commission</i>	Mediation March 1996	In March 1996, claim settled for \$14 million in federal compensation.
68 Sakimay, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
69 Standing Buffalo, SK QVIDA flooding claim <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1998	In December 1998, government accepted claim for negotiation.
70 Standing Buffalo, SK QVIDA flooding claim <i>Settled with assistance of Commission</i>	Mediation March 2004	In March 2003, claim settled for \$3.6 million in compensation and the ability to acquire up to 640 acres of agricultural land to be set apart as reserve land pursuant to Canada's Additions to Reserves Policy.
71 Sturgeon Lake, SK Red Deer Holdings agricultural lease <i>Accepted with assistance of Commission</i>	Inquiry March 1998	In October 1998, claim settled for \$190,000 in federal compensation.

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
72 Sumas, BC IR 6 railway right of way <i>Recommended claim be accepted for negotiation</i>	Inquiry February 1995	In June 2005, government accepted claim for negotiation.
73 Sumas, BC 1919 surrender of IR 7 <i>Recommended joint research to assess fair market value of surrendered land</i>	Inquiry August 1997	In January 1998, government stated it was willing to explore possibility of joint research to determine if evidence exists for a claim.
74 Taku River Tlingit, BC Wenah specific claim <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2006	No response from government.
75 Thunderchild, SK 1908 surrender <i>Settled with assistance of Commission</i>	Mediation March 2004	In September 2003, claim settled for \$53 million in compensation and ability to acquire up to 5,000 acres of land within 15 years to be set apart as a reserve.
76 Touchwood Agency, SK Mismanagement (1920–24) claim <i>Mediation unable to resolve issues, Agency requested ISCC inquiry</i>	Mediation August 2005	No substantive response from government required.
77 Walpole Island, ON Boblo Island <i>Recommended First Nation resubmit its claim under the Comprehensive Claims Policy</i>	Inquiry May 2000	No substantive response from government required.
78 Waterhen Lake, SK Primrose Lake Air Weapons Range II – loss of commercial and treaty harvesting rights <i>Recommended part of claim be accepted for negotiation</i>	Inquiry September 1995	In March 2002, government rejected recommendations made in September 1995 report, stating: “[C]ompensation for commercial harvesting rights was not based on either Indian status or membership in an Indian Band; rather, it was to be paid to anyone who held a licence on the land which became the Primrose Lake Air Weapons Range.”

Name of First Nation, and Province Type or title of claim <i>Outcome</i>	Date and Type of ISCC Report	Canada's Response
79 Williams Lake, BC Village site <i>Recommended claim be accepted for negotiation</i>	Inquiry March 2006	No response from government.
80 Young Chipeewayan, SK Stoney Knoll IR 107 <i>Recommended that claim not be accepted for negotiation but that further research be undertaken regarding the surrender proceeds</i>	Inquiry December 1994	No substantive response from government required.

2. List of Current ISCC Inquiries and Mediations

Claims Within Inquiry Process*

Athabasca Chipewayan First Nation [Compensation criteria - agricultural benefits]
Blood Tribe/Kainaiwa [Big claim]
Blueberry River First Nation and Doig River First Nation [Compensation criteria - Highway right of way - IR 172 claim]
Carry the Kettle First Nation [1905 surrender]
Chippewas of the Thames First Nation [Ontario Hydro right of way]
Esketemc First Nation [Wright's meadow preemption claim]
James Smith Cree Nation [Treaty land entitlement]
Kitselas First Nation [Railway specific claim]
Kluane First Nation [Kluane Game Sanctuary and Kluane National Park Reserve Creation]
Lheidli T'enneh Band [Surrender Fort George IR 1]
Lower Similkameen Indian Band [Victoria, Vancouver and Eastern Railway right of way]
Lucky Man Cree [Treaty land entitlement - Phase II]
Mississaugas of the New Credit [Crawford Purchase]
Mississaugas of the New Credit [Gunshot Treaty]
Muskowekwan First Nation [1910 and 1920 surrenders]
Nadleh Whut'en Indian Band [Lejac School]
Neskonlith, Adams Lake and Little Shuswap Bands [Neskonlith reserve]
Ocean Man First Nation [Treaty land entitlement]
Opaskwayak Cree Nation [Streets and lanes claim]
Pasqua First Nation [1906 surrender]
Paul Indian Band [Kapasawin Townsite claim]
Red Earth and Shoal Lake Cree Nations [Quality of reserve lands (agriculture)]
Roseau River Anishinabe First Nation [1903 surrender]
Sakimay First Nation [Treaty land entitlement shortfall]
Sandy Bay Ojibway First Nation [Treaty land entitlement]

Saulteau First Nation [Treaty land entitlement and land in severalty claims]
Siksika Nation [1909 surrender]
Stanjikoming First Nation [Treaty land entitlement]
Stó:lō Nation [Douglas reserves]
Sturgeon Lake First Nation [1913 surrender]
Touchwood Agency Tribal Council (Five First Nations) [Mismanagement claim - compensation criteria]
Treaty 8 Tribal Association (Seven First Nations) [Consolidated annuity claim]
Tsawwassen First Nation [English Bluffs specific claim]
U'mista Cultural Centre [Prohibition of the potlatch]
Whitefish Lake First Nation [Agricultural benefits pursuant to Treaty 8: compensation criteria]
Whitefish Lake First Nation [Agricultural benefits pursuant to Treaty 8: historic claim]
Wolf Lake First Nation [Reserve lands]

**Some of these claims, while still the subject of an ISCC inquiry, are in abeyance.*

Claims in Mediation/Facilitation at the ISCC*

Blood Tribe/Kainaiwa [Cattle claim]
Chippewa Tri-Council [Coldwater-Narrows reservation claim]
Cote First Nation [Pilot project]
Cote First Nation [1905-07-13-14 surrenders claim]
Cowessess First Nation [Flooding claim]
Fort William First Nation [Boundary claim]
Fort William First Nation [GTP claim]
Fort William First Nation [Pilot project]
Gordon First Nation [Treaty land entitlement]
Lac Seul First Nation [Flooding claim]
Metepenagiag Mi'kmaq Nation [Hosford Lot and Indian Reserve 7 claim]
Michipicoten First Nation [Pilot project]
Missanabie Cree First Nation [Treaty land entitlement]
Mississaugas of the New Credit First Nation [Toronto Purchase claim]
Mohawk Council of Akwesasne [Dundee claim]
Mohawks of the Bay of Quinte [Culbertson Tract]
Muscowpetung First Nation [Flooding claim]
Muskoday First Nation [Treaty land entitlement]
Nekaneet First Nation [Treaty benefits]
Pasqua First Nation [Flooding claim]
Pasqua First Nation [Treaty land entitlement claim]
Sakimay First Nation [Flooding claim]
Sakimay First Nation [Treaty land entitlement claim]
Siksika Nation [Castle Mountain claim]
Skway First Nation [Schweyey Road claim]
Sturgeon Lake First Nation [Treaty land entitlement]
Wikwemikong Unceded Indian Reserve [41 islands claim]

**Some of these claims, while still the subject of an ISCC mediation, are on hold.*

3. Recent Publications

Since March 2006, the ISCC has released the following four inquiry reports:

1. Blueberry River First Nation and Doig River First Nation (Highway right-of-way and Indian Reserve #172);
2. Cowesses First Nation (1907 Surrender – Phase II);
3. Taku River Tlingit First Nation (Wenah Specific Claim); and
4. Williams Lake Indian Band (Village Site).

Each of these reports is available on the ISCC website at: <http://www.indianclaims.ca>